

45:19A-1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2004 **CHAPTER:** 134

NJSA: 45:19A-1 (Revises regulation of security guards)

BILL NO: S1516 (Substituted for A2562)

SPONSOR(S): Girgenti and others

DATE INTRODUCED: April 29, 2004

COMMITTEE: **ASSEMBLY:** Budget
SENATE: Law and Public Safety and Veterans' Affairs

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 24, 2004

SENATE: June 17, 2004

DATE OF APPROVAL: August 31, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) 1st reprint enacted

S1516

[SPONSOR'S STATEMENT:](#) (Begins on page 11 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

A2562

[SPONSOR'S STATEMENT:](#) (Begins on page 11 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [5-3-04 \(L&PS\)](#)
[6-22-04 \(Budget\)](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 2004, CHAPTER 134, *approved August 31, 2004*
Senate, No. 1516 (*First Reprint*)

1 **AN ACT** concerning the regulation of security guards, supplementing
2 Title 45 of the Revised Statutes and amending P.L.1939, c.369 and
3 P.L.1971, c.342.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) This act shall be known and may be cited as the
9 "Security ¹[Guard] Officer¹ Registration Act."

10

11 2. (New section) As used in this act:

12 a. "Owner" or "operator" means an officer, director, member, sole
13 proprietor, partner or associate of a private security company.

14 b. "Security ¹[guard] officer¹" means any person who performs
15 any of the following functions or activities ¹as an employee, agent or
16 subcontractor of a security officer company as defined in subsection
17 c. of this section¹ for a fee, hire or reward, notwithstanding the fact
18 that other functions and activities may also be performed by the same
19 person for fee, hire or reward:

20 (1) protection of person or property, real or personal, from injury
21 or harm or for any other purpose whatsoever;

22 (2) deterrence, observation, detection or reporting of incidents and
23 activities for the purpose of preventing the theft, or the unlawful
24 taking, conversion, concealment or misappropriation of goods, wares,
25 merchandise, money, bonds, stocks, notes or other valuable
26 instruments, documents, papers or articles ¹[,];¹ or

27 (3) deterrence, observation, detection or reporting of incidents and
28 activities for the purpose of preventing any unauthorized or unlawful
29 activity, including but not limited to, robbery, burglary, arson, criminal
30 mischief, vandalism or trespass.

31 The term shall not mean or include, and nothing in this act shall
32 apply to, any law enforcement officer of this State, or any political
33 subdivision of the State, while in the actual performance of his duties.
34 For the purposes of this section, a law enforcement officer shall be
35 deemed to be in the actual performance of his duties if the law
36 enforcement officer is in uniform, or is exhibiting evidence of his
37 authority, is performing public safety functions on behalf of and as

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLP committee amendments adopted June 7, 2004.

1 assigned by his chief of police or the chief law enforcement officer of
2 his law enforcement agency and is receiving compensation, if any,
3 from his law enforcement agency at the rates or stipends as are
4 established by law. A law enforcement officer shall not be deemed to
5 be in the actual performance of his duties, for the purposes of this
6 section, if the law enforcement officer is performing private security
7 functions or activities for a private employer while receiving
8 compensation for those duties from the private employer¹, and a law
9 enforcement officer shall not wear his uniform, or otherwise exhibit
10 evidence of his authority as a law enforcement officer, while
11 performing private security functions or activities for a private
12 employer¹.

13 c. "Security¹ [guard] officer¹ company" means any body, board,
14 person, firm, corporation, partnership, proprietorship, joint venture,
15 fund, authority or similar entity that is organized for the purpose of or
16 primarily¹ engages in the business of furnishing for a fee, hire, reward
17 or compensation one or more security¹ [guards] officers¹. The term
18 shall not mean or include, and nothing in this act shall apply to, any
19 board, body, commission or agency of the United States of America
20 or of this State or any other state, territory or possession of the United
21 States of America, or any county, municipality or school district or any
22 officer or employee solely, exclusively and regularly employed by any
23 of the foregoing. The term shall include any business of watch, guard
24 or patrol agency.

25 d. "Superintendent" means the Superintendent of the Division of
26 State Police in the Department of Law and Public Safety.

27

28 3. (New section) a. No person shall engage in the business of a
29 security¹ [guard] officer¹ company, or advertise or hold out a
30 business to be a security¹ [guard] officer¹ company, unless the
31 business is licensed by the superintendent as set forth in this section.
32 Any person who violates the provisions of this section shall be guilty
33 of a crime of the fourth degree.

34 b. An application to be licensed as a security¹ [guard] officer¹
35 company shall be submitted to the superintendent by each owner and
36 operator of the company, on a form and in a manner prescribed by the
37 superintendent, and shall contain the following information:

38 (1) the full name, age, which shall be at least 25 years, and
39 residence of the owners or operators of the security¹ [guard] officer¹
40 company;

41 (2) [verification]¹, in a manner satisfactory to the superintendent,
42 that the owners or operators are citizens of the United States

43 (3)¹ the full and complete employment history of the owners or
44 operators;

45 [(4)](3)¹ that the owners or operators have five years law

1 enforcement experience ¹and are no longer employed by or attached
2 in any capacity whatsoever to a law enforcement agency.¹ or five years
3 experience working ¹in a supervisory or management capacity¹ for a
4 licensed security ¹[guard] officer¹ company;

5 ¹~~[(5)](4)~~¹ the municipality and location of the security company's
6 principal place of business and any office, bureau, agency or
7 subdivision of the company; and

8 ¹~~[(6)](5)~~¹ such further information as the superintendent may
9 require to show the good character, competency and integrity of the
10 owners or operators of the security ¹[guard] officer¹ company.

11 Each application shall be accompanied by the written approval, for
12 each owner or operator of the security ¹[guard] officer¹ company, of
13 not less than five reputable citizens who have known the applicant for
14 at least three years preceding the date of application and who shall
15 certify that the applicant is a person of good moral character and
16 behavior.

17 Any person who shall knowingly make a false statement in or
18 knowingly omit any material information from the application required
19 by this subsection shall be guilty of a crime of the fourth degree in
20 addition to any other crime or offense specified by law.

21 c. No security ¹[guard] officer¹ company shall be licensed under
22 the provisions of this section if any owner or operator of the company
23 has been convicted, as indicated by a criminal history record
24 background check performed pursuant to the provisions of this
25 section, of: a crime of the first, second, third or fourth degree; any
26 offense involving the unlawful use, possession or sale of a controlled
27 dangerous substance as defined in N.J.S.2C:35-2; or any offense where
28 the issuance of a license would be contrary to the public interest, as
29 determined by the superintendent. The fingerprints of each owner or
30 operator and the written consent of the owner or operator shall be
31 submitted to the superintendent for a criminal history record
32 background check to be performed. The superintendent shall compare
33 these fingerprints with fingerprints on file with the State Bureau of
34 Identification in the Division of State Police and the Federal Bureau
35 of Investigation consistent with applicable State and federal laws, rules
36 and regulations. The owner or operator shall bear the cost for the
37 criminal history record background check, including all costs of
38 administering and processing the check.

39 d. The superintendent, when satisfied with the examination of any
40 application and such further inquiry and investigations as he shall deem
41 proper as to the good character, competency and integrity of the
42 applicant, shall issue a license to an approved security ¹[guard]
43 officer¹ company upon payment of a fee in an amount established by
44 the superintendent by rule and regulation and execution of a bond in
45 a manner, form and amount satisfactory to the superintendent as
46 established by rule and regulation. The license shall be renewable

1 every two years upon payment of a renewal fee in an amount
2 established by the superintendent by rule and regulation. The license
3 may be revoked or suspended by the superintendent for a violation of
4 any of the provisions of this act or for other good cause.

5 e. The revocation or suspension of any license by the
6 superintendent shall be subject to notice and a hearing.

7 f. A person who, as an owner or operator of a licensed security
8 ¹[guard] officer¹ company employs a security ¹[guard] officer¹ who
9 is not registered with the superintendent as required under section 4
10 of this act shall be guilty of a crime of the fourth degree in addition to
11 any other crime or offense specified by law. Each violation of this
12 section shall constitute a separate offense.

13 Each owner and operator of a licensed security ¹[guard] officer¹
14 company shall be liable, accountable and responsible for the actions
15 and conduct in connection with the employer's business of each
16 security ¹[guard] officer¹ employed by the company.

17 g. ¹A security officer company shall require each person in its
18 employ to execute and furnish a verified statement, to be known as an
19 “employee’s statement,” which shall set forth the employee’s full
20 name, age, residence, place and date of birth and such other
21 information as the superintendent shall require by rule or regulation.
22 The security officer company shall retain in safe keeping each
23 “employee’s statement.” The superintendent shall at all times be given
24 access to and may from time to time examine each “employee’s
25 statement” retained by the security officer company as provided in this
26 subsection.

27 h.¹ A security ¹[guard] officer¹ company shall immediately ¹but
28 in no case after 48 hours,¹ notify the superintendent if a security
29 ¹[guard] officer¹ is terminated for cause at any time.

30
31 4. (New section) a. No person shall be employed as, or perform
32 the functions and activities of, a security ¹[guard] officer¹ unless that
33 person is registered with the superintendent as required in this section.
34 Any person who violates the provisions of this section shall be guilty
35 of a crime of the fourth degree.

36 b. An application for registration as a security ¹[guard] officer¹
37 shall be filed with the superintendent on a form and in a manner
38 prescribed by the superintendent and shall set forth under oath:

39 (1) the applicant's full name, age, which shall be at least 18 years,
40 and residence;

41 (2) ¹[that the applicant is a citizen of the United States

42 (3)]¹ the name and address of all employers or occupations
43 engaged in for the immediately preceding five years;

44 ¹[(4)](3)¹ that the applicant has not been convicted of any
45 disqualifying crime or offense as set forth in subsection c. of this

1 section; and

2 ¹~~[(5)](4)~~¹ such further information as the superintendent may
3 require to show the good character, competency and integrity of the
4 applicant.

5 Any person who shall knowingly make a false statement in, or
6 knowingly omit any material information from, an application as
7 required by this subsection shall be guilty of a crime of the fourth
8 degree in addition to any other crime or offense specified by law.

9 c. No person shall be ¹~~[registered]~~ issued a certificate of
10 registration¹ as a security ¹~~[guard]~~ officer¹ under the provisions of
11 this section if the person has been convicted, as indicated by a criminal
12 history record background check performed pursuant to the provisions
13 of this section, of: a crime of the first, second, third or fourth degree;
14 any offense involving the unlawful use, possession or sale of a
15 controlled dangerous substance as defined in N.J.S.2C:35-2; or any
16 offense where the registration of the individual would be contrary to
17 the public interest, as determined by the superintendent. Each
18 applicant shall submit to the superintendent the applicant's fingerprints
19 and written consent for a criminal history record background check to
20 be performed. The superintendent shall compare these to fingerprints
21 on file with the State Bureau of Identification in the Division of State
22 Police and the Federal Bureau of Investigation, consistent with
23 applicable State and federal laws, rules and regulations. The applicant
24 shall bear the cost for the criminal history record background check,
25 including all costs of administering and processing the check.

26 d. A person whose application has been approved by the
27 superintendent shall complete the required education and training
28 program established in section 5 of this act. Upon satisfactory
29 completion of this program, and upon the payment of a fee in an
30 amount established by the superintendent, the applicant shall be
31 entitled to and the superintendent shall issue and deliver to the
32 applicant a security ¹~~[guard]~~ officer certificate of¹ registration.

33 e. The superintendent may revoke or suspend such ¹certificate of¹
34 registration for a violation of any of the provisions of this act or for
35 other good cause. A ¹certificate of¹ registration shall be surrendered
36 to the superintendent within 72 hours after its term has expired or after
37 notice in writing to the holder that the ¹~~[license]~~ certificate of
38 registration¹ has been revoked.

39 f. The ¹certificate of¹ registration shall be renewed every two
40 years upon forms prescribed by the superintendent and payment of a
41 fee in an amount established by the superintendent by rule and
42 regulation. The ¹certificate of¹ registration may be renewed without
43 further investigation unless it is deemed by the superintendent that the
44 applicant no longer qualifies or verified objections to the renewal are
45 received by the superintendent prior to issuance.

46 g. The revocation or suspension of any ¹certificate of¹ registration

1 by the superintendent shall be subject to notice and a hearing.

2

3 5. (New section) a. An education and training program for
4 security ¹[guards] officers¹ shall be established ¹[and approved]¹ by
5 the superintendent ¹through rule and regulation¹. The program shall
6 consist of such subjects and courses as the superintendent ¹[and
7 commission]¹ may deem appropriate and shall include ¹[40]a
8 minimum number of¹ hours of classroom ¹or other¹ instruction.

