

PRIVATE SECURITY STATUTES & RULES



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PRIVATE SECURITY ACT

AS AMENDED BY THE 84th LEGISLATURE, REGULAR SESSION



**TEXAS OCCUPATIONS CODE
TITLE 10. OCCUPATIONS RELATED TO LAW ENFORCEMENT AND SECURITY
CHAPTER 1702. PRIVATE SECURITY**

Effective January 1, 2016

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SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1702.001. SHORT TITLE.

This chapter may be cited as the Private Security Act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.551(b), eff. Sept. 1, 2001.

Sec. 1702.002. DEFINITIONS.

In this chapter:

- (1) "Alarm system" means:
 - (A) electronic equipment and devices designed to detect or signal:
 - (i) an unauthorized entry or attempted entry of a person or object into a residence, business, or area monitored by the system; or
 - (ii) the occurrence of a robbery or other emergency;
 - (B) electronic equipment and devices using a computer or data processor designed to control the access of a person, vehicle, or object through a door, gate, or entrance into the controlled area of a residence or business; or
 - (C) a television camera or still camera system that:
 - (i) records or archives images of property or individuals in a public or private area of a residence or business; or
 - (ii) is monitored by security personnel or services.
- (1-a) For purposes of Subdivision (1), the term "alarm system" does not include a telephone entry system, an operator for opening or closing a residential or commercial gate or door, or an accessory used only to activate a gate or door, if the system, operator, or accessory is not monitored by security personnel or a security service and does not send a signal to which law enforcement or emergency services respond.
- (1-b) "Board" means the Texas Private Security Board.
- (2) "Branch office" means an office that is:
 - (A) identified to the public as a place from which business is conducted, solicited, or advertised; and
 - (B) at a place other than the principal place of business as shown in board records.
- (3) "Branch office license" means a permit issued by the board that entitles a person to operate at a branch office as a security services contractor or investigations company.
- (4) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1146, Sec. 4.102(1), eff. September 1, 2009.
- (5) "Commissioned security officer" means a security officer to whom a security officer commission has

been issued by the board.

- (5-a) "Department" means the Department of Public Safety of the State of Texas.
- (6) "Detection device" means an electronic device used as a part of an alarm system, including a control, communications device, motion detector, door or window switch, sound detector, vibration detector, light beam, pressure mat, wiring, or similar device.
- (6-a) "Electronic access control device" means an electronic, electrical, or computer-based device, including a telephone entry system, that allows access to a controlled area of a business, but that is not monitored by security personnel or services and does not send a signal to which law enforcement or emergency services respond. The term does not include:
 - (A) a mechanical device, such as a deadbolt or lock; or
 - (B) an operator for opening or closing a commercial gate or door or an accessory, such as a fixed or portable transmitter, card-reader, or keypad, if the operator or accessory is used only to activate the gate or door and is not connected to an alarm system.
- (6-b) "Endorsement" means a permit entitling an individual holding a registration to perform a service regulated by this chapter for an appropriately licensed company.
- (7) "Extra job coordinator" means a peace officer who:
 - (A) is employed full-time by the state or a political subdivision of the state; and
 - (B) schedules other peace officers to provide guard, patrolman, or watchman services in a private capacity who are:
 - (i) employed full-time by the state or a political subdivision of the state; and
 - (ii) not employed by the extra job coordinator.
- (8) "Firearm" has the meaning assigned by Section 46.01, Penal Code.
- (9) "Insurance agent" means:
 - (A) a person licensed under Subchapter B, C, D, or E, Chapter 4051, or Chapter 981, Insurance Code;
 - (B) a salaried, state, or special agent; or
 - (C) a person authorized to represent an insurance fund or pool created by a local government under Chapter 791, Government Code.
- (10) "Investigations company" means a person who performs the activities described by Section 1702.104.
- (11) "Letter of authority" means a permit issued by the board that entitles the security department of a private business or a political subdivision to employ a commissioned security officer.
- (12) "License" means a permit issued by the board that entitles a person to operate as a security services

contractor or investigations company.

- (13) "License holder" means a person to whom the board issues a license.
- (14) "Manager" means an officer or supervisor of a corporation or a general partner of a partnership who has the experience required by Section 1702.119 to manage a security services contractor or an investigations company.
- (15) "Peace officer" means a person who is a peace officer under Article 2.12, Code of Criminal Procedure.
- (16) "Person" includes an individual, firm, association, company, partnership, corporation, nonprofit organization, institution, or similar entity. Section 311.005(2), Government Code, does not apply to this subdivision.
- (16-a) "Personal protection officer" means a person who performs the activities described by Section 1702.202.
- (17) "Personal protection officer endorsement" means a permit issued by the board that entitles an individual to act as a personal protection officer.
- (18) "Private investigator" means an individual who performs one or more services described by Section 1702.104.
- (19) "Registrant" means an individual who has registered with the board under Section 1702.221.
- (20) "Registration" means a permit issued by the board to an individual described by Section 1702.221.
- (20-a) "Security officer" means a person who performs the activities described by Section 1702.222.
- (21) "Security officer commission" means an authorization issued by the board that entitles a security officer to carry a firearm.
- (22) "Security services contractor" means a person who performs the activities described by Section 1702.102.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.552, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 898, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 936, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.545, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 10, Sec. 2.01, eff. Oct. 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.151, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1155 (H.B. 3140), Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(58-a), eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.102(1), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.01, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 1, eff. June 14, 2013.

Sec. 1702.004. GENERAL SCOPE OF REGULATION.

- (a) The board, in addition to performing duties required by other law or exercising powers granted by other law:
 - (1) licenses investigations companies and security services contractors;
 - (2) issues commissions to certain security officers;
 - (3) issues endorsements to certain security officers engaged in the personal protection of individuals;
 - (4) registers and endorses:
 - (A) certain individuals connected with a license holder; and
 - (B) certain individuals employed in a field connected to private investigation or private security; and
 - (5) regulates license holders, security officers, registrants, and endorsement holders under this chapter.
- (b) The board shall adopt rules necessary to comply with Chapter 53. In its rules under this section, the board shall list the specific offenses for each category of regulated persons for which a conviction would constitute grounds for the board to take action under Section 53.021.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.554, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.02, eff. September 1, 2009.

Sec. 1702.005. DEPARTMENT OF PUBLIC SAFETY.

- (a) The board created under Section 1702.021 is a part of the department. The department shall administer this chapter through the board.
- (b) A reference in this chapter or another law to the Texas Commission on Private Security means the board.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 10, Sec. 2.02, eff. Oct. 20, 2003.

Sec. 1702.006. FOREIGN ENTITY REGISTRATION.

Licensure under this chapter does not exempt a foreign entity from the registration requirements of Chapter 9, Business Organizations Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.04, eff. September 1, 2009.

SUBCHAPTER B. TEXAS PRIVATE SECURITY BOARD

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.05, eff. September 1, 2009.

Sec. 1702.021. BOARD MEMBERSHIP.

- (a) The Texas Private Security Board consists of seven members appointed by the governor with the advice and consent of the senate as follows:
- (1) three public members, each of whom is a citizen of the United States;
 - (2) one member who is licensed under this chapter as a private investigator;
 - (3) one member who is licensed under this chapter as an alarm systems company;
 - (4) one member who is licensed under this chapter as the owner or operator of a guard company; and
 - (5) one member who is licensed under this chapter as a locksmith.
- (b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.556, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1170, Sec. 34.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 10, Sec. 2.03, eff. Oct. 20, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.04, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 657 (H.B. 1093), Sec. 1, eff. June 14, 2013.

Sec. 1702.023. ELIGIBILITY OF PUBLIC MEMBERS.

The board's public members must be representatives of the general public. A person may not be a public member of the board if the person or the person's spouse:

- (1) is registered, commissioned, certified, or licensed by a regulatory agency in the field of private investigations or private security;
- (2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the board;
- (3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the board; or
- (4) uses or receives a substantial amount of tangible goods, services, or money from the board other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.558, eff. Sept. 1, 2001.

Amended by:

Sec. 1702.024. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

- (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.
- (b) A person may not be a board member, and may not be a department employee whose primary duties include private security regulation and who is employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:
- (1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of private investigation or private security; or
 - (2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of private investigation or private security.
- (c) A person may not be a board member or act as general counsel to the board or agency if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the agency.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.559, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.06, eff. September 1, 2009.