9 b. In implementing and administering the education and training
10 program required in subsection a. of this section, the superintendent
11 ¹[and commission]¹ shall have the power:

12 (1) to implement and administer or approve the minimum courses
13 of study and training;

14 (2) to implement and administer or approve physical and
15 psychological testing and screening of applicants;

16 (3) to issue certificates of approval to schools approved by the
17 superintendent ¹[and commission]¹ and to withdraw certificates of
18 approval from those schools disapproved by the superintendent ¹[and
19 commission]¹;

20 (4) to certify instructors pursuant to the minimum qualifications
21 established by the superintendent ¹[and commission]¹;

22 (5) to consult and cooperate with universities, colleges, community
23 colleges and institutes for the development of specialized courses for
24 security ¹[guards] officers¹;

25 (6) to consult and cooperate with departments and agencies of this
26 State, other states and the federal government concerned with training
27 of security ¹[guards] officers¹;

28 (7) to certify those persons who have satisfactorily completed basic
29 educational and training requirements;

30 (8) to annually visit and inspect approved schools;

31 (9) to establish reasonable charges for ¹[such] ¹training and
32 education ¹provided by the superintendent¹; and

33 (10) to make such rules and regulations and to perform such other
34 duties as may be reasonably necessary or appropriate to implement the
35 education and training program.

36

37 6. (New section) a. The superintendent shall ¹[issue] cause to be
38 issued¹ to a registered security ¹[guard] officer¹ an identification card
39 containing such information as the superintendent shall prescribe.
40 ¹The identification card shall incorporate appropriate security
41 features.¹

42 b. A person who is issued an identification card pursuant to
43 subsection a. of this section shall be responsible for its safekeeping and
44 shall not lend, let or allow any other person to use, possess, exhibit or
45 display the card.

1 c. No person shall use, possess, exhibit or display any license, card,
2 shield or badge of any design or material purporting to authorize the
3 holder or wearer to act as a security ¹[guard] officer¹, unless such
4 person ¹[is registered] holds a valid certificate of registration¹ as a
5 security ¹[guard] officer¹ pursuant to section 4 of this act.

6 d. If it is established to the satisfaction of the superintendent that
7 an identification card has been lost or destroyed, the superintendent
8 shall, upon payment of an appropriate fee, ¹[issue] cause to be issued¹
9 a duplicate identification card for the unexpired portion of the term of
10 the registration.

11 e. Any person who violates the provisions of this section shall be
12 guilty of a crime of the fourth degree in addition to any other crime or
13 offense specified by law.

14
15 ¹7. (New section) a. The superintendent shall develop and
16 maintain an electronic database or similar electronic registry, which
17 shall be accessible by licensed security officer companies, and which
18 shall list all persons who are registered as security officers pursuant to
19 the provisions of this act and such other information as the
20 superintendent shall require by rule and regulation.

21 b. Each applicant for a certificate of registration as a security
22 officer shall pay a fee to the superintendent in an amount established
23 by the superintendent by rule and regulation. These fees shall be used
24 exclusively for the development and maintenance of the electronic
25 database or registry established pursuant to subsection a. of this
26 section.¹

27
28 ¹[7.] ¹8. (New section) a. In addition to any other penalties
29 prescribed by this act or any other law, an owner or operator of a
30 licensed security ¹[guard] officer¹ company who employs a security
31 ¹[guard] officer¹ in violation of the provisions of this act shall be
32 liable to a civil penalty not to exceed \$10,000 for the first offense and
33 not more than \$20,000 for a second or subsequent offense. ¹For the
34 purposes of this subsection, each violation shall constitute a separate
35 offense.¹

36 b. In addition to any other penalties prescribed by this act or any
37 other law, a person who permits himself to be employed as or
38 performs the functions and activities of a security ¹[guard] officer¹
39 while in violation of the provisions of this act shall be liable to a civil
40 penalty not to exceed \$1,000 for a first offense and not more than
41 \$2,500 for a second or subsequent offense. ¹For the purposes of this
42 subsection, each violation shall constitute a separate offense.¹

43 c. A penalty imposed under subsections a. or b. of this section shall
44 be recovered in a civil action pursuant to "The Penalty Enforcement
45 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

1 ¹[8.] 9.¹ (New section) For the purpose of investigating whether
2 a person has engaged in, or is engaging in, any act or practice declared
3 unlawful under this act, or for the purpose of investigating the
4 character, competency, integrity or methods of operation of applicants,
5 licensees or registrants hereunder, or of any owner or operator of any
6 licensed security ¹[guard] officer¹ company, the superintendent shall
7 have the power to:

8 a. Require any person to file on such form as may be prescribed by
9 the superintendent, a statement or report in writing under oath, or
10 otherwise, as to the facts and circumstances concerning any matter
11 being investigated;

12 b. Administer oaths or affirmations and examine any person in
13 connection with any investigation;

14 c. Inspect any premises and examine and impound any record,
15 book, computer, electronic database, recording device, document,
16 account, paper or other tangible thing, without prior notification, in
17 connection with any investigation;

18 d. Hold investigative hearings and issue subpoenas to compel the
19 attendance of any person or the production of any record, book,
20 computer, electronic database, recording device, document, account,
21 paper or other tangible thing in connection with any investigation; and

22 e. Apply to the Superior Court for an order compelling compliance
23 with any subpoena or other request for information.
24

25 ¹[9.] 10.¹ (New section) A violation of any of the provisions of
26 this act shall be cause for revocation or suspension of any license or
27 registration issued hereunder, notwithstanding that the same violation
28 may constitute a crime or other offense under the laws of this State or
29 any other state or jurisdiction. An indictment, prosecution and
30 conviction arising out of any of the provisions of this act shall not be
31 construed to preclude, if the evidence so warrants, an indictment,
32 prosecution and conviction for any other crime or offense in this State
33 or any other state or jurisdiction.
34

35 ¹[10.] 11.¹ (New section) Each owner or operator of a security
36 ¹[guard] officer¹ company and each person employed as a security
37 ¹[guard] officer¹ on the effective date of this act shall comply with the
38 requirements of this act by the first day of the seventh month after its
39 effective date.
40

41 ¹[11.] 12.¹ (New section) The superintendent shall promulgate
42 rules and regulations necessary to carry out this the provisions of this
43 act.
44

45 ¹[12.] 13.¹ Section 2 of P.L.1939, c.369 (C.45:19-9) is amended
46 to read as follows:

1 2. Definitions:

2 (a) The term "private detective business" shall mean the business of
3 conducting a private detective agency or for the purpose of making for
4 hire or reward any investigation or investigations for the purpose of
5 obtaining information with reference to any of the following matters,
6 notwithstanding the fact that other functions and services may also be
7 performed by the same person, firm, association or corporation for fee,
8 hire or reward, to wit: (1) crime or wrong done or threatened or
9 assumed to have been done or threatened against the Government of
10 the United States of America, or any State, Territory or Possession
11 of the United States of America; (2) the identity, habits, conduct,
12 movements, whereabouts, affiliations, associations, transactions,
13 reputation or character of any person, association, organization,
14 society or groups of persons, firms or corporations; (3) the credibility
15 of witnesses or other persons; (4) the whereabouts of missing
16 persons; (5) the location or recovery of lost or stolen property; (6) the
17 causes and origin of, or responsibility for, fires, libels, accidents,
18 damage, injuries or losses to persons, firms, associations or
19 corporations, or to real or personal property; (7) the affiliation,
20 connection or relation of any person, firm or corporation with any
21 organization, society, association, or with any official member or
22 representative thereof; (8) with reference to the conduct, honesty,
23 efficiency, loyalty or activities of employees, agents, contractors and
24 subcontractors; (9) the securing of evidence to be used before any
25 investigating committee, board of award, board of arbitration, or in the
26 trial of any civil or criminal cause; provided, however, that the term
27 shall not include a person, firm, association or corporation engaged
28 exclusively in the business of making investigations and reports as to
29 the financial standing, credit and financial responsibility of persons,
30 firms, associations or corporations nor to electrically controlled
31 burglar or fire alarm system with a central unit, nor to any person,
32 firm, association or corporation engaged in the business of making
33 reports for insurance or credit purposes. [Also it shall mean the
34 furnishing for hire or reward of watchmen or guards or private
35 patrolmen or other persons to protect persons or property, either real
36 or personal, or for any other purpose whatsoever.] The term shall not
37 include and nothing in this act shall apply to any lawful activity of any
38 board, body, commission or agency of the United States of America
39 or of any State, Territory or Possession of the United States of
40 America, or any county, municipality, school district, or any officer or
41 employee solely, exclusively and regularly employed by any of the
42 foregoing; nor to any attorney or counselor-at-law in connection with
43 the regular practice of his profession, nor to any person employed by
44 any such attorney or counsellor-at-law when engaged upon his
45 employer's business; nor to any employee, investigator or investigators
46 solely, exclusively and regularly employed by any person, firm,

1 association or corporation which is not engaged in any of the
2 businesses hereinbefore described in items numbered one to nine, both
3 inclusive, of this subsection in so far as their acts may relate solely to
4 the business of the respective employers; nor to any person, firm,
5 association or corporation licensed to do a business of insurance of
6 any nature under the insurance laws of this State, nor to any employee
7 or licensed agent thereof; nor to any person, firm, association or
8 corporation conducting any investigation solely for its own account.

9 (b) The terms "the business of detective agency[.]" and "the
10 business of investigator" [and "the business of watch, guard or patrol
11 agency"] shall mean any person, firm, association or corporation
12 engaged in the private detective business as defined in subsection (a)
13 of this section, who employs one or more persons in conducting such
14 business, but shall not include the business of watch, guard or patrol
15 agency.

16 (c) The terms "private detective" or "investigator" shall mean and
17 include any person who singly and for his own account and profit
18 conducts a private detective business without the aid or assistance of
19 any employees or associates.

20 (d) The masculine shall include the feminine and the neuter genders.

21 (e) The term "superintendent" means the Superintendent of State
22 Police.

23 (f) The terms "firm" and "association" shall include partnerships,
24 but shall not include corporations.

25 (cf: P.L.1971, c.342, s.1)

26

27 ¹[13.] 14.¹ Section 3 of P.L.1971, c.342 (C.45:19-12.1) is
28 amended to read as follows:

29 3. a. Subsequent to the effective date of this act, every licensee
30 shall pay to the superintendent an additional fee of \$15.00 for each
31 person in its employ engaged in said employment in this State as a
32 private detective or investigator [which terms shall include watchmen,
33 guards and private patrolmen]. Any licensee who shall employ any
34 person in the aforementioned categories subsequent to its securing a
35 license or renewal thereof and for whom the fee of \$15.00 has not
36 been paid shall pay the fee of \$15.00 for each of said persons prior to
37 the commencement of said employment with the licensee. Thereafter
38 any licensee at the time of any renewal if its license hereunder shall pay
39 a renewal fee of \$5.00 for each of said employees in the
40 aforementioned categories for whom an initial fee of \$15.00 has been
41 paid by said licensee.

42 b. Any licensee who shall employ any person in the aforementioned
43 categories in subsection a. above without having paid the fees in
44 accordance with said subsection a. shall be a disorderly person.

45 (cf: P.L.1971, c.342, s.3)

1 ¹[14.] 15. ¹ Section 12 of P.L.1939, c.369 (C.45:19-19) is
2 amended to read as follows:

3 12. No person licensed under the provisions of this act, or the
4 officers, directors, employees, operators or agents thereof, shall wear,
5 carry or accept any badge or shield purporting to indicate that such
6 person is a private detective or investigator or connected with the
7 private detective business [, but any such person, officer, director,
8 employee, operator or agent, who is acting as a guard or performs any
9 special service, may, while in uniform, and while on the premises of
10 the employer of the licensee where he is so acting, wear a badge or
11 shield inscribed with the name of the license holder, number, and the
12 word "Guard" or "Special Service."]₁. Any person violating the
13 provisions of this section shall be guilty of a misdemeanor.

14 (cf: P.L.1953, c.404, s. 1)

15

16 ¹[15.] 16. ¹ This act shall take effect on the ¹[first day of the third
17 month] 365th day¹ after enactment ¹, except that the superintendent
18 may take, prior to the effective date, such anticipatory administrative
19 action as shall be necessary for the implementation of this act¹.

20

21

22

23

24 Revises regulation of security guards.

SENATE, No. 1516

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED APRIL 29, 2004

Sponsored by:

Senator JOHN A. GIRGENTI

District 35 (Bergen and Passaic)

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

SYNOPSIS

Revises regulation of security guards.

CURRENT VERSION OF TEXT

As introduced.



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2 Title 45 of the Revised Statutes and amending P.L.1939, c.369 and
3 P.L.1971, c.342.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. (New section) This act shall be known and may be cited as the
9 "Security Guard Registration Act."

10

11 2. (New section) As used in this act:

12

a. "Owner" or "operator" means an officer, director, member, sole
13 proprietor, partner or associate of a private security company.

14

b. "Security guard" means any person who performs any of the
15 following functions or activities for a fee, hire or reward,
16 notwithstanding the fact that other functions and activities may also be
17 performed by the same person for fee, hire or reward:

18

(1) protection of person or property, real or personal, from injury
19 or harm or for any other purpose whatsoever;

20

(2) deterrence, observation, detection or reporting of incidents and
21 activities for the purpose of preventing the theft, or the unlawful
22 taking, conversion, concealment or misappropriation of goods, wares,
23 merchandise, money, bonds, stocks, notes or other valuable
24 instruments, documents, papers or articles, or

25

(3) deterrence, observation, detection or reporting of incidents and
26 activities for the purpose of preventing any unauthorized or unlawful
27 activity, including but not limited to, robbery, burglary, arson, criminal
28 mischief, vandalism or trespass.

29

The term shall not mean or include, and nothing in this act shall
30 apply to, any law enforcement officer of this State, or any political
31 subdivision of the State, while in the actual performance of his duties.
32 For the purposes of this section, a law enforcement officer shall be
33 deemed to be in the actual performance of his duties if the law
34 enforcement officer is in uniform, or is exhibiting evidence of his
35 authority, is performing public safety functions on behalf of and as
36 assigned by his chief of police or the chief law enforcement officer of
37 his law enforcement agency and is receiving compensation, if any,
38 from his law enforcement agency at the rates or stipends as are
39 established by law. A law enforcement officer shall not be deemed to
40 be in the actual performance of his duties, for the purposes of this
41 section, if the law enforcement officer is performing private security
42 functions or activities for a private employer while receiving
43 compensation for those duties from the private employer.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. "Security guard company" means any body, board, person, firm,
2 corporation, partnership, proprietorship, joint venture, fund, authority
3 or similar entity that is organized for the purpose of or engages in the
4 business of furnishing for a fee, hire, reward or compensation one or
5 more security guards. The term shall not mean or include, and nothing
6 in this act shall apply to, any board, body, commission or agency of the
7 United States of America or of this State or any other state, territory
8 or possession of the United States of America, or any county,
9 municipality or school district or any officer or employee solely,
10 exclusively and regularly employed by any of the foregoing. The term
11 shall include any business of watch, guard or patrol agency.

12 d. "Superintendent" means the Superintendent of the Division of
13 State Police in the Department of Law and Public Safety.

14

15 3. (New section) a. No person shall engage in the business of a
16 security guard company, or advertise or hold out a business to be a
17 security guard company, unless the business is licensed by the
18 superintendent as set forth in this section. Any person who violates
19 the provisions of this section shall be guilty of a crime of the fourth
20 degree.

21 b. An application to be licensed as a security guard company shall
22 be submitted to the superintendent by each owner and operator of the
23 company, on a form and in a manner prescribed by the superintendent,
24 and shall contain the following information:

25 (1) the full name, age, which shall be at least 25 years, and
26 residence of the owners or operators of the security guard company;

27 (2) verification, in a manner satisfactory to the superintendent, that
28 the owners or operators are citizens of the United States;

29 (3) the full and complete employment history of the owners or
30 operators;

31 (4) that the owners or operators have five years law enforcement
32 experience or five years experience working for a licensed security
33 guard company;

34 (5) the municipality and location of the security company's principal
35 place of business and any office, bureau, agency or subdivision of the
36 company; and

37 (6) such further information as the superintendent may require to
38 show the good character, competency and integrity of the owners or
39 operators of the security guard company.

40 Each application shall be accompanied by the written approval, for
41 each owner or operator of the security guard company, of not less than
42 five reputable citizens who have known the applicant for at least three
43 years preceding the date of application and who shall certify that the
44 applicant is a person of good moral character and behavior.

45 Any person who shall knowingly make a false statement in or
46 knowingly omit any material information from the application required

1 by this subsection shall be guilty of a crime of the fourth degree in
2 addition to any other crime or offense specified by law.

3 c. No security guard company shall be licensed under the
4 provisions of this section if any owner or operator of the company has
5 been convicted, as indicated by a criminal history record background
6 check performed pursuant to the provisions of this section, of: a crime
7 of the first, second, third or fourth degree; any offense involving the
8 unlawful use, possession or sale of a controlled dangerous substance
9 as defined in N.J.S.2C:35-2; or any offense where the issuance of a
10 license would be contrary to the public interest, as determined by the
11 superintendent. The fingerprints of each owner or operator and the
12 written consent of the owner or operator shall be submitted to the
13 superintendent for a criminal history record background check to be
14 performed. The superintendent shall compare these fingerprints with
15 fingerprints on file with the State Bureau of Identification in the
16 Division of State Police and the Federal Bureau of Investigation
17 consistent with applicable State and federal laws, rules and
18 regulations. The owner or operator shall bear the cost for the criminal
19 history record background check, including all costs of administering
20 and processing the check.

21 d. The superintendent, when satisfied with the examination of any
22 application and such further inquiry and investigations as he shall deem
23 proper as to the good character, competency and integrity of the
24 applicant, shall issue a license to an approved security guard company
25 upon payment of a fee in an amount established by the superintendent
26 by rule and regulation and execution of a bond in a manner, form and
27 amount satisfactory to the superintendent as established by rule and
28 regulation. The license shall be renewable every two years upon
29 payment of a renewal fee in an amount established by the
30 superintendent by rule and regulation. The license may be revoked or
31 suspended by the superintendent for a violation of any of the
32 provisions of this act or for other good cause.

33 e. The revocation or suspension of any license by the
34 superintendent shall be subject to notice and a hearing.

35 f. A person who, as an owner or operator of a licensed security
36 guard company employs a security guard who is not registered with
37 the superintendent as required under section 4 of this act shall be
38 guilty of a crime of the fourth degree in addition to any other crime or
39 offense specified by law. Each violation of this section shall constitute
40 a separate offense.

41 Each owner and operator of a licensed security guard company shall
42 be liable, accountable and responsible for the actions and conduct in
43 connection with the employer's business of each security guard
44 employed by the company.

45 g. A security guard company shall immediately notify the
46 superintendent if a security guard is terminated for cause at any time.

1 4. (New section) a. No person shall be employed as, or perform
2 the functions and activities of, a security guard unless that person is
3 registered with the superintendent as required in this section. Any
4 person who violates the provisions of this section shall be guilty of a
5 crime of the fourth degree.

6 b. An application for registration as a security guard shall be filed
7 with the superintendent on a form and in a manner prescribed by the
8 superintendent and shall set forth under oath:

9 (1) the applicant's full name, age, which shall be at least 18 years,
10 and residence;

11 (2) that the applicant is a citizen of the United States;

12 (3) the name and address of all employers or occupations engaged
13 in for the immediately preceding five years;

14 (4) that the applicant has not been convicted of any disqualifying
15 crime or offense as set forth in subsection c. of this section; and

16 (5) such further information as the superintendent may require to
17 show the good character, competency and integrity of the applicant.

18 Any person who shall knowingly make a false statement in, or
19 knowingly omit any material information from, an application as
20 required by this subsection shall be guilty of a crime of the fourth
21 degree in addition to any other crime or offense specified by law.

22 c. No person shall be registered as a security guard under the
23 provisions of this section if the person has been convicted, as indicated
24 by a criminal history record background check performed pursuant to
25 the provisions of this section, of: a crime of the first, second, third or
26 fourth degree; any offense involving the unlawful use, possession or
27 sale of a controlled dangerous substance as defined in N.J.S.2C:35-2;
28 or any offense where the registration of the individual would be
29 contrary to the public interest, as determined by the superintendent.
30 Each applicant shall submit to the superintendent the applicant's
31 fingerprints and written consent for a criminal history record
32 background check to be performed. The superintendent shall compare
33 these to fingerprints on file with the State Bureau of Identification in
34 the Division of State Police and the Federal Bureau of Investigation,
35 consistent with applicable State and federal laws, rules and
36 regulations. The applicant shall bear the cost for the criminal history
37 record background check, including all costs of administering and
38 processing the check.

39 d. A person whose application has been approved by the
40 superintendent shall complete the required education and training
41 program established in section 5 of this act. Upon satisfactory
42 completion of this program, and upon the payment of a fee in an
43 amount established by the superintendent, the applicant shall be
44 entitled to and the superintendent shall issue and deliver to the
45 applicant a security guard registration.

46 e. The superintendent may revoke or suspend such registration for

1 a violation of any of the provisions of this act or for other good cause.
2 A registration shall be surrendered to the superintendent within 72
3 hours after its term has expired or after notice in writing to the holder
4 that the license has been revoked.

5 f. The registration shall be renewed every two years upon forms
6 prescribed by the superintendent and payment of a fee in an amount
7 established by the superintendent by rule and regulation. The
8 registration may be renewed without further investigation unless it is
9 deemed by the superintendent that the applicant no longer qualifies or
10 verified objections to the renewal are received by the superintendent
11 prior to issuance.

12 g. The revocation or suspension of any registration by the
13 superintendent shall be subject to notice and a hearing.
14

15 5. (New section) a. An education and training program for
16 security guards shall be established and approved by the
17 superintendent. The program shall consist of such subjects and
18 courses as the superintendent and commission may deem appropriate
19 and shall include 40 hours of classroom instruction.

20 b. In implementing and administering the education and training
21 program required in subsection a. of this section, the superintendent
22 and commission shall have the power:

23 (1) to implement and administer or approve the minimum courses
24 of study and training;

25 (2) to implement and administer or approve physical and
26 psychological testing and screening of applicants;

27 (3) to issue certificates of approval to schools approved by the
28 superintendent and commission and to withdraw certificates of
29 approval from those schools disapproved by the superintendent and
30 commission;

31 (4) to certify instructors pursuant to the minimum qualifications
32 established by the superintendent and commission;

33 (5) to consult and cooperate with universities, colleges, community
34 colleges and institutes for the development of specialized courses for
35 security guards;

36 (6) to consult and cooperate with departments and agencies of this
37 State, other states and the federal government concerned with training
38 of security guards;

39 (7) to certify those persons who have satisfactorily completed basic
40 educational and training requirements;

41 (8) to annually visit and inspect approved schools;

42 (9) to establish reasonable charges for such training and education;
43 and

44 (10) to make such rules and regulations and to perform such other
45 duties as may be reasonably necessary or appropriate to implement the
46 education and training program.

1 6. (New section) a. The superintendent shall issue to a registered
2 security guard an identification card containing such information as the
3 superintendent shall prescribe.

4 b. A person who is issued an identification card pursuant to
5 subsection a. of this section shall be responsible for its safekeeping and
6 shall not lend, let or allow any other person to use, possess, exhibit or
7 display the card.

8 c. No person shall use, possess, exhibit or display any license, card,
9 shield or badge of any design or material purporting to authorize the
10 holder or wearer to act as a security guard, unless such person is
11 registered as a security guard pursuant to section 4 of this act.

12 d. If it is established to the satisfaction of the superintendent that
13 an identification card has been lost or destroyed, the superintendent
14 shall, upon payment of an appropriate fee, issue a duplicate
15 identification card for the unexpired portion of the term of the
16 registration.

17 e. Any person who violates the provisions of this section shall be
18 guilty of a crime of the fourth degree in addition to any other crime or
19 offense specified by law.

20

21 7. (New section) a. In addition to any other penalties prescribed
22 by this act or any other law, an owner or operator of a licensed
23 security guard company who employs a security guard in violation of
24 the provisions of this act shall be liable to a civil penalty not to exceed
25 \$10,000 for the first offense and not more than \$20,000 for a second
26 or subsequent offense.

27 b. In addition to any other penalties prescribed by this act or any
28 other law, a person who permits himself to be employed as or
29 performs the functions and activities of a security guard while in
30 violation of the provisions of this act shall be liable to a civil penalty
31 not to exceed \$1,000 for a first offense and not more than \$2,500 for
32 a second or subsequent offense.

33 c. A penalty imposed under subsections a. or b. of this section shall
34 be recovered in a civil action pursuant to "The Penalty Enforcement
35 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

36

37 8. (New section) For the purpose of investigating whether a
38 person has engaged in, or is engaging in, any act or practice declared
39 unlawful under this act, or for the purpose of investigating the
40 character, competency, integrity or methods of operation of applicants,
41 licensees or registrants hereunder, or of any owner or operator of any
42 licensed security guard company, the superintendent shall have the
43 power to:

44 a. Require any person to file on such form as may be prescribed by
45 the superintendent, a statement or report in writing under oath, or
46 otherwise, as to the facts and circumstances concerning any matter

1 being investigated;

2 b. Administer oaths or affirmations and examine any person in
3 connection with any investigation;

4 c. Inspect any premises and examine and impound any record,
5 book, computer, electronic database, recording device, document,
6 account, paper or other tangible thing, without prior notification, in
7 connection with any investigation;

8 d. Hold investigative hearings and issue subpoenas to compel the
9 attendance of any person or the production of any record, book,
10 computer, electronic database, recording device, document, account,
11 paper or other tangible thing in connection with any investigation; and

12 e. Apply to the Superior Court for an order compelling compliance
13 with any subpoena or other request for information.