Sec. 1702.025. TERMS; VACANCIES.

- (a) The board members serve staggered six-year terms, with the terms of two or three members expiring on January 31 of each odd-numbered year.
- (b) If a vacancy occurs during the term of a board member, the governor shall appoint a new member to fill the unexpired term.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.560(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1170, Sec. 34.02, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 10, Sec. 2.04, eff. Oct. 20, 2003.

Sec. 1702.026. OFFICERS.

- (a) The governor shall designate one board member as presiding officer to serve in that capacity at the will of the governor. The governor shall designate the presiding officer without regard to race, creed, color, disability, sex, religion, age, or national origin.
- (b) The board shall elect from among its members an assistant presiding officer and a secretary to serve two-year terms beginning on September 1 of each odd-numbered year.
- (c) The presiding officer of the board or, in the absence of the presiding officer, the assistant presiding officer shall preside at each board meeting and perform the other duties prescribed by this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.561(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., 3rd C.S., ch. 10, Sec. 2.04, eff. Oct. 20, 2003.

Sec. 1702.027. GROUNDS FOR REMOVAL.

- (a) It is a ground for removal from the board that a member:
 - (1) does not have the qualifications required by Section 1702.021 at the time of taking office;
 - (2) does not maintain the qualifications required by Section 1702.021 during service on the board;
 - (3) is ineligible for membership under Section 1702.023 or 1702.024;
 - (4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or
 - (5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.
- (b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.
- (c) If the chief administrator has knowledge that a potential ground for removal exists, the chief administrator shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the chief administrator shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.562, eff. Sept. 1, 2001. Amended by: Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.07, eff. September 1, 2009.

Sec. 1702.028. PER DIEM; REIMBURSEMENT.

- (a) A board member is entitled to a per diem as set by legislative appropriation for each day the member engages in the business of the board.
- (b) A member is entitled to reimbursement for travel expenses incurred while conducting board business, including expenses for transportation, meals, and lodging, as prescribed by the General Appropriations Act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.563, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.08, eff. September 1, 2009.

Sec. 1702.029. MEETINGS.

The board shall meet at regular intervals to be decided by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.564, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.09, eff. September 1, 2009.

Sec. 1702.030. TRAINING.

- (a) A person who is appointed to and qualifies for office as a board member may not vote, deliberate, or be counted as a member in attendance at a board meeting until the person completes a training program that complies with this section.
- (b) The training program must provide the person with information regarding:
 - (1) this chapter;
 - (2) the programs operated by the board;
 - (3) the role and functions of the board;
 - (4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;
 - (5) the current budget for the board;
 - (6) the results of the most recent formal audit of the board;
 - (7) the requirements of:
 - (A) the open meetings law, Chapter 551, Government Code;
 - (B) the public information law, Chapter 552, Government Code;
 - (C) the administrative procedure law, Chapter 2001, Government Code; and
 - (D) other laws relating to public officials, including conflict of interest laws; and
 - (8) any applicable ethics policies adopted by the board or the Texas Ethics Commission.
- (c) A person appointed to the board is entitled to

reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.565(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.10, eff. September 1, 2009.

SUBCHAPTER C. CHIEF ADMINISTRATOR AND PERSONNEL

Sec. 1702.041. CHIEF ADMINISTRATOR.

- (a) The chief administrator is responsible for the administration of this chapter under the direction of the board. The chief administrator shall perform duties as prescribed by the board and the department.
- (b) The chief administrator is a full-time employee of the department. A board member may not serve as chief administrator.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.566, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.12, eff. September 1, 2009.

Sec. 1702.042. PERSONNEL; CONFLICT OF INTEREST.

An employee of the department whose primary duties include private security regulation may not:

- (1) have a financial or business interest, contingent or otherwise, in a security services contractor or investigations company; or
- (2) be licensed under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.567, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.13, eff. September 1, 2009.

Sec. 1702.043. DIVISION OF RESPONSIBILITIES.

The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the chief administrator and staff of the department.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.568, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.14, eff. September 1, 2009.

Sec. 1702.044. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION.

The chief administrator or the chief administrator's designee shall provide to board members and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.569, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.15, eff. September 1, 2009.

Sec. 1702.047. ADMINISTRATIVE STAFF.

The department shall designate a department employee who shall report directly to the board. The employee designated under this section shall provide administrative assistance to the board in the performance of the board's duties.

Added by Acts 2005, 79th Leg., Ch. 1278 (H.B. 2303), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.02, eff. September 1, 2009.

SUBCHAPTER D. POWERS AND DUTIES OF BOARD

Sec. 1702.061. GENERAL POWERS AND DUTIES OF BOARD.

- (a) The board shall perform the functions and duties provided by this chapter.
- (b) The board shall adopt rules and general policies to guide the agency in the administration of this chapter.
- (c) The rules and policies adopted by the board under Subsection (b) must be consistent with this chapter and other board rules adopted under this chapter and with any other applicable law, state rule, or federal regulation.
- (d) The board has the powers and duties to:
 - (1) determine the qualifications of license holders, registrants, endorsement holders, and commissioned security officers;
 - (2) investigate alleged violations of this chapter and of board rules;
 - (3) adopt rules necessary to implement this chapter; and
 - (4) establish and enforce standards governing the safety and conduct of each person licensed,

- registered, or commissioned under this chapter.
- (e) The board shall have a seal in the form prescribed by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.573(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.17, eff. September 1, 2009.

Sec. 1702.0611. RULEMAKING PROCEDURES.

- (a) The board may only adopt rules under this chapter on the approval of the Public Safety Commission as provided by this section.
- (b) Before adopting a rule under this chapter, the board must:
- (1) determine the need for the proposed rule;
 - (2) work with persons who will be affected by the rule to ensure consideration of all relevant issues regarding the proposed rule;
 - (3) consult with an attorney in the department's regulatory licensing service to draft the rule and ensure that the proposed rule complies with statutory requirements regarding administrative rules; and
 - (4) submit the proposed rule to the department's general counsel, director, and chief accountant for consideration of the proposed rule's impact on the department and to ensure that the proposed rule is within the board's authority.
- (c) On the completion of the required publication and comment periods under Chapter 2001, Government Code, the Public Safety Commission shall:
- (1) return the proposed rule to the board if:
 - (A) the commission identifies a problem with the rule that must be resolved before the rule is approved; or
 - (B) a comment requiring resolution is received during the comment period; or
 - (2) place the rule on the commission's agenda for final approval during the commission's next regularly scheduled meeting.
- (d) On approval of the proposed rule by the Public Safety Commission, the department shall comply with the requirements of Chapter 2001, Government Code, for final adoption of the rule.

Added by Acts 2005, 79th Leg., Ch. 1278 (H.B. 2303), Sec. 2, eff. September 1, 2005.

Sec. 1702.0612. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION.

- (a) The board shall develop and implement a policy to encourage the use of:
- (1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board

rules; and

- (2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.
- (b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.
- (c) The board shall designate a trained person to:
- (1) coordinate the implementation of the policy adopted under Subsection (a);
 - (2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and
 - (3) collect data concerning the effectiveness of those procedures, as implemented by the board.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.18, eff. September 1, 2009.

Sec. 1702.062. FEES.

- (a) The board by rule shall establish reasonable and necessary fees that produce sufficient revenue to administer this chapter. The fees may not produce unnecessary fund balances.
- (b) The board may charge a fee each time the board requires a person regulated under this chapter to resubmit a set of fingerprints for processing by the board during the application process for a license, registration, endorsement, or commission. The board shall set the fee in an amount that is reasonable and necessary to cover the administrative expenses related to processing the fingerprints.
- (c) A person whose pocket card has not expired is not eligible to receive from the board another pocket card in the same classification in which the pocket card is held.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.574, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 593, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1278 (H.B. 2303), Sec. 3, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.19, eff. September 1, 2009.

Sec. 1702.063. BOARD USE OF FINES.

The fines collected under this chapter may not be used to administer this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.575, eff. Sept. 1, 2001.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.20, eff. September 1, 2009.

Sec. 1702.0635. RESTRICTIONS ON CERTAIN RULES.

The board may not adopt rules or establish unduly restrictive experience or education requirements that limit a person's ability to be licensed as an electronic access control device company or be registered as an electronic access control device installer.