14

15 9. (New section) A violation of any of the provisions of this act
16 shall be cause for revocation or suspension of any license or
17 registration issued hereunder, notwithstanding that the same violation
18 may constitute a crime or other offense under the laws of this State or
19 any other state or jurisdiction. An indictment, prosecution and
20 conviction arising out of any of the provisions of this act shall not be
21 construed to preclude, if the evidence so warrants, an indictment,
22 prosecution and conviction for any other crime or offense in this State
23 or any other state or jurisdiction.

24

25 10. (New section) Each owner or operator of a security guard
26 company and each person employed as a security guard on the
27 effective date of this act shall comply with the requirements of this act
28 by the first day of the seventh month after its effective date.

29

30 11. (New section) The superintendent shall promulgate rules and
31 regulations necessary to carry out this the provisions of this act.

32

33 12. Section 2 of P.L.1939, c.369 (C.45:19-9) is amended to read
34 as follows:

35 2. Definitions:

36 (a) The term "private detective business" shall mean the business of
37 conducting a private detective agency or for the purpose of making for
38 hire or reward any investigation or investigations for the purpose of
39 obtaining information with reference to any of the following matters,
40 notwithstanding the fact that other functions and services may also be
41 performed by the same person, firm, association or corporation for fee,
42 hire or reward, to wit: (1) crime or wrong done or threatened or
43 assumed to have been done or threatened against the Government of
44 the United States of America, or any State, Territory or Possession
45 of the United States of America; (2) the identity, habits, conduct,
46 movements, whereabouts, affiliations, associations, transactions,

1 reputation or character of any person, association, organization,
2 society or groups of persons, firms or corporations; (3) the credibility
3 of witnesses or other persons; (4) the whereabouts of missing
4 persons; (5) the location or recovery of lost or stolen property; (6) the
5 causes and origin of, or responsibility for, fires, libels, accidents,
6 damage, injuries or losses to persons, firms, associations or
7 corporations, or to real or personal property; (7) the affiliation,
8 connection or relation of any person, firm or corporation with any
9 organization, society, association, or with any official member or
10 representative thereof; (8) with reference to the conduct, honesty,
11 efficiency, loyalty or activities of employees, agents, contractors and
12 subcontractors; (9) the securing of evidence to be used before any
13 investigating committee, board of award, board of arbitration, or in the
14 trial of any civil or criminal cause; provided, however, that the term
15 shall not include a person, firm, association or corporation engaged
16 exclusively in the business of making investigations and reports as to
17 the financial standing, credit and financial responsibility of persons,
18 firms, associations or corporations nor to electrically controlled
19 burglar or fire alarm system with a central unit, nor to any person,
20 firm, association or corporation engaged in the business of making
21 reports for insurance or credit purposes. [Also it shall mean the
22 furnishing for hire or reward of watchmen or guards or private
23 patrolmen or other persons to protect persons or property, either real
24 or personal, or for any other purpose whatsoever.] The term shall not
25 include and nothing in this act shall apply to any lawful activity of any
26 board, body, commission or agency of the United States of America
27 or of any State, Territory or Possession of the United States of
28 America, or any county, municipality, school district, or any officer or
29 employee solely, exclusively and regularly employed by any of the
30 foregoing; nor to any attorney or counselor-at-law in connection with
31 the regular practice of his profession, nor to any person employed by
32 any such attorney or counsellor-at-law when engaged upon his
33 employer's business; nor to any employee, investigator or investigators
34 solely, exclusively and regularly employed by any person, firm,
35 association or corporation which is not engaged in any of the
36 businesses hereinbefore described in items numbered one to nine, both
37 inclusive, of this subsection in so far as their acts may relate solely to
38 the business of the respective employers; nor to any person, firm,
39 association or corporation licensed to do a business of insurance of
40 any nature under the insurance laws of this State, nor to any employee
41 or licensed agent thereof; nor to any person, firm, association or
42 corporation conducting any investigation solely for its own account.

43 (b) The terms "the business of detective agency[.]" and "the
44 business of investigator" [and "the business of watch, guard or patrol
45 agency"] shall mean any person, firm, association or corporation
46 engaged in the private detective business as defined in subsection (a)

1 of this section, who employs one or more persons in conducting such
2 business, but shall not include the business of watch, guard or patrol
3 agency.

4 (c) The terms "private detective" or "investigator" shall mean and
5 include any person who singly and for his own account and profit
6 conducts a private detective business without the aid or assistance of
7 any employees or associates.

8 (d) The masculine shall include the feminine and the neuter genders.

9 (e) The term "superintendent" means the Superintendent of State
10 Police.

11 (f) The terms "firm" and "association" shall include partnerships,
12 but shall not include corporations.

13 (cf: P.L.1971, c.342, s.1)

14

15 13. Section 3 of P.L.1971, c.342 (C.45:19-12.1) is amended to
16 read as follows:

17 3. a. Subsequent to the effective date of this act, every licensee
18 shall pay to the superintendent an additional fee of \$15.00 for each
19 person in its employ engaged in said employment in this State as a
20 private detective or investigator [which terms shall include watchmen,
21 guards and private patrolmen]. Any licensee who shall employ any
22 person in the aforementioned categories subsequent to its securing a
23 license or renewal thereof and for whom the fee of \$15.00 has not
24 been paid shall pay the fee of \$15.00 for each of said persons prior to
25 the commencement of said employment with the licensee. Thereafter
26 any licensee at the time of any renewal if its license hereunder shall pay
27 a renewal fee of \$5.00 for each of said employees in the
28 aforementioned categories for whom an initial fee of \$15.00 has been
29 paid by said licensee.

30 b. Any licensee who shall employ any person in the aforementioned
31 categories in subsection a. above without having paid the fees in
32 accordance with said subsection a. shall be a disorderly person.

33 (cf: P.L.1971, c.342, s.3)

34

35 14. Section 12 of P.L.1939, c.369 (C.45:19-19) is amended to read
36 as follows:

37 12. No person licensed under the provisions of this act, or the
38 officers, directors, employees, operators or agents thereof, shall wear,
39 carry or accept any badge or shield purporting to indicate that such
40 person is a private detective or investigator or connected with the
41 private detective business [, but any such person, officer, director,
42 employee, operator or agent, who is acting as a guard or performs any
43 special service, may, while in uniform, and while on the premises of
44 the employer of the licensee where he is so acting, wear a badge or
45 shield inscribed with the name of the license holder, number, and the
46 word "Guard" or "Special Service."]. Any person violating the

1 provisions of this section shall be guilty of a misdemeanor.
2 (cf: P.L.1953, c.404, s. 1)

3
4 15. This act shall take effect on the first day of the third month
5 after enactment.

6
7
8 STATEMENT

9
10 This bill would revise the law governing the regulation of security
11 guards. Under current law, security guards are regulated under "The
12 Private Detective Act of 1939." This bill changes the law by
13 establishing a separate system of regulation for security guards known
14 as the Security Guard Registration Act.

15 Under the bill, security guards, as well as security guard companies,
16 would continue to be regulated by the Superintendent of State Police.
17 The bill defines a security guard as any person who, for a fee, hire or
18 reward: (1) protects persons or property from injury or harm; (2)
19 deters, observes, detects or reports incidents and activities to prevent
20 theft of goods or other articles; or (3) deters, observes, detects or
21 reports incidents to prevent unauthorized or unlawful activity, such as
22 robbery, burglary, arson, criminal mischief, vandalism or trespass. A
23 "security guard company" is defined as any body, board, person, firm,
24 corporation, partnership, proprietorship, joint venture, fund, authority
25 or similar entity that is organized for the purpose of or engages in the
26 business of furnishing for fee, hire, reward or compensation one or
27 more security guards.

28 Law enforcement officers would not be subject to the bill's
29 provisions if they are acting in the performance of their duties. The
30 bill specifies that they would be acting in the performance of their
31 duties if they are: in uniform or exhibit other evidence of authority;
32 performing authorized public safety functions; and paid by the
33 employing police department. They would not be acting in the
34 performance of their duties if they are performing private security
35 functions for a private employer.

36 The bill requires any person who is employed as a security guard to
37 register with the superintendent. The person would have to be 18
38 years of age and a citizen of the United States. A person who has
39 been convicted of any of the following crimes or offenses would be not
40 be permitted to register as a security guard: (1) a crime of the first,
41 second, third or degree; (2) an offense involving the unlawful use,
42 possession or sale of a controlled dangerous substance as defined in
43 N.J.S.2C:35-2; or (3) an offense where the issuance of a license would
44 be contrary to the public interest, as determined by the superintendent.
45 A person who violates these provisions would be guilty of a crime of
46 the fourth degree and would be subject to a civil penalty of up to

1 \$1,000 for a first offense and \$2,500 for a subsequent offense. The
2 person's registration also may be revoked or suspended for failure to
3 comply with the bill's requirements.

4 Security guards would be required to complete an education and
5 training program established by the superintendent. The bill would
6 authorize the superintendent and commission to: (1) implement and
7 administer or approve the minimum courses of study and training for
8 security guards; (2) implement and administer or approve physical and
9 psychological testing and screening of applicants; (3) issue certificates
10 of approval to schools approved by the superintendent and commission
11 and to withdraw certificates of approval from those schools
12 disapproved by the superintendent and commission; (4) certify
13 instructors pursuant to the minimum qualifications established by the
14 superintendent and commission; (5) consult and cooperate with
15 universities, colleges, community colleges and institutes for the
16 development of specialized courses for security guards; (6) consult and
17 cooperate with departments and agencies of this State, other states and
18 the federal government concerned with training of security guards; (7)
19 certify those persons who have satisfactorily completed basic
20 educational and training requirements; (8) annually visit and inspect
21 approved schools; (9) establish reasonable charges for such training
22 and education; and (10) make such rules and regulations and to
23 perform such other duties as may be reasonably necessary or
24 appropriate to implement the education and training program.

25 Persons registered as security guards would be issued special cards
26 identifying them as security guards. Illegal use of this card would be
27 a crime of the fourth degree.

28 The bill also requires persons who engage in the business of a
29 security guard company to obtain a license from the superintendent.
30 An owner or operator of a security guard company would be required
31 to be at least 25 years old and a citizen of the United States. A person
32 would be disqualified from owning or operating a security guard
33 company if he or she has been convicted of: a crime of the first,
34 second, third or degree; (2) an offense involving the unlawful use,
35 possession or sale of a controlled dangerous substance as defined in
36 N.J.S.2C:35-2; or (3) an offense where the issuance of a license would
37 be contrary to the public interest, as determined by the superintendent.
38 An owner or operator who does not comply with these licensure
39 requirements would be guilty of a crime of the fourth degree. The
40 owner or operator's license also may be revoked or suspended for
41 failure to comply with the bill's provisions.

42 It would be a crime of the fourth degree for the owner or operator
43 of a licensed security guard company to employ an unregistered
44 security guard. The owner or operator also would be subject to a civil
45 penalty of up to \$10,000 for a first offense and \$20,000 for a
46 subsequent offense.

1 To enforce the bill's provisions, the superintendent is authorized to:
2 (1) require written statements concerning the facts and circumstances
3 of a matter being investigated; (2) administer oaths or affirmations and
4 examine persons connection with an investigation; (3) inspect
5 premises and examine and impound any record, book, computer,
6 electronic database, recording device, document, account, paper or
7 other tangible thing, without prior notification, in connection with any
8 investigation; (4) hold investigative hearings and issue subpoenas to
9 compel the attendance of any person or the production of any record,
10 book, computer, electronic database, recording device, document,
11 account, paper or other tangible thing in connection with any
12 investigation; and (5) apply to the Superior Court for an order
13 compelling compliance with any subpoena or other request for
14 information.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1516

STATE OF NEW JERSEY

DATED: JUNE 22, 2004

The Assembly Budget Committee reports favorably Senate Bill No. 1516 (1R).

Senate Bill No. 1516 (1R) revises the law governing the regulation of security guards.

Under current law, security guards are regulated under "The Private Detective Act of 1939." Under the bill, security guards would be referred to as security officers and would be regulated under a new law to be known as the Security Officer Registration Act.

Security officers, as well as security officer companies, would continue to be regulated by the Superintendent of State Police. The bill defines a security officer as any person who, as an employee, agent or subcontractor of a security officer company, for a fee, hire or reward: (1) protects persons or property from injury or harm; (2) deters, observes, detects or reports incidents and activities to prevent theft of goods or other articles; or (3) deters, observes, detects or reports incidents to prevent unauthorized or unlawful activity, such as robbery, burglary, arson, criminal mischief, vandalism or trespass. A "security officer company" is defined as any body, board, person, firm, corporation, partnership, proprietorship, joint venture, fund, authority or similar entity that is organized for the purpose of or engages in the business of furnishing for fee, hire, reward or compensation one or more security guards.