Added by Acts 2003, 78th Leg., ch. 936, Sec. 2, eff. Sept. 1, 2003.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.21, eff. September 1, 2009.

Sec. 1702.064. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING.

- (a) The board may not adopt rules restricting advertising or competitive bidding by a person regulated by the board except to prohibit false, misleading, or deceptive practices by the person.
- (b) The board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:
 - (1) restricts the person's use of any medium for advertising;
 - (2) restricts the person's personal appearance or use of the person's personal voice in an advertisement;
 - (3) relates to the size or duration of an advertisement by the person; or
 - (4) restricts the person's advertisement under a trade name.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.576, eff. Sept. 1, 2001.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.22, eff. September 1, 2009.

Sec. 1702.0645. PAYMENT OF FEES AND FINES.

- (a) The board may adopt rules regarding the method of payment of a fee or a fine assessed under this chapter.
- (b) Rules adopted under this section may:
 - (1) authorize the use of electronic funds transfer or a valid credit card issued by a financial institution chartered by a state or the federal government or by a nationally recognized credit organization approved by the board; and
 - (2) require the payment of a discount or a reasonable service charge for a credit card payment in addition to the fee or the fine.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.577(a),

eff. Sept. 1, 2001.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.23, eff. September 1, 2009.

Sec. 1702.066. SERVICE OF PROCESS; SERVICE OF DOCUMENTS ON BOARD.

Legal process and documents required by law to be served on or filed with the board must be served on or filed with the chief administrator at the designated office of the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.579, eff. Sept. 1, 2001.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.24, eff. September 1, 2009.

Sec. 1702.067. BOARD RECORDS; EVIDENCE.

An official record of the board or an affidavit by the chief administrator as to the content of the record is prima facie evidence of a matter required to be kept by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.580, eff. Sept. 1, 2001.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.25, eff. September 1, 2009.

Sec. 1702.068. APPEAL BOND NOT REQUIRED.

The board is not required to give an appeal bond in any cause arising under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.581, eff. Sept. 1, 2001.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.26, eff. September 1, 2009.

SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 1702.081. PUBLIC INTEREST INFORMATION.

- (a) The board shall prepare information of interest to consumers or recipients of services regulated under this chapter describing the board's regulatory functions and the procedures by which complaints are filed with and resolved by the board.
- (b) The board shall make the information available to the public and appropriate state agencies.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.583, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.27, eff. September 1, 2009.

Sec. 1702.082. COMPLAINTS.

- (a) The board shall maintain a system to promptly and efficiently act on complaints filed with the board. The board shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.
- (b) The board shall make information available describing its procedures for complaint investigation and resolution.
- (c) The board shall periodically notify the complaint parties of the status of the complaint until final disposition.
- (d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1146, Sec. 4.28, eff. September 1, 2009.
- (e) On written request, the department shall inform the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the information would jeopardize an ongoing investigation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.584(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.28, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.03, eff. September 1, 2009.

Sec. 1702.083. PUBLIC PARTICIPATION.

The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.585, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.29, eff. September 1, 2009.

Sec. 1702.084. PUBLIC ACCESS TO CERTAIN RECORDS OF DISCIPLINARY ACTIONS.

- (a) The board shall make available to the public through a toll-free telephone number, Internet website, or other easily accessible medium determined by the board the following information relating to a disciplinary action taken during the preceding three years regarding a person regulated by the board:
 - (1) the identity of the person;
 - (2) the nature of the complaint that was the basis of the disciplinary action taken against the person; and

- (3) the disciplinary action taken by the board.
- (b) In providing the information, the board shall present the information in an impartial manner, use language that is commonly understood, and, if possible, avoid jargon specific to the security industry.
- (c) The board shall update the information on a monthly basis.
- (d) The board shall maintain the confidentiality of information regarding the identification of a complainant.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.586(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.30, eff. September 1, 2009.

Sec. 1702.085. CONFIDENTIALITY OF RECORDS.

Records maintained by the department under this chapter on the home address, home telephone number, driver's license number, or social security number of an applicant or a license holder, registrant, or security officer commission holder are confidential and are not subject to mandatory disclosure under Chapter 552, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 2, eff. September 1, 2007.

SUBCHAPTER F. LICENSING AND DUTIES OF INVESTIGATIONS COMPANIES AND SECURITY SERVICES CONTRACTORS

Sec. 1702.101. INVESTIGATIONS COMPANY LICENSE REQUIRED.

Unless the person holds a license as an investigations company, a person may not:

- (1) act as an investigations company;
- (2) offer to perform the services of an investigations company; or
- (3) engage in business activity for which a license is required under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.102. SECURITY SERVICES CONTRACTOR LICENSE REQUIRED; SCOPE OF LICENSE.

- (a) Unless the person holds a license as a security services contractor, a person may not:
 - (1) act as an alarm systems company, armored car company, courier company, guard company, guard dog company, locksmith company, or private security consultant company;
 - (2) offer to perform the services of a company in Subdivision (1); or
 - (3) engage in business activity for which a license is required under this chapter.

- (b) A person licensed only as a security services contractor may not conduct an investigation other than an investigation incidental to the loss, misappropriation, or concealment of property that the person has been engaged to protect.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 3, eff. September 1, 2007.

Sec. 1702.1025. ELECTRONIC ACCESS CONTROL DEVICE COMPANY LICENSE REQUIRED; SCOPE OF LICENSE.

- (a) Unless the person holds a license as an electronic access control device company, a person may not:
- (1) act as an electronic access control device company;
 - (2) offer to perform the services of an electronic access control device company; or
 - (3) engage in business activity for which a license is required under this chapter.
- (b) A person licensed as an electronic access control device company may not install alarm systems unless otherwise licensed or registered to install alarm systems under this chapter.

Added by Acts 2003, 78th Leg., ch. 936, Sec. 3, eff. Jan. 1, 2004.

Sec. 1702.103. CLASSIFICATION AND LIMITATION OF LICENSES.

- (a) The license classifications are:
- (1) Class A: investigations company license, covering operations of an investigations company;
 - (2) Class B: security services contractor license, covering operations of a security services contractor;
 - (3) Class C: covering the operations included within Class A and Class B;
 - (4) Class F: level III training school license;
 - (5) Class O: alarm level I training school license;
 - (6) Class P: private business letter of authority license;
 - (7) Class X: government letter of authority license; and
 - (8) Class T: telematics license.
- (b) A license described by this chapter does not authorize the license holder to perform a service for which the license holder has not qualified. A person may not engage in an operation outside the scope of that person's license. The board shall indicate on the license the services the license holder is authorized to perform. The license holder may not perform a service unless it is indicated on the license.
- (c) A license is not assignable unless the assignment is approved in advance by the board.
- (d) The board shall prescribe by rule the procedure under which a license may be terminated.
- (e) The board by rule may establish other license

classifications for activities expressly regulated by this chapter and may establish qualifications and practice requirements consistent with this chapter for those license classifications.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.587, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 936, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.31, eff. September 1, 2009.

Sec. 1702.104. INVESTIGATIONS COMPANY.

- (a) A person acts as an investigations company for the purposes of this chapter if the person:
- (1) engages in the business of obtaining or furnishing, or accepts employment to obtain or furnish, information related to:
 - (A) crime or wrongs done or threatened against a person, state, or the United States;
 - (B) the identity, habits, business, occupation, knowledge, efficiency, loyalty, movement, location, affiliations, associations, transactions, acts, reputation, or character of a person;
 - (C) the location, disposition, or recovery of lost or stolen property; or
 - (D) the cause or responsibility for a fire, libel, loss, accident, damage, or injury to a person or to property;
 - (2) engages in the business of securing, or accepts employment to secure, evidence for use before a court, board, officer, or investigating committee;
 - (3) engages in the business of securing, or accepts employment to secure, the electronic tracking of the location of an individual or motor vehicle other than for criminal justice purposes by or on behalf of a governmental entity; or
 - (4) engages in the business of protecting, or accepts employment to protect, an individual from bodily harm through the use of a personal protection officer.
- (b) For purposes of Subsection (a)(1), obtaining or furnishing information includes information obtained or furnished through the review and analysis of, and the investigation into the content of, computer-based data not available to the public. The repair or maintenance of a computer does not constitute an investigation for purposes of this section and does not require licensing under this chapter if:
- (1) the review or analysis of computer-based data is performed only to diagnose a computer or software problem;
 - (2) there is no intent to obtain or furnish information described by Subsection (a)(1); and
 - (3) the discovery of any information described by

Subsection (a)(1) is inadvertent.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 4, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.32, eff. September 1, 2009.