Law enforcement officers would not be subject to the bill's provisions if they are acting in the performance of their duties. The bill specifies that they would be acting in the performance of their duties if they are: in uniform or exhibit other evidence of authority; performing authorized public safety functions; and paid by the employing police department. They would not be acting in the performance of their duties if they are performing private security functions for a private employer. The bill also prohibits these officers from wearing their uniforms or exhibiting their law enforcement authority when acting as a security officer.

The bill requires any person who is employed as a security officer to register with the superintendent. The person would have to be 18 years of age. A person who has been convicted of any of the

following crimes or offenses would be not be permitted to register as a security officer: (1) a crime of the first, second, third or degree; (2) an offense involving the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2; or (3) an offense where the issuance of a license would be contrary to the public interest, as determined by the superintendent. A person who violates these provisions would be guilty of a crime of the fourth degree and would be subject to a civil penalty of up to \$1,000 for a first offense and \$2,500 for a subsequent offense. The person's registration also may be revoked or suspended for failure to comply with the bill's requirements.

Security officers would be required to complete an education and training program established by the superintendent. The bill would authorize the superintendent and commission to: (1) implement and administer or approve the minimum courses of study and training for security officers; (2) implement and administer or approve physical and psychological testing and screening of applicants; (3) issue certificates of approval to schools approved by the superintendent and to withdraw certificates of approval from those schools disapproved by the superintendent; (4) certify instructors pursuant to the minimum qualifications established by the superintendent; (5) consult and cooperate with universities, colleges, community colleges and institutes for the development of specialized courses for security officers; (6) consult and cooperate with departments and agencies of this State, other states and the federal government concerned with training of security officers; (7) certify those persons who have satisfactorily completed basic educational and training requirements; (8) annually visit and inspect approved schools; (9) establish reasonable charges for such training and education; and (10) make such rules and regulations and to perform such other duties as may be reasonably necessary or appropriate to implement the education and training program.

Persons registered as security officers would be issued special cards identifying them as security officers. Illegal use of this card would be a crime of the fourth degree.

The bill also requires persons who engage in the business of a security officer company to obtain a license from the superintendent. An owner or operator of a security officer company would be required to be at least 25 years old. In addition, they would be required to have five years law enforcement experience, but the amended bill specifies that they could no longer be employed by a law enforcement agency. They also could obtain this five years experience by working in a supervisory or management position for a licensed security officer company. A person would be disqualified from owning or operating a security officer company if he or she has been convicted of: a crime of the first, second, third or degree; (2) an offense involving the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2; or (3) an offense where the issuance of a

license would be contrary to the public interest, as determined by the superintendent. An owner or operator who does not comply with these licensure requirements would be guilty of a crime of the fourth degree. The owner or operator's license also may be revoked or suspended for failure to comply with the bill's provisions.

It would be a crime of the fourth degree for the owner or operator of a licensed security officer company to employ an unregistered security officer. The owner or operator also would be subject to a civil penalty of up to \$10,000 for a first offense and \$20,000 for a subsequent offense.

As reported, this bill is identical to A-2562 (1R) also as reported by the committee.

FISCAL IMPACT:

No fiscal information has been provided on this bill.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 1516

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 7, 2004

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably and with committee amendments Senate Bill No. 1516.

Senate Bill No. 1516 revises the law governing the regulation of security guards.

Under current law, security guards are regulated under "The Private Detective Act of 1939." As amended and reported by the committee, security guards would be referred to as security officers and would be regulated under a new law to be known as the Security Officer Registration Act.

Under the bill, security officers, as well as security officer companies, would continue to be regulated by the Superintendent of State Police. The amended bill defines a security officer as any person who, as an employee, agent or subcontractor of a security officer company, for a fee, hire or reward: (1) protects persons or property from injury or harm; (2) deters, observes, detects or reports incidents and activities to prevent theft of goods or other articles; or (3) deters, observes, detects or reports incidents to prevent unauthorized or unlawful activity, such as robbery, burglary, arson, criminal mischief, vandalism or trespass. A "security officer company" is defined as any body, board, person, firm, corporation, partnership, proprietorship, joint venture, fund, authority or similar entity that is organized for the purpose of or primarily engages in the business of furnishing for fee, hire, reward or compensation one or more security guards.

Law enforcement officers would not be subject to the bill's provisions if they are acting in the performance of their duties. The bill specifies that they would be acting in the performance of their duties if they are: in uniform or exhibit other evidence of authority; performing authorized public safety functions; and paid by the employing police department. They would not be acting in the performance of their duties if they are performing private security functions for a private employer. The amended bill also prohibits these officers from wearing their uniforms or exhibiting their law

enforcement authority when acting as a security officer.

The bill requires any person who is employed as a security officer to register with the superintendent. The person would have to be 18 years of age. A person who has been convicted of any of the following crimes or offenses would be not be permitted to register as a security officer: (1) a crime of the first, second, third or fourth degree; (2) an offense involving the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2; or (3) an offense where the issuance of a license would be contrary to the public interest, as determined by the superintendent. A person who violates these provisions would be guilty of a crime of the fourth degree and would be subject to a civil penalty of up to \$1,000 for a first offense and \$2,500 for a subsequent offense. The person's certificate of registration also may be revoked or suspended for failure to comply with the bill's requirements.

Security officers would be required to complete an education and training program established by the superintendent. The bill would authorize the superintendent and commission to: (1) implement and administer or approve the minimum courses of study and training for security officers; (2) implement and administer or approve physical and psychological testing and screening of applicants; (3) issue certificates of approval to schools approved by the superintendent and to withdraw certificates of approval from those schools disapproved by the superintendent; (4) certify instructors pursuant to the minimum qualifications established by the superintendent; (5) consult and cooperate with universities, colleges, community colleges and institutes for the development of specialized courses for security officers; (6) consult and cooperate with departments and agencies of this State, other states and the federal government concerned with training of security officers; (7) certify those persons who have satisfactorily completed basic educational and training requirements; (8) annually visit and inspect approved schools; (9) establish reasonable charges for such training and education; and (10) make such rules and regulations and to perform such other duties as may be reasonably necessary or appropriate to implement the education and training program.

Persons registered as security officers would be issued special cards identifying them as security officers. Illegal use of this card would be a crime of the fourth degree.

The bill also requires persons who engage in the business of a security officer company to obtain a license from the superintendent. An owner or operator of a security officer company would be required to be at least 25 years old. In addition, they would be required to have five years law enforcement experience, but the amended bill specifies that they could no longer be employed by a law enforcement agency. They also could obtain this five years experience by working in a supervisory or management position for a licensed security officer company. A person would be disqualified from owning or operating

a security officer company if he or she has been convicted of: a crime of the first, second, third or fourth degree; (2) an offense involving the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2; or (3) an offense where the issuance of a license would be contrary to the public interest, as determined by the superintendent. An owner or operator who does not comply with these licensure requirements would be guilty of a crime of the fourth degree. The owner or operator's license also may be revoked or suspended for failure to comply with the bill's provisions.

It would be a crime of the fourth degree for the owner or operator of a licensed security officer company to employ an unregistered security officer. The owner or operator also would be subject to a civil penalty of up to \$10,000 for a first offense and \$20,000 for a subsequent offense.

The amended bill requires security officer companies to keep an "employee's statement" on file for each of its employees. The statement is to include the employee's full name, age, residence, place and date of birth and such other information as the superintendent shall require by rule or regulation. The statement would be made available for the superintendent's review.

To enforce the provisions of this act, the superintendent is authorized to: (1) require written statements concerning the facts and circumstances of a matter being investigated; (2) administer oaths or affirmations and examine persons in connection with an investigation; (3) inspect premises and examine and impound any record, book, computer, electronic database, recording device, document, account, paper or other tangible thing, without prior notification, in connection with any investigation; (4) hold investigative hearings and issue subpoenas to compel the attendance of any person or the production of any record, book, computer, electronic database, recording device, document, account, paper or other tangible thing in connection with any investigation; and (5) apply to the Superior Court for an order compelling compliance with any subpoena or other request for information.

The amended bill requires the superintendent to develop and maintain an electronic database of registered security officers for use by licensed security officer companies. The database would be funded by a fee charged to security officer applicants.

The committee amended the bill to:

(1) change the name of the act to the "Security Officer Registration Act" and change references to security guards and security guard companies throughout the bill to security officers and security officer companies;

(2) clarify that the bill does not apply to companies which hire in-house security staff, revise the definition of security guard to persons who, as employees, agents or subcontractors of security companies, provide security services;

(3) remove the requirement that security officers and the owners

or operators of security officer companies be citizens of the United States;

(4) clarify that a person who has established the five-year experience requirement to be licensed as the owner of a security officer company could not simultaneously be employed by a law enforcement agency and clarify that the five years experience requirement that is satisfied by working for a licensed security officer company must be in a supervisory or management position;

(5) require security officer companies to keep an "employee's statement" on file for each of its employees, which includes the employee's full name, age, residence, place and date of birth and such other information as the superintendent shall require by rule or regulation and which would be made available for the superintendent's review;

(6) require security officer companies to notify the superintendent within 48 hours when a security officer is terminated for cause;

(7) change reference to security guard registration to "certificate of registration;"

(8) clarify that the training and education program for security officers will be established by the superintendent by rule and regulation;

(9) require that identification cards issued to security officers incorporate appropriate security features;

(10) require the superintendent to develop and maintain an electronic database of registered security officers for use by licensed security officer companies, which would be funded by a fee charged to security officer applicants;

(11) establish that each violation of the bill's provisions would be considered a separate offense for prosecutorial purposes;

(12) Add the word "primarily" to the definition of "security officer company" to narrow the definition to apply only to entities organized for the purpose of or primarily engaged in the business of furnishing for a fee, hire, reward or compensation one or more security officers;

(13) change the effective date to one year after enactment, except that the superintendent is authorized to take anticipatory administrative action needed to implement the bill; and

(14) make technical corrections.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1516

STATE OF NEW JERSEY

211th LEGISLATURE

DATED: JULY 15, 2004

SUMMARY

Synopsis: Revises regulation of security guards.
Type of Impact: Indeterminate Expenditure Increase. General Fund.
Agencies Affected: Department of Law and Public Safety;

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State Cost	Indeterminate Expenditure Increase.		
State Revenue	Minimal		

- ! Establishes the "Security Officer Registration Act" and changes references to security guards and security guard companies to security officers and security officer companies.
- ! Requires criminal history record background checks for security officers and owners of security officer companies. Establishes that a fee may be charged to the applicant to cover this expenditure.
- ! Requires security officers to obtain training and education through a program approved and established by the Superintendent of the State Police.
- ! Requires identification cards to be issued to security officers.
- ! Authorizes the superintendent to develop and maintain an electronic database of registered security officers. A fee will be charged to security officer applicants to cover this expenditure.
- ! Creates penalties for violations of the bill's provisions.

BILL DESCRIPTION

Senate Bill No. 1516 (1R) of 2004, revises the law governing the regulation of security guards. Currently, security guards are regulated under "The Private Detective Act of 1939."

This bill would retitle "security guards" as "security officers" and would establish new regulations to be known as the "Security Officer Registration Act." The bill defines security officer and security officer company and establishes penalties for violators.

Under the bill, security officers, as well as security officer companies, would continue to be regulated by the Superintendent of State Police. The bill requires any person employed as a security officer or engaged in the business of security officers to register with the superintendent and further defines requirements for owners or operators of security officer companies.

This bill authorizes the superintendent to establish an education and training program, which security officers are required to complete. Persons registered as security officers would be issued special cards identifying them as security officers.

The superintendent is authorized to enforce the provisions of this bill. Additionally, this bill requires the superintendent to develop and maintain an electronic database of registered security officers for use by licensed security officer companies. The database will be funded by a fee charged to security officer applicants.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates that this will have a minimal cost increase to the Department of Law and Public Safety (LPS).

The OLS finds the requirements on the superintendent to establish training programs, certify, license and enforce security officers, and security officer companies, will cause an increase in expenditures to the department. The department unofficially noted that they would work to certify schools that currently provide this training, thus it would be of minimal expense to develop. Additionally, OLS was unofficially informed that LPS currently regulates, monitors and performs background checks on security guards and security guard companies through the "The Private Detective Act of 1939."

The OLS further notes that the superintendent is required to develop and maintain an electronic database of registered security officers, however a fee will be charged to security officer applicants to cover this expenditure. Additionally, each owner and individual must submit to a criminal history record background check at the applicants expense.

It is unknown at this time, how many security officers and companies will be effected.

Section: *Law and Public Safety*

Analyst: *Kristin A. Brunner*
Associate Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 2562

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MARCH 15, 2004

Sponsored by:

Assemblyman PETER J. BARNES, JR.

District 18 (Middlesex)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblywoman MARY T. PREVITE

District 6 (Camden)

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

SYNOPSIS

Revises regulation of security guards.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/4/2004)

A2562 BARNES, JOHNSON

2

1 AN ACT concerning the regulation of security guards, supplementing
2 Title 45 of the Revised Statutes and amending P.L.1939, c.369 and
3 P.L.1971, c.342.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) This act shall be known and may be cited as the
9 "Security Guard Registration Act."