Sec. 1702.1045. PRIVATE SECURITY CONSULTING COMPANY.

A person acts as a private security consulting company for purposes of this chapter if the person:

- (1) consults, advises, trains, or specifies or recommends products, services, methods, or procedures in the security or loss prevention industry;
- (2) provides a service described by Subdivision (1) on an independent basis and without being affiliated with a particular service or product; and
- (3) meets the experience requirements established by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.626(a), eff. Sept. 1, 2001.

Redesignated from Occupations Code, Section 1702.226 and amended by Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 11, eff. September 1, 2007.

Sec. 1702.105. ALARM SYSTEMS COMPANY.

- (a) A person acts as an alarm systems company for the purposes of this chapter if the person sells, installs, services, monitors, or responds to an alarm system or detection device.
- (b) An alarm systems company may sell, install, maintain, or service, or offer to sell, install, maintain, or service, an electronic access control device or a mechanical security device that is capable of activation through a wireless signal. An alarm systems company may not rekey an electronic access control device or mechanical security device that can be activated by a key. This subsection does not apply to a mechanical security device or electronic access control device installed in a motor vehicle.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 2, eff. June 14, 2013.

Sec. 1702.1055. ELECTRONIC ACCESS CONTROL DEVICE COMPANY.

A person acts as an electronic access control device company for the purposes of this chapter if the person installs or maintains an electronic access control device.

Added by Acts 2003, 78th Leg., ch. 936, Sec. 5, eff. Sept. 1, 2003.

Sec. 1702.1056. LOCKSMITH COMPANY.

- (a) A person acts as a locksmith company for the purposes of this chapter if the person:
 - (1) sells, installs, services, or maintains, or offers to sell, install, service, or maintain, mechanical security devices, including deadbolts and locks;
 - (2) advertises services offered by the company using the term "locksmith"; or
 - (3) includes the term "locksmith" in the company's name.
- (b) This section does not apply to a hotel, as that term is defined by Section 156.001, Tax Code.

Added by Acts 2003, 78th Leg., ch. 936, Sec. 5, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1102 (H.B. 2243), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.05, eff. September 1, 2009.

Sec. 1702.106. ARMORED CAR COMPANY.

A person acts as an armored car company for the purposes of this chapter if the person provides secured and protected transportation of valuables, including money, coins, bullion, securities, bonds, or jewelry.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.107. COURIER COMPANY.

A person acts as a courier company for purposes of this chapter if the person transports or offers to transport under armed guard an item that requires expeditious delivery, including a document, map, stock, bond, or check.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.108. GUARD COMPANY.

A person acts as a guard company for the purposes of this chapter if the person employs an individual described by Section 1702.323(d) or engages in the business of or undertakes to provide a private watchman, guard, or street patrol service on a contractual basis for another person to:

- (1) prevent entry, larceny, vandalism, abuse, fire, or trespass on private property;
- (2) prevent, observe, or detect unauthorized activity on private property;
- (3) control, regulate, or direct the movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to ensure the protection of property;
- (4) protect an individual from bodily harm including through the use of a personal protection officer; or
- (5) perform a function similar to a function listed in

this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.588,
eff. Sept. 1, 2001.

Sec. 1702.109. GUARD DOG COMPANY.

A person acts as a guard dog company for the purposes of this chapter if the person places, rents, sells, or trains a dog used to:

- (1) protect an individual or property; or
- (2) conduct an investigation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.110. APPLICATION FOR LICENSE.

(a) An application for a license under this chapter must be in the form prescribed by the board and include:

- (1) the full name and business address of the applicant;
- (2) the name under which the applicant intends to do business;
- (3) a statement as to the general nature of the business in which the applicant intends to engage;
- (4) a statement as to the classification for which the applicant requests qualification;
- (5) if the applicant is an entity other than an individual, the full name and residence address of each partner, officer who oversees the security-related aspects of the business, and director of the applicant, and of the applicant's manager;
- (6) if the applicant is an individual, the fingerprints of the applicant or, if the applicant is an entity other than an individual, of each officer who oversees the security-related aspects of the business and of each partner or shareholder who owns at least a 25 percent interest in the applicant, provided in the manner prescribed by the board;
- (7) a verified statement of the applicant's experience qualifications in the particular classification in which the applicant is applying;
- (8) a report from the department stating the applicant's record of any convictions for a Class B misdemeanor or equivalent offense or a greater offense;
- (9) the social security number of the individual making the application; and
- (10) other information, evidence, statements, or documents required by the board.

(b) An applicant for a license as a security services contractor shall maintain a physical address within this state and provide that address to the board. The board shall adopt rules to enable an out-of-state license holder to comply with this subsection.

(c) The department may return an application as incomplete if the applicant submits payment of a fee that is returned for insufficient funds and the applicant has received notice and an opportunity to provide payment

in full.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.589,
eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.06, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 3, eff. June 14, 2013.

Sec. 1702.111. ISSUANCE OF BRANCH OFFICE LICENSE.

(a) A license holder, in accordance with Section 1702.129, shall notify the board in writing of the establishment of a branch office and file in writing with the board the address of the branch office.

(b) On application by a license holder, the board shall issue a branch office license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.590,
eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.33, eff. September 1, 2009.

Sec. 1702.112. FORM OF LICENSE.

The board shall prescribe the form of a license, including a branch office license. The license must include:

- (1) the name of the license holder;
- (2) the name under which the license holder is to operate;
- (3) the license number and the date the license was issued; and
- (4) a photograph of the license holder, affixed to the license at the time the license is issued by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.591,
eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.07, eff. September 1, 2009.

Sec. 1702.113. GENERAL QUALIFICATIONS FOR LICENSE, CERTIFICATE OF REGISTRATION, OR SECURITY OFFICER COMMISSION.

(a) An applicant for a license, certificate of registration, endorsement, or security officer commission or the applicant's manager must be at least 18 years of age and must not:

- (1) at the time of application be charged under an information or indictment with the commission of a Class A or Class B misdemeanor or felony offense determined to be disqualifying by board

rule;

- (2) have been found by a court to be incompetent by reason of a mental defect or disease and not have been restored to competency;
 - (3) have been dishonorably discharged from the United States armed services, discharged from the United States armed services under other conditions determined by the board to be prohibitive, or dismissed from the United States armed services if a commissioned officer in the United States armed services; or
 - (4) be required to register in this or any other state as a sex offender, unless the applicant is approved by the board under Section 1702.3615.
- (b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1084, Sec. 17, eff. June 14, 2013.
 - (c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1084, Sec. 17, eff. June 14, 2013.
 - (d) For purposes of this section, "convicted" has the meaning provided in Section 1702.371.
 - (e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1146, Sec. 4.102(7), eff. September 1, 2009.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.592(a), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 5, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.34, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.102(7), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 4, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 17, eff. June 14, 2013.

Sec. 1702.114. ADDITIONAL QUALIFICATIONS FOR INVESTIGATIONS COMPANY LICENSE.

- (a) An applicant for a license to engage in the business of an investigations company or the applicant's manager must have, before the date of the application, three consecutive years' experience in the investigative field as an employee, manager, or owner of an investigations company or satisfy other requirements set by the board.
- (b) The applicant's experience must be:
 - (1) reviewed by the board or the chief administrator; and
 - (2) determined to be adequate to qualify the applicant to engage in the business of an investigations company.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.593, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.35, eff. September 1, 2009.

Sec. 1702.115. ADDITIONAL QUALIFICATIONS FOR SECURITY SERVICES CONTRACTOR LICENSE.

- (a) An applicant for a license to engage in the business of a security services contractor or the applicant's manager must have, before the date of the application, two consecutive years' experience in each security services field for which the person applies as an employee, manager, or owner of a security services contractor or satisfy other requirements set by the board.
- (b) The applicant's experience must have been obtained legally and must be:
 - (1) reviewed by the board or the chief administrator; and
 - (2) determined to be adequate to qualify the applicant to engage in the business of a security services contractor.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.594, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.36, eff. September 1, 2009.

Sec. 1702.116. QUALIFICATIONS FOR GUARD DOG COMPANY LICENSE; INSPECTIONS.

- (a) An applicant for a license to engage in the business of a guard dog company must:
 - (1) meet the requirements of Sections 1702.113 and 1702.115; and
 - (2) present evidence satisfactory to the board that the applicant will comply with the rules adopted under this section.
- (b) After consulting the Department of State Health Services, the board shall adopt rules to ensure that the areas in which a guard dog company houses, exercises, or trains its animals are securely enclosed by a six-foot chain-link fence or made equally secure.
- (c) The board shall conduct regular inspections to ensure compliance with the rules adopted under this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.595, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.37, eff. September 1, 2009.

Sec. 1702.117. EXAMINATION.

- (a) The board shall require an applicant for a license under this chapter or the applicant's manager to demonstrate

qualifications in the person's license classification, including knowledge of applicable state laws and board rules, by taking an examination to be determined by the board.

- (b) Payment of the application fee entitles the applicant or the applicant's manager to take one examination without additional charge. A person who fails the examination must pay a reexamination fee to take a subsequent examination.
- (c) The board shall set the reexamination fee in an amount not to exceed the amount of the renewal fee for the license classification for which application was made.
- (d) The board shall develop and provide to a person who applies to take the examination under Subsection (a) material containing all applicable state laws and board rules.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.596(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.38, eff. September 1, 2009.

Sec. 1702.118. EXAMINATION RESULTS.

- (a) Not later than the 30th day after the date a person takes a licensing examination under this chapter, the board shall notify the person of the examination results.
- (b) If an examination is graded or reviewed by a testing service:
 - (1) the board shall notify the person of the examination results not later than the 14th day after the date the board receives the results from the testing service; and
 - (2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the board shall notify the person of the reason for the delay before the 90th day.
- (c) The board may require a testing service to notify a person of the results of the person's examination.
- (d) If requested in writing by a person who fails a licensing examination administered under this chapter, the board shall furnish the person with an analysis of the person's performance on the examination.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.597, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.39, eff. September 1, 2009.

Sec. 1702.1183. RECIPROCAL LICENSE FOR CERTAIN APPLICANTS.

- (a) The board may waive any prerequisite to obtaining a license for an applicant who holds a license issued by another jurisdiction with which this state has a

reciprocity agreement.

- (b) The board may make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.
- (c) The board shall adopt rules under which the board may waive any prerequisite to obtaining a license for, and credit experience for a license requirement to, an individual who the board determines has acceptable experience gained during service in a branch of the United States armed forces, including the United States Coast Guard.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.598, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.40, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 989 (H.B. 2135), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 989 (H.B. 2135), Sec. 2, eff. September 1, 2013.

Sec. 1702.1186. PROVISIONAL LICENSE.

- (a) The board may issue a provisional license to an applicant currently licensed in another jurisdiction who seeks an equivalent license in this state and who:
 - (1) has been licensed in good standing as an investigations company or security services contractor for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of this chapter;
 - (2) has passed a national or other examination recognized by the board relating to the practice of private investigations or security services contracting; and
 - (3) is sponsored by a person licensed by the board under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.
- (b) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. The board shall issue a license under this chapter to the provisional license holder if:
 - (1) the provisional license holder is eligible to be licensed under Section 1702.1183; or
 - (2) the provisional license holder:
 - (A) passes the part of the examination under Section 1702.117(a) that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of an investigations company or security services contractor in this state;
 - (B) is verified by the board as meeting the academic and experience requirements for a license under this chapter; and

(C) satisfies any other licensing requirements under this chapter.

- (c) The board must approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The board may extend the 180-day period if the results of an examination have not been received by the board before the end of that period.
- (d) The board may establish a fee for provisional licenses in an amount reasonable and necessary to cover the cost of issuing the license.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.598, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.41, eff. September 1, 2009.

Sec. 1702.119. MANAGER REQUIRED.

- (a) A license holder's business shall be operated under the direction and control of one manager. A license holder may not apply to designate more than one individual to serve as manager of the license holder's business.
- (b) An individual may not act as a manager until the individual has:
- (1) demonstrated the individual's qualifications by passing the written examination required by Section 1702.117(a); and
 - (2) made a satisfactory showing to the department that the individual:
 - (A) satisfies the requirements of Section 1702.113 and meets all qualification and experience requirements set by rule for a manager of the type of company for which the individual is applying; and
 - (B) has not engaged in conduct regarding a violation or conviction that is grounds for disciplinary action under Section 1702.361(b) or 1702.3615(a).
- (c) If a manager lacks the experience to qualify to manage each category of service included in a license or application, the license holder must designate a supervisor qualified under Subsection (b) who is responsible for each service for which the manager is not qualified.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.599(a), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 6, eff. September 1, 2007.

Sec. 1702.120. FALSE APPLICATION OF MANAGER.

- (a) An individual may not:
- (1) serve as manager of an investigations company, guard company, alarm systems company, armored

car company, courier company, or guard dog company; and

- (2) fail to maintain that supervisory position on a daily basis for that company.
- (b) An individual may not apply to the board to serve as manager of an investigations company, guard company, alarm systems company, armored car company, courier company, or guard dog company without the intent to maintain that supervisory position on a daily basis for that company.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.600, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.42, eff. September 1, 2009.

Sec. 1702.121. TERMINATION OF MANAGER.

- (a) A license holder shall notify the board in writing not later than the 14th day after the date a manager ceases to be manager of the license holder's business. The license remains in effect for a reasonable period after notice is given as provided by board rule pending the board's determination of the qualification of another manager under this subchapter.
- (b) A manager shall immediately cease all managerial actions on the effective date of any summary action taken against the manager. Any period of temporary operation authorized under this section or Section 1702.122 begins on the effective date of the summary action.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.601, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.08, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 5, eff. June 14, 2013.

Sec. 1702.122. TEMPORARY CONTINUATION OF LICENSE HOLDER'S BUSINESS.

Under the terms provided by board rule, a license holder's business may continue for a temporary period if the individual on the basis of whose qualifications a license under this chapter has been obtained ceases to be connected with the license holder.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.602, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.43, eff. September 1, 2009.

Sec. 1702.123. INSURANCE; BOND.

- (a) A license holder shall maintain on file with the board at all times the surety bond and certificate of insurance required by this chapter.
- (b) The board shall immediately suspend the license of a license holder who violates Subsection (a).
- (c) The board may rescind the license suspension if the license holder provides proof to the board that the bond or the insurance coverage is still in effect. The license holder must provide the proof in a form satisfactory to the board not later than the 10th day after the date the license is suspended.
- (d) After suspension of the license, the board may not reinstate the license until an application, in the form prescribed by the board, is filed accompanied by a proper bond, insurance certificate, or both. The board may deny the application notwithstanding the applicant's compliance with this section:
 - (1) for a reason that would justify suspending, revoking, or denying a license; or
 - (2) if, during the suspension, the applicant performs a practice for which a license is required.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.603, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.44, eff. September 1, 2009.

Sec. 1702.124. INSURANCE REQUIREMENT.

- (a) An applicant is not eligible for a license unless the applicant provides as part of the application:
 - (1) a certificate of insurance or other documentary evidence of a general liability insurance policy countersigned by an insurance agent licensed in this state; or
 - (2) a certificate of insurance for surplus lines coverage obtained under Chapter 981, Insurance Code, through a licensed Texas surplus lines agent resident in this state.
- (b) The general liability insurance policy must be conditioned to pay on behalf of the license holder damages that the license holder becomes legally obligated to pay because of bodily injury, property damage, or personal injury, caused by an event involving the principal, or an officer, agent, or employee of the principal, in the conduct of any activity or service for which the license holder is licensed under this chapter.
- (c) The insurance policy must contain minimum limits of:
 - (1) \$100,000 for each occurrence for bodily injury and property damage;
 - (2) \$50,000 for each occurrence for personal injury; and
 - (3) a total aggregate amount of \$200,000 for all occurrences.