10

11 2. (New section) As used in this act:

12 a. "Owner" or "operator" means an officer, director, member, sole
13 proprietor, partner or associate of a private security company.

14 b. "Security guard" means any person who performs any of the
15 following functions or activities for a fee, hire or reward,
16 notwithstanding the fact that other functions and activities may also be
17 performed by the same person for fee, hire or reward:

18 (1) protection of person or property, real or personal, from injury
19 or harm or for any other purpose whatsoever;

20 (2) deterrence, observation, detection or reporting of incidents and
21 activities for the purpose of preventing the theft, or the unlawful
22 taking, conversion, concealment or misappropriation of goods, wares,
23 merchandise, money, bonds, stocks, notes or other valuable
24 instruments, documents, papers or articles, or

25 (3) deterrence, observation, detection or reporting of incidents and
26 activities for the purpose of preventing any unauthorized or unlawful
27 activity, including but not limited to, robbery, burglary, arson, criminal
28 mischief, vandalism or trespass.

29 The term shall not mean or include, and nothing in this act shall
30 apply to, any law enforcement officer of this State, or any political
31 subdivision of the State, while in the actual performance of his duties.
32 For the purposes of this section, a law enforcement officer shall be
33 deemed to be in the actual performance of his duties if the law
34 enforcement officer is in uniform, or is exhibiting evidence of his
35 authority, is performing public safety functions on behalf of and as
36 assigned by his chief of police or the chief law enforcement officer of
37 his law enforcement agency and is receiving compensation, if any,
38 from his law enforcement agency at the rates or stipends as are
39 established by law. A law enforcement officer shall not be deemed to
40 be in the actual performance of his duties, for the purposes of this
41 section, if the law enforcement officer is performing private security
42 functions or activities for a private employer while receiving
43 compensation for those duties from the private employer.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. "Security guard company" means any body, board, person, firm,
2 corporation, partnership, proprietorship, joint venture, fund, authority
3 or similar entity that is organized for the purpose of or engages in the
4 business of furnishing for a fee, hire, reward or compensation one or
5 more security guards. The term shall not mean or include, and nothing
6 in this act shall apply to, any board, body, commission or agency of the
7 United States of America or of this State or any other state, territory
8 or possession of the United States of America, or any county,
9 municipality or school district or any officer or employee solely,
10 exclusively and regularly employed by any of the foregoing. The term
11 shall include any business of watch, guard or patrol agency.

12 d. "Superintendent" means the Superintendent of the Division of
13 State Police in the Department of Law and Public Safety.

14

15 3. (New section) a. No person shall engage in the business of a
16 security guard company, or advertise or hold out a business to be a
17 security guard company, unless the business is licensed by the
18 superintendent as set forth in this section. Any person who violates
19 the provisions of this section shall be guilty of a crime of the fourth
20 degree.

21 b. An application to be licensed as a security guard company shall
22 be submitted to the superintendent by each owner and operator of the
23 company, on a form and in a manner prescribed by the superintendent,
24 and shall contain the following information:

25 (1) the full name, age, which shall be at least 25 years, and
26 residence of the owners or operators of the security guard company;

27 (2) verification, in a manner satisfactory to the superintendent, that
28 the owners or operators are citizens of the United States;

29 (3) the full and complete employment history of the owners or
30 operators;

31 (4) that the owners or operators have five years law enforcement
32 experience or five years experience working for a licensed security
33 guard company;

34 (5) the municipality and location of the security company's
35 principal place of business and any office, bureau, agency or
36 subdivision of the company; and

37 (6) such further information as the superintendent may require to
38 show the good character, competency and integrity of the owners or
39 operators of the security guard company.

40 Each application shall be accompanied by the written approval, for
41 each owner or operator of the security guard company, of not less than
42 five reputable citizens who have known the applicant for at least three
43 years preceding the date of application and who shall certify that the
44 applicant is a person of good moral character and behavior.

45 Any person who shall knowingly make a false statement in or
46 knowingly omit any material information from the application required

1 by this subsection shall be guilty of a crime of the fourth degree in
2 addition to any other crime or offense specified by law.

3 c. No security guard company shall be licensed under the
4 provisions of this section if any owner or operator of the company has
5 been convicted, as indicated by a criminal history record background
6 check performed pursuant to the provisions of this section, of: a crime
7 of the first, second, third or fourth degree; any offense involving the
8 unlawful use, possession or sale of a controlled dangerous substance
9 as defined in N.J.S.2C:35-2; or any offense where the issuance of a
10 license would be contrary to the public interest, as determined by the
11 superintendent. The fingerprints of each owner or operator and the
12 written consent of the owner or operator shall be submitted to the
13 superintendent for a criminal history record background check to be
14 performed. The superintendent shall compare these fingerprints with
15 fingerprints on file with the State Bureau of Identification in the
16 Division of State Police and the Federal Bureau of Investigation
17 consistent with applicable State and federal laws, rules and
18 regulations. The owner or operator shall bear the cost for the criminal
19 history record background check, including all costs of administering
20 and processing the check.

21 d. The superintendent, when satisfied with the examination of any
22 application and such further inquiry and investigations as he shall deem
23 proper as to the good character, competency and integrity of the
24 applicant, shall issue a license to an approved security guard company
25 upon payment of a fee in an amount established by the superintendent
26 by rule and regulation and execution of a bond in a manner, form and
27 amount satisfactory to the superintendent as established by rule and
28 regulation. The license shall be renewable every two years upon
29 payment of a renewal fee in an amount established by the
30 superintendent by rule and regulation. The license may be revoked or
31 suspended by the superintendent for a violation of any of the
32 provisions of this act or for other good cause.

33 e. The revocation or suspension of any license by the
34 superintendent shall be subject to notice and a hearing.

35 f. A person who, as an owner or operator of a licensed security
36 guard company employs a security guard who is not registered with
37 the superintendent as required under section 4 of this act shall be
38 guilty of a crime of the fourth degree in addition to any other crime or
39 offense specified by law. Each violation of this section shall constitute
40 a separate offense.

41 Each owner and operator of a licensed security guard company shall
42 be liable, accountable and responsible for the actions and conduct in
43 connection with the employer's business of each security guard
44 employed by the company.

45 g. A security guard company shall immediately notify the
46 superintendent if a security guard is terminated for cause at any time.

1 4. (New section) a. No person shall be employed as, or perform
2 the functions and activities of, a security guard unless that person is
3 registered with the superintendent as required in this section. Any
4 person who violates the provisions of this section shall be guilty of a
5 crime of the fourth degree.

6 b. An application for registration as a security guard shall be filed
7 with the superintendent on a form and in a manner prescribed by the
8 superintendent and shall set forth under oath:

9 (1) the applicant's full name, age, which shall be at least 18 years,
10 and residence;

11 (2) that the applicant is a citizen of the United States;

12 (3) the name and address of all employers or occupations engaged
13 in for the immediately preceding five years;

14 (4) that the applicant has not been convicted of any disqualifying
15 crime or offense as set forth in subsection c. of this section; and

16 (5) such further information as the superintendent may require to
17 show the good character, competency and integrity of the applicant.

18 Any person who shall knowingly make a false statement in, or
19 knowingly omit any material information from, an application as
20 required by this subsection shall be guilty of a crime of the fourth
21 degree in addition to any other crime or offense specified by law.

22 c. No person shall be registered as a security guard under the
23 provisions of this section if the person has been convicted, as indicated
24 by a criminal history record background check performed pursuant to
25 the provisions of this section, of: a crime of the first, second, third or
26 fourth degree; any offense involving the unlawful use, possession or
27 sale of a controlled dangerous substance as defined in N.J.S.2C:35-2;
28 or any offense where the registration of the individual would be
29 contrary to the public interest, as determined by the superintendent.
30 Each applicant shall submit to the superintendent the applicant's
31 fingerprints and written consent for a criminal history record
32 background check to be performed. The superintendent shall compare
33 these to fingerprints on file with the State Bureau of Identification in
34 the Division of State Police and the Federal Bureau of Investigation,
35 consistent with applicable State and federal laws, rules and
36 regulations. The applicant shall bear the cost for the criminal history
37 record background check, including all costs of administering and
38 processing the check.

39 d. A person whose application has been approved by the
40 superintendent shall complete the required education and training
41 program established in section 5 of this act. Upon satisfactory
42 completion of this program, and upon the payment of a fee in an
43 amount established by the superintendent, the applicant shall be
44 entitled to and the superintendent shall issue and deliver to the
45 applicant a security guard registration.

46 e. The superintendent may revoke or suspend such registration for

1 a violation of any of the provisions of this act or for other good cause.
2 A registration shall be surrendered to the superintendent within 72
3 hours after its term has expired or after notice in writing to the holder
4 that the license has been revoked.

5 f. The registration shall be renewed every two years upon forms
6 prescribed by the superintendent and payment of a fee in an amount
7 established by the superintendent by rule and regulation. The
8 registration may be renewed without further investigation unless it is
9 deemed by the superintendent that the applicant no longer qualifies or
10 verified objections to the renewal are received by the superintendent
11 prior to issuance.

12 g. The revocation or suspension of any registration by the
13 superintendent shall be subject to notice and a hearing.

14

15 5. (New section) a. An education and training program for
16 security guards shall be established and approved by the
17 superintendent. The program shall consist of such subjects and
18 courses as the superintendent and commission may deem appropriate
19 and shall include 40 hours of classroom instruction.

20 b. In implementing and administering the education and training
21 program required in subsection a. of this section, the superintendent
22 and commission shall have the power:

23 (1) to implement and administer or approve the minimum courses
24 of study and training;

25 (2) to implement and administer or approve physical and
26 psychological testing and screening of applicants;

27 (3) to issue certificates of approval to schools approved by the
28 superintendent and commission and to withdraw certificates of
29 approval from those schools disapproved by the superintendent and
30 commission;

31 (4) to certify instructors pursuant to the minimum qualifications
32 established by the superintendent and commission;

33 (5) to consult and cooperate with universities, colleges, community
34 colleges and institutes for the development of specialized courses for
35 security guards;

36 (6) to consult and cooperate with departments and agencies of this
37 State, other states and the federal government concerned with training
38 of security guards;

39 (7) to certify those persons who have satisfactorily completed basic
40 educational and training requirements;

41 (8) to annually visit and inspect approved schools;

42 (9) to establish reasonable charges for such training and education;
43 and

44 (10) to make such rules and regulations and to perform such other
45 duties as may be reasonably necessary or appropriate to implement the
46 education and training program.

1 6. (New section) a. The superintendent shall issue to a registered
2 security guard an identification card containing such information as the
3 superintendent shall prescribe.

4 b. A person who is issued an identification card pursuant to
5 subsection a. of this section shall be responsible for its safekeeping and
6 shall not lend, let or allow any other person to use, possess, exhibit or
7 display the card.

8 c. No person shall use, possess, exhibit or display any license, card,
9 shield or badge of any design or material purporting to authorize the
10 holder or wearer to act as a security guard, unless such person is
11 registered as a security guard pursuant to section 4 of this act.

12 d. If it is established to the satisfaction of the superintendent that
13 an identification card has been lost or destroyed, the superintendent
14 shall, upon payment of an appropriate fee, issue a duplicate
15 identification card for the unexpired portion of the term of the
16 registration.

17 e. Any person who violates the provisions of this section shall be
18 guilty of a crime of the fourth degree in addition to any other crime or
19 offense specified by law.

20

21 7. (New section) a. In addition to any other penalties prescribed
22 by this act or any other law, an owner or operator of a licensed
23 security guard company who employs a security guard in violation of
24 the provisions of this act shall be liable to a civil penalty not to exceed
25 \$10,000 for the first offense and not more than \$20,000 for a second
26 or subsequent offense.

27 b. In addition to any other penalties prescribed by this act or any
28 other law, a person who permits himself to be employed as or
29 performs the functions and activities of a security guard while in
30 violation of the provisions of this act shall be liable to a civil penalty
31 not to exceed \$1,000 for a first offense and not more than \$2,500 for
32 a second or subsequent offense.

33 c. A penalty imposed under subsections a. or b. of this section shall
34 be recovered in a civil action pursuant to "The Penalty Enforcement
35 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

36

37 8. (New section) For the purpose of investigating whether a
38 person has engaged in, or is engaging in, any act or practice declared
39 unlawful under this act, or for the purpose of investigating the
40 character, competency, integrity or methods of operation of applicants,
41 licensees or registrants hereunder, or of any owner or operator of any
42 licensed security guard company, the superintendent shall have the
43 power to:

44 a. Require any person to file on such form as may be prescribed by
45 the superintendent, a statement or report in writing under oath, or
46 otherwise, as to the facts and circumstances concerning any matter

1 being investigated;

2 b. Administer oaths or affirmations and examine any person in
3 connection with any investigation;

4 c. Inspect any premises and examine and impound any record,
5 book, computer, electronic database, recording device, document,
6 account, paper or other tangible thing, without prior notification, in
7 connection with any investigation;

8 d. Hold investigative hearings and issue subpoenas to compel the
9 attendance of any person or the production of any record, book,
10 computer, electronic database, recording device, document, account,
11 paper or other tangible thing in connection with any investigation; and

12 e. Apply to the Superior Court for an order compelling compliance
13 with any subpoena or other request for information.

14

15 9. (New section) A violation of any of the provisions of this act
16 shall be cause for revocation or suspension of any license or
17 registration issued hereunder, notwithstanding that the same violation
18 may constitute a crime or other offense under the laws of this State or
19 any other state or jurisdiction. An indictment, prosecution and
20 conviction arising out of any of the provisions of this act shall not be
21 construed to preclude, if the evidence so warrants, an indictment,
22 prosecution and conviction for any other crime or offense in this State
23 or any other state or jurisdiction.

24

25 10. (New section) Each owner or operator of a security guard
26 company and each person employed as a security guard on the
27 effective date of this act shall comply with the requirements of this act
28 by the first day of the seventh month after its effective date.

29

30 11. (New section) The superintendent shall promulgate rules and
31 regulations necessary to carry out this the provisions of this act.

32

33 12. Section 2 of P.L.1939, c.369 (C.45:19-9) is amended to read
34 as follows:

35 2. Definitions:

36 (a) The term "private detective business" shall mean the business
37 of conducting a private detective agency or for the purpose of making
38 for hire or reward any investigation or investigations for the purpose
39 of obtaining information with reference to any of the following
40 matters, notwithstanding the fact that other functions and services
41 may also be performed by the same person, firm, association or
42 corporation for fee, hire or reward, to wit: (1) crime or wrong done
43 or threatened or assumed to have been done or threatened against the
44 Government of the United States of America, or any State, Territory
45 or Possession of the United States of America; (2) the identity, habits,
46 conduct, movements, whereabouts, affiliations, associations,

1 transactions, reputation or character of any person, association,
2 organization, society or groups of persons, firms or corporations; (3)
3 the credibility of witnesses or other persons; (4) the whereabouts of
4 missing persons; (5) the location or recovery of lost or stolen
5 property; (6) the causes and origin of, or responsibility for, fires,
6 libels, accidents, damage, injuries or losses to persons, firms,
7 associations or corporations, or to real or personal property; (7) the
8 affiliation, connection or relation of any person, firm or corporation
9 with any organization, society, association, or with any official
10 member or representative thereof; (8) with reference to the conduct,
11 honesty, efficiency, loyalty or activities of employees, agents,
12 contractors and subcontractors; (9) the securing of evidence to be
13 used before any investigating committee, board of award, board of
14 arbitration, or in the trial of any civil or criminal cause; provided,
15 however, that the term shall not include a person, firm, association or
16 corporation engaged exclusively in the business of making
17 investigations and reports as to the financial standing, credit and
18 financial responsibility of persons, firms, associations or corporations
19 nor to electrically controlled burglar or fire alarm system with a
20 central unit, nor to any person, firm, association or corporation
21 engaged in the business of making reports for insurance or credit
22 purposes. [Also it shall mean the furnishing for hire or reward of
23 watchmen or guards or private patrolmen or other persons to protect
24 persons or property, either real or personal, or for any other purpose
25 whatsoever.] The term shall not include and nothing in this act shall
26 apply to any lawful activity of any board, body, commission or agency
27 of the United States of America or of any State, Territory or
28 Possession of the United States of America, or any county,
29 municipality, school district, or any officer or employee solely,
30 exclusively and regularly employed by any of the foregoing; nor to
31 any attorney or counselor-at-law in connection with the regular
32 practice of his profession, nor to any person employed by any such
33 attorney or counsellor-at-law when engaged upon his employer's
34 business; nor to any employee, investigator or investigators solely,
35 exclusively and regularly employed by any person, firm, association or
36 corporation which is not engaged in any of the businesses hereinbefore
37 described in items numbered one to nine, both inclusive, of this
38 subsection in so far as their acts may relate solely to the business of
39 the respective employers; nor to any person, firm, association or
40 corporation licensed to do a business of insurance of any nature under
41 the insurance laws of this State, nor to any employee or licensed agent
42 thereof; nor to any person, firm, association or corporation conducting
43 any investigation solely for its own account.

44 (b) The terms "the business of detective agency[.]" and "the
45 business of investigator" [and "the business of watch, guard or patrol
46 agency"] shall mean any person, firm, association or corporation

1 engaged in the private detective business as defined in subsection (a)
2 of this section, who employs one or more persons in conducting such
3 business, but shall not include the business of watch, guard or patrol
4 agency.

5 (c) The terms "private detective" or "investigator" shall mean and
6 include any person who singly and for his own account and profit
7 conducts a private detective business without the aid or assistance of
8 any employees or associates.

9 (d) The masculine shall include the feminine and the neuter
10 genders.

11 (e) The term "superintendent" means the Superintendent of State
12 Police.

13 (f) The terms "firm" and "association" shall include partnerships,
14 but shall not include corporations.

15 (cf: P.L.1971, c.342, s.1)

16

17 13. Section 3 of P.L.1971, c.342 (C.45:19-12.1) is amended to
18 read as follows:

19 3. a. Subsequent to the effective date of this act, every licensee
20 shall pay to the superintendent an additional fee of \$15.00 for each
21 person in its employ engaged in said employment in this State as a
22 private detective or investigator [which terms shall include watchmen,
23 guards and private patrolmen]. Any licensee who shall employ any
24 person in the aforementioned categories subsequent to its securing a
25 license or renewal thereof and for whom the fee of \$15.00 has not
26 been paid shall pay the fee of \$15.00 for each of said persons prior to
27 the commencement of said employment with the licensee. Thereafter
28 any licensee at the time of any renewal if its license hereunder shall pay
29 a renewal fee of \$5.00 for each of said employees in the
30 aforementioned categories for whom an initial fee of \$15.00 has been
31 paid by said licensee.

32 b. Any licensee who shall employ any person in the aforementioned
33 categories in subsection a. above without having paid the fees in
34 accordance with said subsection a. shall be a disorderly person.

35 (cf: P.L.1971, c.342, s.3)

36

37 14. Section 12 of P.L.1939, c.369 (C.45:19-19) is amended to read
38 as follows:

39 12. No person licensed under the provisions of this act, or the
40 officers, directors, employees, operators or agents thereof, shall wear,
41 carry or accept any badge or shield purporting to indicate that such
42 person is a private detective or investigator or connected with the
43 private detective business [, but any such person, officer, director,
44 employee, operator or agent, who is acting as a guard or performs any
45 special service, may, while in uniform, and while on the premises of
46 the employer of the licensee where he is so acting, wear a badge or

1 shield inscribed with the name of the license holder, number, and the
2 word "Guard" or "Special Service."]. Any person violating the
3 provisions of this section shall be guilty of a misdemeanor.

4 (cf: P.L.1953, c.404, s. 1)

5
6 15. This act shall take effect on the first day of the third month
7 after enactment.

8
9
10 STATEMENT

11
12 This bill would revise the law governing the regulation of security
13 guards. Under current law, security guards are regulated under "The
14 Private Detective Act of 1939." This bill changes the law by
15 establishing a separate system of regulation for security guards known
16 as the Security Guard Registration Act.

17 Under the bill, security guards, as well as security guard companies,
18 would continue to be regulated by the Superintendent of State Police.
19 The bill defines a security guard as any person who, for a fee, hire or
20 reward: (1) protects persons or property from injury or harm; (2)
21 deters, observes, detects or reports incidents and activities to prevent
22 theft of goods or other articles; or (3) deters, observes, detects or
23 reports incidents to prevent unauthorized or unlawful activity, such as
24 robbery, burglary, arson, criminal mischief, vandalism or trespass. A
25 "security guard company" is defined as any body, board, person, firm,
26 corporation, partnership, proprietorship, joint venture, fund, authority
27 or similar entity that is organized for the purpose of or engages in the
28 business of furnishing for fee, hire, reward or compensation one or
29 more security guards.

30 Law enforcement officers would not be subject to the bill's
31 provisions if they are acting in the performance of their duties. The
32 bill specifies that they would be acting in the performance of their
33 duties if they are: in uniform or exhibit other evidence of authority;
34 performing authorized public safety functions; and paid by the
35 employing police department. They would not be acting in the
36 performance of their duties if they are performing private security
37 functions for a private employer.

38 The bill requires any person who is employed as a security guard to
39 register with the superintendent. The person would have to be 18
40 years of age and a citizen of the United States. A person who has
41 been convicted of any of the following crimes or offenses would be not
42 be permitted to register as a security guard: (1) a crime of the first,
43 second, third or degree; (2) an offense involving the unlawful use,
44 possession or sale of a controlled dangerous substance as defined in
45 N.J.S.2C:35-2; or (3) an offense where the issuance of a license would
46 be contrary to the public interest, as determined by the superintendent.

1 A person who violates these provisions would be guilty of a crime of
2 the fourth degree and would be subject to a civil penalty of up to
3 \$1,000 for a first offense and \$2,500 for a subsequent offense. The
4 person's registration also may be revoked or suspended for failure to
5 comply with the bill's requirements.

6 Security guards would be required to complete an education and
7 training program established by the superintendent. The bill would
8 authorize the superintendent and commission to: (1) implement and
9 administer or approve the minimum courses of study and training for
10 security guards; (2) implement and administer or approve physical and
11 psychological testing and screening of applicants; (3) issue certificates
12 of approval to schools approved by the superintendent and commission
13 and to withdraw certificates of approval from those schools
14 disapproved by the superintendent and commission; (4) certify
15 instructors pursuant to the minimum qualifications established by the
16 superintendent and commission; (5) consult and cooperate with
17 universities, colleges, community colleges and institutes for the
18 development of specialized courses for security guards; (6) consult and
19 cooperate with departments and agencies of this State, other states and
20 the federal government concerned with training of security guards; (7)
21 certify those persons who have satisfactorily completed basic
22 educational and training requirements; (8) annually visit and inspect
23 approved schools; (9) establish reasonable charges for such training
24 and education; and (10) make such rules and regulations and to
25 perform such other duties as may be reasonably necessary or
26 appropriate to implement the education and training program.

27 Persons registered as security guards would be issued special cards
28 identifying them as security guards. Illegal use of this card would be
29 a crime of the fourth degree.

30 The bill also requires persons who engage in the business of a
31 security guard company to obtain a license from the superintendent.
32 An owner or operator of a security guard company would be required
33 to be at least 25 years old and a citizen of the United States. A person
34 would be disqualified from owning or operating a security guard
35 company if he or she has been convicted of: a crime of the first,
36 second, third or degree; (2) an offense involving the unlawful use,
37 possession or sale of a controlled dangerous substance as defined in
38 N.J.S.2C:35-2; or (3) an offense where the issuance of a license would
39 be contrary to the public interest, as determined by the superintendent.
40 An owner or operator who does not comply with these licensure
41 requirements would be guilty of a crime of the fourth degree. The
42 owner or operator's license also may be revoked or suspended for
43 failure to comply with the bill's provisions.

44 It would be a crime of the fourth degree for the owner or operator
45 of a licensed security guard company to employ an unregistered
46 security guard. The owner or operator also would be subject to a civil

1 penalty of up to \$10,000 for a first offense and \$20,000 for a
2 subsequent offense.

3 To enforce the provisions of this act, the superintendent is
4 authorized to: (1) require written statements concerning the facts and
5 circumstances of a matter being investigated; (2) administer oaths or
6 affirmations and examine persons connection with an investigation; (3)
7 inspect premises and examine and impound any record, book,
8 computer, electronic database, recording device, document, account,
9 paper or other tangible thing, without prior notification, in connection
10 with any investigation; (4) hold investigative hearings and issue
11 subpoenas to compel the attendance of any person or the production
12 of any record, book, computer, electronic database, recording device,
13 document, account, paper or other tangible thing in connection with
14 any investigation; and (5) apply to the Superior Court for an order
15 compelling compliance with any subpoena or other request for
16 information.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2562

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 3, 2004

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 2562.

Assembly Bill No. 2562 revises the law governing the regulation of security guards.

Under current law, security guards are regulated under "The Private Detective Act of 1939." As amended and reported by the committee, security guards would be referred to as security officers and would be regulated under a new law to be known as the Security Officer Registration Act.

Under the bill, security officers, as well as security officer companies, would continue to be regulated by the Superintendent of State Police. The amended bill defines a security officer as any person who, as an employee, agent or subcontractor of a security officer company, for a fee, hire or reward: (1) protects persons or property from injury or harm; (2) deters, observes, detects or reports incidents and activities to prevent theft of goods or other articles; or (3) deters, observes, detects or reports incidents to prevent unauthorized or unlawful activity, such as robbery, burglary, arson, criminal mischief, vandalism or trespass. A "security officer company" is defined as any body, board, person, firm, corporation, partnership, proprietorship, joint venture, fund, authority or similar entity that is organized for the purpose of or engages in the business of furnishing for fee, hire, reward or compensation one or more security guards.