- (d) A person who is licensed to install and service fire alarms under Article 5.43-2, Insurance Code, complies with the insurance requirements of this section by complying with the insurance requirement of that article if the insurance held by the applicant complies with the requirements of this section in amounts and types of coverage.
- (e) An insurance certificate executed and filed with the department under this chapter remains in effect until the insurer terminates future liability by providing to the department at least 10 days' notice of the intent to terminate liability.
- (f) In addition to the requirements of this section, an applicant or license holder shall provide and maintain a certificate of insurance or other documentary evidence of insurance sufficient to cover all of the business activities of the applicant or license holder related to private security.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.604, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 936, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.546, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 7, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 6, eff. June 14, 2013.

Sec. 1702.125. BOND REQUIREMENT.

A bond executed and filed with the board under this chapter remains in effect until the surety terminates future liability by providing to the board at least 30 days' notice of the intent to terminate liability.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.605, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.45, eff. September 1, 2009.

Sec. 1702.127. LICENSE HOLDER EMPLOYEES; RECORDS.

- (a) A license holder may be legally responsible for the conduct in the license holder's business of each employee of the license holder while the employee is performing assigned duties for the license holder.
- (b) A license holder shall maintain a record containing information related to the license holder's employees as required by the board.
- (c) A license holder shall maintain for inspection by the department at the license holder's principal place of business or branch office two recent color photographs, of a type required by the board, of each applicant, registrant, commissioned security officer, and

employee of the license holder.

- (d) A license holder shall maintain records required under this chapter at a physical address within this state and provide that address to the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.607, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.09, eff. September 1, 2009.

Sec. 1702.128. POSTING OF LICENSE REQUIRED.

A license holder shall at all times post:

- (1) the person's license in a conspicuous place in the principal place of business of the license holder; and
- (2) each branch office license in a conspicuous place in each branch office of the license holder.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.129. NOTICE OF CERTAIN CHANGES; BRANCH OFFICES.

- (a) A license holder shall notify the board not later than the 14th day after the date of:
- (1) a change of address for the license holder's principal place of business;
 - (2) a change of a name under which the license holder does business; or
 - (3) a change in the license holder's officers or partners.
- (b) A license holder shall notify the board in writing not later than the 14th day after the date a branch office:
- (1) is established;
 - (2) is closed; or
 - (3) changes address or location.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.608, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.46, eff. September 1, 2009.

Sec. 1702.130. USE OF CERTAIN TITLES, UNIFORMS, INSIGNIA, OR IDENTIFICATIONS PROHIBITED.

- (a) A license holder, or an officer, director, partner, manager, or employee of a license holder, may not:
- (1) use a title, an insignia, or an identification card, wear a uniform, or make a statement with the intent to give an impression that the person is connected with the federal government, a state government, or a political subdivision of a state government; or
 - (2) use a title, an insignia, or an identification card or wear a uniform containing the designation

"police."

- (b) Subsection (a) does not prohibit a commissioned security officer employed by a political subdivision of this state from using a title, insignia, or identification card, wearing a uniform, or making a statement indicating the employment of that individual by the political subdivision.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.131. ADVERTISING.

An advertisement by a license holder soliciting or advertising business must contain the license holder's company name and address as stated in board records.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.609, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.47, eff. September 1, 2009.

Sec. 1702.132. REPORTS TO EMPLOYER OR CLIENT.

- (a) A written report submitted to a license holder's employer or client may only be submitted by the license holder or manager or a person authorized by a license holder or manager. The person submitting the report shall exercise diligence in determining whether the information in the report is correct.
- (b) A license holder or an officer, director, partner, manager, or employee of a license holder may not knowingly make a false report to the employer or client for whom information is obtained.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.133. CONFIDENTIALITY; INFORMATION RELATING TO CRIMINAL OFFENSE.

- (a) A license holder or an officer, director, partner, or manager of a license holder may not disclose to another information obtained by the person for an employer or client except:
- (1) at the direction of the employer or client; or
 - (2) as required by state law or court order.
- (b) A license holder or an officer, director, partner, or manager of a license holder shall disclose to a law enforcement officer or a district attorney, or that individual's representative, information the person obtains that relates to a criminal offense. A private investigator who is working under the direct supervision of a licensed attorney satisfies this requirement by disclosing the information to the supervising attorney.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:
Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 8,
eff. September 1, 2007.

**Sec. 1702.134. LICENSE HOLDER EXEMPTIONS
FROM CERTAIN LOCAL REGULATIONS.**

- (a) A license holder or an employee of a license holder is not required to obtain an authorization, permit, franchise, or license from, pay another fee or franchise tax to, or post a bond in a municipality, county, or other political subdivision of this state to engage in business or perform a service authorized under this chapter.
- (b) A municipality, county, or other political subdivision of this state may not require a payment for the use of municipal, county, or other public facilities in connection with a business or service provided by a license holder, except that a municipality may impose and collect:
 - (1) a reasonable charge for the use of a central alarm installation located in a police office that is owned, operated, or monitored by the municipality; and
 - (2) reasonable inspection and reinspection fees in connection with a device that causes at least five false alarms in a 12-month period.
- (c) A municipality may require, until the device is repaired to the satisfaction of the appropriate municipal official, discontinuation of service of an alarm signal device that, because of mechanical malfunction or faulty equipment, causes at least five false alarms in a 12-month period.
- (d) For the purposes of Subsection (c), a false alarm caused by human error or an act of God is not considered a mechanical malfunction or faulty equipment.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**SUBCHAPTER G. SECURITY OFFICER
COMMISSION REQUIREMENTS**

**Sec. 1702.161. SECURITY OFFICER COMMISSION
REQUIRED.**

- (a) An individual may not accept employment as a security officer to carry a firearm in the course and scope of the individual's duties unless the individual holds a security officer commission.
- (b) An individual employed as a security officer may not knowingly carry a firearm during the course of performing duties as a security officer unless the board has issued a security officer commission to the individual.
- (c) A person may not hire or employ an individual as a security officer to carry a firearm in the course and scope of the individual's duties unless the individual holds a security officer commission.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.610,
eff. Sept. 1, 2001.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec.
4.48, eff. September 1, 2009.

**Sec. 1702.162. EMPLOYER'S APPLICATION FOR
SECURITY OFFICER COMMISSION.**

The employer of a security officer who applies for a security officer commission for the officer must submit an application to the board on a form provided by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.611,
eff. Sept. 1, 2001.

Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec.
4.49, eff. September 1, 2009.

**Sec. 1702.163. QUALIFICATIONS FOR SECURITY
OFFICER COMMISSION.**

- (a) An applicant employed by a license holder is not eligible for a security officer commission unless the applicant submits as part of the application satisfactory evidence that the applicant has:
 - (1) completed the basic training course at a school or under an instructor approved by the board;
 - (2) met each qualification established by this chapter and administrative rule;
 - (3) achieved the score required by the board on the examination under Section 1702.1685; and
 - (4) demonstrated to the satisfaction of the firearm training instructor that the applicant has complied with other board standards for minimum marksmanship competency with a handgun.
- (b) An individual is not eligible for a security officer commission if the individual:
 - (1) is disqualified by state or federal law from owning or possessing a firearm;
 - (2) is incapable of exercising sound judgment in the proper use and storage of a handgun;
 - (3) is a fugitive from justice for a felony or a Class A or Class B misdemeanor;
 - (4) is a chemically dependent person; or
 - (5) is currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests.
- (c) An individual who has been convicted twice in the 10-year period preceding the date on which the person applies for a security officer commission of an offense of the grade of Class B misdemeanor or greater that involves the use of alcohol or a controlled substance as a statutory element of the offense is a chemically dependent person for purposes of this section and is not qualified to receive a security officer commission under this subchapter. This subsection does not

preclude the disqualification of an individual for being a chemically dependent person if other evidence exists to demonstrate that the person is a chemically dependent person.

(d) For purposes of Subsection (b)(2), a person is incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person:

- (1) has been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability;
- (2) suffers from a psychiatric disorder or condition described by Subdivision (1) that:
 - (A) is in remission but is reasonably likely to redevelop at a future time; or
 - (B) requires continuous medical treatment to avoid redevelopment;
- (3) has been diagnosed by a licensed physician or declared by a court as incompetent to manage the person's own affairs; or
- (4) has entered a plea of not guilty by reason of insanity in a criminal proceeding.

(d-1) For the purposes of determining eligibility under Subsection (b)(2), the department may require the applicant to authorize the release to the department of any relevant medical records.

(e) The following constitutes evidence that a person has a psychiatric disorder or condition described by Subsection (d)(1):

- (1) involuntary psychiatric hospitalization in the five years preceding the date of the application;
- (2) psychiatric hospitalization in the two years preceding the date of the application;
- (3) inpatient or residential substance abuse treatment in the five years preceding the date of the application;
- (4) diagnosis in the five years preceding the date of the application by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or
- (5) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:
 - (A) schizophrenia or delusional disorder;
 - (B) bipolar disorder;
 - (C) chronic dementia, whether caused by illness, brain defect, or brain injury;
 - (D) dissociative identity disorder;
 - (E) intermittent explosive disorder; or
 - (F) antisocial personality disorder.

(f) Notwithstanding Subsection (d), a person who has previously been diagnosed as suffering from a psychiatric disorder or condition described by Subsection (d) or listed in Subsection (e) is not because of that disorder or condition incapable of exercising sound judgment with respect to the proper use and

storage of a handgun if the person provides the department with a certificate from a licensed physician whose primary practice is in the field of psychiatry stating that the psychiatric disorder or condition is in remission and is not reasonably likely to develop at a future time.

(g) An individual's eligibility under this section is not affected by a relationship or lack of relationship between the nature of a criminal charge or conviction and the regulated occupation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.612, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1035 (H.B. 1132), Sec. 1.01, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1278 (H.B. 2303), Sec. 4, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 9, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.10, eff. September 1, 2009.

Sec. 1702.165. ISSUANCE OF SECURITY OFFICER COMMISSION; POCKET CARD.

(a) The board, with the concurrence of the department:

- (1) may issue a security officer commission to an individual employed as a uniformed security officer; and
- (2) shall issue a security officer commission to a qualified employee of an armored car company that is a carrier conducting the armored car business under a federal or state permit or certificate.

(b) A security officer commission issued under this section must be in the form of a pocket card designed by the board that identifies the security officer.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.614, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.50, eff. September 1, 2009.

Sec. 1702.167. TERMINATION OF EMPLOYMENT AS COMMISSIONED SECURITY OFFICER; TRANSFER OF COMMISSION.

The holder of a security officer commission who terminates employment with one employer may transfer the individual's commission to a new employer if, not later than the 14th day after the date the individual begins the new employment, the new employer notifies the board of the transfer of employment on a form prescribed by the board, accompanied by payment of the employee information update fee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.616(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.51, eff. September 1, 2009.

Sec. 1702.1675. TRAINING PROGRAMS.

(a) The board shall establish a basic training course for commissioned security officers. The course must include, at a minimum:

- (1) general security officer training issues;
- (2) classroom instruction on handgun proficiency; and
- (3) range instruction on handgun proficiency.

(b) The course must be offered and taught by schools and instructors approved by the board. To receive board approval, a school or an instructor must submit an application to the board on a form provided by the board.

(c) The basic training course approved by the board must consist of a minimum of 30 hours.

(d) The general security officer training portion of the course must include instruction on:

- (1) board rules and applicable state laws;
- (2) field note taking and report writing; and
- (3) any other topics of security officer training curriculum the board considers necessary.

(e) The board shall develop a commissioned security officer training manual that contains applicable state laws and board rules to be used in the instruction and training of commissioned security officers.

(f) The board shall adopt rules necessary to administer the provisions of this section concerning the training requirements of this chapter.

(g) The handgun proficiency course must include at least 10 hours and not more than 15 hours of instruction on:

- (1) the laws that relate to weapons and to the use of deadly force;
- (2) handgun use, proficiency, and safety;
- (3) nonviolent dispute resolution; and
- (4) proper storage practices for handguns, with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(h) The range instruction on handgun proficiency must include an actual demonstration by the applicant of the applicant's ability to safely and proficiently use a handgun. The applicant must demonstrate, at a minimum, the degree of proficiency that is required to effectively operate a 9-millimeter or .38-caliber handgun.

(i) The board by rule shall establish minimum standards for handgun proficiency that are at least as stringent as the standards for handgun proficiency developed by the public safety director under Section 411.188, Government Code.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.617, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.52, eff. September 1, 2009.

Sec. 1702.168. FIREARM REQUIREMENTS.

(a) In addition to the requirements of Section 1702.163(a), the board by rule shall establish other qualifications for individuals who are employed in positions requiring the carrying of firearms. The qualifications may include:

- (1) physical and mental standards;
- (2) standards of good moral character; and
- (3) other requirements that relate to the competency and reliability of individuals to carry firearms.

(b) The board shall prescribe appropriate forms and adopt rules by which evidence is presented that the requirements are fulfilled.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.618, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.53, eff. September 1, 2009.

Sec. 1702.1685. HANDGUN PROFICIENCY EXAMINATION.

(a) The proficiency examination required to obtain or renew a security officer commission must include:

- (1) a written section on the subjects listed in Section 1702.1675(g); and
- (2) a physical demonstration of handgun proficiency that meets the minimum standards established under Section 1702.1675(h) or (i).

(b) Only a board-approved instructor may administer the handgun proficiency examination.

(c) An applicant for a security officer commission must demonstrate the required proficiency within the 90-day period before the date the security officer commission is issued.

(d) The school shall maintain the records of the required proficiency and make the records available for inspection by the board.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.619, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.54, eff. September 1, 2009.

Sec. 1702.169. FIREARM RESTRICTIONS.

A commissioned security officer other than a person acting as a personal protection officer may not carry a firearm unless:

- (1) the security officer is:

- (A) engaged in the performance of duties as a security officer; or
- (B) traveling to or from the place of assignment;
- (2) the security officer wears a distinctive uniform indicating that the individual is a security officer; and
- (3) the firearm is in plain view.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1048 (H.B. 2101), Sec. 1, eff. September 1, 2007.

Sec. 1702.170. NONAPPLICABILITY OF FIREARM RESTRICTIONS.

Sections 1702.161, 1702.169, and 1702.206 do not apply to the holder of a temporary security officer commission who:

- (1) is in uniform;
- (2) possesses only one firearm; and
- (3) is performing the individual's duties.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.171. SECURITY OFFICER COMMISSION RECORDS.

The board shall adopt rules for the maintenance of records relating to an individual to whom the board has issued a security officer commission.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.620, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.55, eff. September 1, 2009.

SUBCHAPTER H. EMPLOYMENT OF COMMISSIONED SECURITY OFFICER BY CERTAIN PERSONS; LETTER OF AUTHORITY REQUIREMENTS

Sec. 1702.181. LETTER OF AUTHORITY REQUIRED.

The security department of a private business or a political subdivision may not employ a commissioned security officer unless the security department holds a letter of authority.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.182. SECURITY DEPARTMENT OF PRIVATE BUSINESS.

- (a) A security department acts as the security department of a private business if it:
 - (1) has as its general purpose the protection and security of its own property and grounds; and
 - (2) does not offer or provide security services to

another person.

- (b) For purposes of this subchapter, a hospital licensed under Chapter 241 or 577, Health and Safety Code, may provide security services to:

- (1) buildings, grounds, and tenants located on the hospital's property or campus, regardless of who owns the building; and
- (2) a parent entity or member entity of the hospital or hospital corporation, or an affiliated entity or business with whom the hospital shares common ownership or control.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1278 (H.B. 2303), Sec. 5, eff. September 1, 2005.

Sec. 1702.183. APPLICATION FOR LETTER OF AUTHORITY.

A security department of a private business or of a political subdivision that applies for a security officer commission for an individual employed by the security department must submit an application to the board for a letter of authority on a form provided by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.621, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.56, eff. September 1, 2009.

Sec. 1702.184. LOCAL REGULATION OF CERTAIN SECURITY SERVICES FOR PRIVATE BUSINESSES.

- (a) Except as provided by Subsection (b), a political subdivision of this state may not require a private business to contract with or employ a peace officer to provide security services for the business.
- (b) This section does not apply to:
 - (1) a requirement that a private business contract with or employ a peace officer to:
 - (A) provide security services for a public event;
 - (B) provide security services for a private event held at a public facility that is owned or leased by a political subdivision of this state;
 - (C) conduct a public escort; or
 - (D) direct traffic on a public roadway; or
 - (2) an order or determination made by a court under Chapter 125, Civil Practice and Remedies Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 408 (S.B. 949), Sec. 1, eff. June 15, 2007.