Law enforcement officers would not be subject to the bill's provisions if they are acting in the performance of their duties. The bill specifies that they would be acting in the performance of their duties if they are: in uniform or exhibit other evidence of authority; performing authorized public safety functions; and paid by the employing police department. They would not be acting in the performance of their duties if they are performing private security functions for a private employer. The amended bill also prohibits these officers from wearing their uniforms or exhibiting their law enforcement authority when acting as a security officer.

The bill requires any person who is employed as a security officer to register with the superintendent. The person would have to be 18

years of age. A person who has been convicted of any of the following crimes or offenses would be not be permitted to register as a security officer: (1) a crime of the first, second, third or degree; (2) an offense involving the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2; or (3) an offense where the issuance of a license would be contrary to the public interest, as determined by the superintendent. A person who violates these provisions would be guilty of a crime of the fourth degree and would be subject to a civil penalty of up to \$1,000 for a first offense and \$2,500 for a subsequent offense. The person's registration also may be revoked or suspended for failure to comply with the bill's requirements.

Security officers would be required to complete an education and training program established by the superintendent. The bill would authorize the superintendent and commission to: (1) implement and administer or approve the minimum courses of study and training for security officers; (2) implement and administer or approve physical and psychological testing and screening of applicants; (3) issue certificates of approval to schools approved by the superintendent and to withdraw certificates of approval from those schools disapproved by the superintendent; (4) certify instructors pursuant to the minimum qualifications established by the superintendent; (5) consult and cooperate with universities, colleges, community colleges and institutes for the development of specialized courses for security officers; (6) consult and cooperate with departments and agencies of this State, other states and the federal government concerned with training of security officers; (7) certify those persons who have satisfactorily completed basic educational and training requirements; (8) annually visit and inspect approved schools; (9) establish reasonable charges for such training and education; and (10) make such rules and regulations and to perform such other duties as may be reasonably necessary or appropriate to implement the education and training program.

Persons registered as security officers would be issued special cards identifying them as security officers. Illegal use of this card would be a crime of the fourth degree.

The bill also requires persons who engage in the business of a security officer company to obtain a license from the superintendent. An owner or operator of a security officer company would be required to be at least 25 years old. In addition, they would be required to have five years law enforcement experience, but the amended bill specifies that they could no longer be employed by a law enforcement agency. They also could obtain this five years experience by working in a supervisory or management position for a licensed security officer company. A person would be disqualified from owning or operating a security officer company if he or she has been convicted of: a crime of the first, second, third or degree; (2) an offense involving the unlawful use, possession or sale of a controlled dangerous substance

as defined in N.J.S.2C:35-2; or (3) an offense where the issuance of a license would be contrary to the public interest, as determined by the superintendent. An owner or operator who does not comply with these licensure requirements would be guilty of a crime of the fourth degree. The owner or operator's license also may be revoked or suspended for failure to comply with the bill's provisions.

It would be a crime of the fourth degree for the owner or operator of a licensed security officer company to employ an unregistered security officer. The owner or operator also would be subject to a civil penalty of up to \$10,000 for a first offense and \$20,000 for a subsequent offense.

The amended bill requires security officer companies to keep an "employee's statement" on file for each of its employees. The statement is to include the employee's full name, age, residence, place and date of birth and such other information as the superintendent shall require by rule or regulation. The statement would be made available for the superintendent's review.

To enforce the provisions of this act, the superintendent is authorized to: (1) require written statements concerning the facts and circumstances of a matter being investigated; (2) administer oaths or affirmations and examine persons connection with an investigation; (3) inspect premises and examine and impound any record, book, computer, electronic database, recording device, document, account, paper or other tangible thing, without prior notification, in connection with any investigation; (4) hold investigative hearings and issue subpoenas to compel the attendance of any person or the production of any record, book, computer, electronic database, recording device, document, account, paper or other tangible thing in connection with any investigation; and (5) apply to the Superior Court for an order compelling compliance with any subpoena or other request for information.

The amended bill requires the superintendent to develop and maintain an electronic database of registered security officers for use by licensed security officer companies. The database will be funded by a fee charged to security officer applicants.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) change the name of the act to the "Security Officer Registration Act" and change references to security guards and security guard companies throughout the bill to security officers and security officer companies;

(2) to clarify that the bill does not apply to companies which hire in-house security staff, revise the definition of security guard to persons who, as employees, agents or subcontractors of security companies, provide security services;

(3) remove the requirement that security officers and the owners or operators of security officer companies be citizens of the United

States;

(4) clarify that a person who has established the five-year experience requirement to be licensed as the owner of a security officer company could not simultaneously be employed by a law enforcement agency and clarify that the five years experience requirement that is satisfied by working for a licensed security officer company must be in a supervisory or management position;

(5) require security officer companies to keep an "employee's statement" on file for each of its employees, which includes the employee's full name, age, residence, place and date of birth and such other information as the superintendent shall require by rule or regulation and which would be made available for the superintendent's review;

(6) require security officer companies to notify the superintendent within 48 hours when a security officer is terminated for cause;

(7) change reference to security guard registration to "certificate of registration;"

(8) clarify that training and education program for security officers will be established by the superintendent by rule and regulation;

(9) require that identification cards issued to security officers incorporate appropriate security features;

(10) require the superintendent to develop and maintain an electronic database of registered security officers for use by licensed security officer companies, which would be funded by a fee charged to security officer applicants;

(11) establish that each violation of the act's provisions would be considered a separate offense for prosecutorial purposes;

(12) change the effective date to one year after enactment, except that the superintendent is authorized to take anticipatory administrative action needed to implement the bill; and

(13) make technical corrections.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2562

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 2004

The Assembly Budget Committee reports favorably Assembly Bill No. 2562 (1R), with committee amendments.

Assembly Bill No. 2562 (1R), as amended, revises the law governing the regulation of security guards.

Under current law, security guards are regulated under "The Private Detective Act of 1939." Under the bill, security guards would be referred to as security officers and would be regulated under a new law to be known as the Security Officer Registration Act.

Security officers, as well as security officer companies, would continue to be regulated by the Superintendent of State Police. The bill defines a security officer as any person who, as an employee, agent or subcontractor of a security officer company, for a fee, hire or reward: (1) protects persons or property from injury or harm; (2) deters, observes, detects or reports incidents and activities to prevent theft of goods or other articles; or (3) deters, observes, detects or reports incidents to prevent unauthorized or unlawful activity, such as robbery, burglary, arson, criminal mischief, vandalism or trespass. A "security officer company" is defined as any body, board, person, firm, corporation, partnership, proprietorship, joint venture, fund, authority or similar entity that is organized for the purpose of or engages in the business of furnishing for fee, hire, reward or compensation one or more security guards.

Law enforcement officers would not be subject to the bill's provisions if they are acting in the performance of their duties. The bill specifies that they would be acting in the performance of their duties if they are: in uniform or exhibit other evidence of authority; performing authorized public safety functions; and paid by the employing police department. They would not be acting in the performance of their duties if they are performing private security functions for a private employer. The bill also prohibits these officers from wearing their uniforms or exhibiting their law enforcement authority when acting as a security officer.

The bill requires any person who is employed as a security officer

to register with the superintendent. The person would have to be 18 years of age. A person who has been convicted of any of the following crimes or offenses would be not be permitted to register as a security officer: (1) a crime of the first, second, third or degree; (2) an offense involving the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2; or (3) an offense where the issuance of a license would be contrary to the public interest, as determined by the superintendent. A person who violates these provisions would be guilty of a crime of the fourth degree and would be subject to a civil penalty of up to \$1,000 for a first offense and \$2,500 for a subsequent offense. The person's registration also may be revoked or suspended for failure to comply with the bill's requirements.

Security officers would be required to complete an education and training program established by the superintendent. The bill would authorize the superintendent and commission to: (1) implement and administer or approve the minimum courses of study and training for security officers; (2) implement and administer or approve physical and psychological testing and screening of applicants; (3) issue certificates of approval to schools approved by the superintendent and to withdraw certificates of approval from those schools disapproved by the superintendent; (4) certify instructors pursuant to the minimum qualifications established by the superintendent; (5) consult and cooperate with universities, colleges, community colleges and institutes for the development of specialized courses for security officers; (6) consult and cooperate with departments and agencies of this State, other states and the federal government concerned with training of security officers; (7) certify those persons who have satisfactorily completed basic educational and training requirements; (8) annually visit and inspect approved schools; (9) establish reasonable charges for such training and education; and (10) make such rules and regulations and to perform such other duties as may be reasonably necessary or appropriate to implement the education and training program.

Persons registered as security officers would be issued special cards identifying them as security officers. Illegal use of this card would be a crime of the fourth degree.

The bill also requires persons who engage in the business of a security officer company to obtain a license from the superintendent. An owner or operator of a security officer company would be required to be at least 25 years old. In addition, they would be required to have five years law enforcement experience, but the amended bill specifies that they could no longer be employed by a law enforcement agency. They also could obtain this five years experience by working in a supervisory or management position for a licensed security officer company. A person would be disqualified from owning or operating a security officer company if he or she has been convicted of: a crime of the first, second, third or degree; (2) an offense involving the

unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2; or (3) an offense where the issuance of a license would be contrary to the public interest, as determined by the superintendent. An owner or operator who does not comply with these licensure requirements would be guilty of a crime of the fourth degree. The owner or operator's license also may be revoked or suspended for failure to comply with the bill's provisions.

It would be a crime of the fourth degree for the owner or operator of a licensed security officer company to employ an unregistered security officer. The owner or operator also would be subject to a civil penalty of up to \$10,000 for a first offense and \$20,000 for a subsequent offense.

As amended and reported, this bill is identical to S-1516 (1R) also as reported by the committee.

FISCAL IMPACT:

No fiscal information has been provided on this bill.

COMMITTEE AMENDMENTS:

The amendments clarify that a security officer company shall primarily be engaged in the business of security and make the bill identical to Senate Bill No. 1516(1R).

LEGISLATIVE FISCAL ESTIMATE
 [Second Reprint]
ASSEMBLY, No. 2562
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: JULY 15, 2004

SUMMARY

Synopsis: Revises regulation of security guards.
Type of Impact: Indeterminate Expenditure Increase. General Fund.
Agencies Affected: Department of Law and Public Safety; Division of State Police.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
State Cost	Indeterminate Expenditure Increase.		
State Revenue	Minimal		

- ! Establishes the "Security Officer Registration Act" and changes references to security guards and security guard companies to security officers and security officer companies.
- ! Requires criminal history record background checks for security officers and owners of security officer companies. Establishes that a fee may be charged to the applicant to cover this expenditure.
- ! Requires security officers to obtain training and education through a program approved and established by the Superintendent of the State Police.
- ! Requires identification cards to be issued to security officers.
- ! Authorizes the superintendent to develop and maintain an electronic database of registered security officers. A fee will be charged to security officer applicants to cover this expenditure.
- ! Creates penalties for violations of the bill's provisions.

BILL DESCRIPTION

Assembly Bill No. 2562 (2R) of 2004, revises the law governing the regulation of security guards. Currently, security guards are regulated under "The Private Detective Act of 1939." This bill would retitle "security guards" as "security officers" and would establish new

regulations to be known as the "Security Officer Registration Act." The bill defines security officer and security officer company and establishes penalties for violators.

Under the bill, security officers, as well as security officer companies, would continue to be regulated by the Superintendent of State Police. The bill requires any person employed as a security officer or engaged in the business of security officers to register with the superintendent and further defines requirements for owners or operators of security officer companies.

This bill authorizes the superintendent to establish an education and training program, which security officers are required to complete. Persons registered as security officers would be issued special cards identifying them as security officers.

The superintendent is authorized to enforce the provisions of this bill. Additionally, this bill requires the superintendent to develop and maintain an electronic database of registered security officers for use by licensed security officer companies. The database will be funded by a fee charged to security officer applicants.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates that this will have a minimal cost increase to the Department of Law and Public Safety (LPS).

The OLS finds the requirements on the superintendent to establish training programs, certify, license and enforce security officers, and security officer companies, will cause an increase in expenditures to the department. The department unofficially noted that they would work to certify schools that currently provide this training, thus it would be of minimal expense to develop. Additionally, OLS was unofficially informed that LPS currently regulates, monitors and performs background checks on security guards and security guard companies through the "The Private Detective Act of 1939."

The OLS further notes that the superintendent is required to develop and maintain an electronic database of registered security officers, however a fee will be charged to security officer applicants to cover this expenditure. Additionally, each owner and individual must submit to a criminal history record background check at the applicants expense.

It is unknown at this time, how many security officers and companies will be effected.

Section: *Law and Public Safety*

Analyst: *Kristin A. Brunner*
Associate Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.