**SUBCHAPTER I. PERSONAL PROTECTION
OFFICER ENDORSEMENT REQUIREMENTS**

**Sec. 1702.201. PERSONAL PROTECTION OFFICER
ENDORSEMENT REQUIRED.**

An individual may not act as a personal protection officer unless the individual holds a personal protection officer endorsement.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.11, eff. September 1, 2009.

Sec. 1702.202. PERSONAL PROTECTION OFFICER.

An individual acts as a personal protection officer if the individual, while carrying a firearm, provides to another individual personal protection from bodily harm.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.12, eff. September 1, 2009.

**Sec. 1702.203. APPLICATION FOR PERSONAL
PROTECTION OFFICER ENDORSEMENT.**

An applicant for a personal protection officer endorsement must submit a written application on a form prescribed by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.622, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.58, eff. September 1, 2009.

**Sec. 1702.204. PERSONAL PROTECTION OFFICER
ENDORSEMENT; QUALIFICATIONS.**

(a) An applicant for a personal protection officer endorsement must be at least 21 years of age and must provide:

- (1) a certificate of completion of the basic security officer training course;
- (2) proof that the applicant:
 - (A) has been issued a security officer commission;
 - (B) is employed at the time of application by an investigations company or guard company licensed by the board; and
 - (C) has completed the required training in nonlethal self-defense or defense of a third person; and
- (3) proof of completion and the results of the Minnesota Multiphasic Personality Inventory psychological testing.

(b) The board by rule shall require an applicant for a personal protection officer endorsement to complete

the Minnesota Multiphasic Personality Inventory test. The board may use the results of the test to evaluate the applicant's psychological fitness.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.623, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.59, eff. September 1, 2009.

**Sec. 1702.205. PERSONAL PROTECTION OFFICER
TRAINING.**

- (a) The board shall establish a 15-hour course for a personal protection officer consisting of training in nonlethal self-defense or defense of a third person.
- (b) The training required by this section is in addition to the basic training course for security officers.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.624, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.60, eff. September 1, 2009.

**Sec. 1702.206. LIMITED AUTHORITY TO CARRY
FIREARMS.**

(a) An individual acting as a personal protection officer may not carry a firearm unless the officer:

- (1) is either:
 - (A) engaged in the exclusive performance of the officer's duties as a personal protection officer for the employer under whom the officer's personal protection officer endorsement is issued; or
 - (B) traveling to or from the officer's place of assignment; and
- (2) carries the officer's security officer commission and personal protection officer endorsement on the officer's person while performing the officer's duties or traveling as described by Subdivision (1) and presents the commission and endorsement on request.

(b) An individual who is acting as a personal protection officer and is wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), may not conceal any firearm the individual is carrying and shall carry the firearm in plain view. An individual who is acting as a personal protection officer and is not wearing the uniform of a security officer shall conceal the firearm, regardless of whether the individual is authorized to openly carry the firearm under any other law.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1048 (H.B. 2101), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.13, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 37, eff. January 1, 2016.

SUBCHAPTER J. REGISTRATION AND ENDORSEMENT REQUIREMENTS; DUTIES OF REGISTRANT AND ENDORSEMENT HOLDER

Sec. 1702.221. REGISTRATION AND ENDORSEMENT REQUIRED.

- (a) To perform any activity regulated by this chapter, the individual must:
- (1) register in accordance with the requirements of this chapter and related administrative rules;
 - (2) obtain the proper endorsement under Subsection (b); and
 - (3) be employed by a company licensed under this chapter.
- (b) An individual must obtain the appropriate endorsement in accordance with the requirements of this chapter and related administrative rules if the individual:
- (1) is employed as:
 - (A) an alarm instructor;
 - (B) an alarm systems installer;
 - (C) an alarm systems monitor;
 - (D) an electronic access control device installer;
 - (E) a level 3 classroom or firearm instructor;
 - (F) a locksmith;
 - (G) a dog trainer;
 - (H) a manager or branch office manager;
 - (I) a noncommissioned security officer;
 - (J) a level 4 personal protection instructor;
 - (K) a private investigator;
 - (L) a private security consultant;
 - (M) a security salesperson; or
 - (N) an individual whose duties include performing another activity for which an endorsement is required under Subsection (e); or
 - (2) is an owner who oversees the security-related aspects of the business, officer, partner, or shareholder of a license holder.
- (c) Registration and endorsement under this chapter does not preclude an individual from performing additional duties or services authorized by the individual's employer that are not regulated by this chapter. An individual who performs more than one of the services that require an endorsement under this section must obtain an endorsement for each service.
- (d) In addition to the services listed in Subsection (b), a person holding a security officer commission must also obtain an endorsement for personal protection if the individual performs the services described by Section 1702.202.
- (e) The board by rule may require a person to hold an

endorsement for performing other activity expressly regulated by this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.625, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 936, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 10, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.61, eff. September 1, 2009.

Sec. 1702.222. SECURITY OFFICER.

An individual acts as a security officer for purposes of this chapter if the individual is:

- (1) employed by a security services contractor or the security department of a private business; and
- (2) employed to perform the duties of an alarm systems response runner who responds to the first signal of entry, a security guard, security watchman, security patrolman, armored car guard, or courier guard.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.2226. ELECTRONIC ACCESS CONTROL DEVICE INSTALLER.

- (a) An individual acts as an electronic access control device installer for purposes of this chapter if the individual installs, maintains, or repairs an electronic access control device.
- (b) A person registered as an electronic access control device installer may not install alarm systems unless the person holds an endorsement under this chapter as an alarm systems installer.

Added by Acts 2003, 78th Leg., ch. 936, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.62, eff. September 1, 2009.

Sec. 1702.2227. LOCKSMITH.

- (a) An individual acts as a locksmith for the purposes of this chapter if the person:
- (1) sells, installs, services, or maintains mechanical security devices, including deadbolts and locks; or
 - (2) advertises or offers services to the public or represents to the public that the person is a locksmith.
- (b) This section does not apply to a hotel, as that term is defined by Section 156.001, Tax Code.

Added by Acts 2003, 78th Leg., ch. 936, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1102 (H.B. 2243), Sec. 2, eff. September 1, 2005.

Sec. 1702.223. ALARM SYSTEMS INSTALLER.

- (a) An individual acts as an alarm systems installer for purposes of this chapter if the individual installs, maintains, or repairs an alarm system or detection device.
- (b) An alarm systems installer may sell, install, maintain, repair, or service an electronic access control device or a mechanical security device that is capable of activation through a wireless signal. An alarm systems installer may not rekey an electronic access control device or mechanical security device that can be activated by a key. This subsection does not apply to a mechanical security device or electronic access control device installed in a motor vehicle.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 936, Sec. 11, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 7, eff. June 14, 2013.

Sec. 1702.224. ALARM SYSTEMS MONITOR.

- (a) An individual acts as an alarm systems monitor for purposes of this chapter if the individual monitors an alarm system or detection device.
- (b) This section does not apply to an individual employed exclusively and regularly by an employer, other than a license holder, in connection with the affairs of that employer and with whom the individual has an employee-employer relationship.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.225. DOG TRAINER.

An individual acts as a dog trainer for purposes of this chapter if the individual, as the employee of a licensed guard dog company or investigations company, trains a dog used to protect persons or property or to conduct investigations.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.227. SECURITY SALESPERSON.

An individual acts as a security salesperson for purposes of this chapter if the individual is employed by a security services contractor to sell services offered by the contractor.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.228. EMPLOYEE OF LICENSE HOLDER; REGISTRATION PERMITTED.

An employee of a license holder who is employed in a

capacity that is not subject to mandatory registration under this subchapter may register with the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.627, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.64, eff. September 1, 2009.

Sec. 1702.229. QUALIFICATIONS FOR REGISTRATION.

- (a) An applicant for registration must meet the qualifications required under Section 1702.113 for a license applicant.
- (b) In accordance with the requirements of Section 1702.0611, the board by rule may adopt additional qualifications for an individual to be registered under this subchapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.628, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 12, eff. September 1, 2007.

Sec. 1702.230. APPLICATION FOR REGISTRATION OR ENDORSEMENT.

- (a) An application for registration or endorsement must be verified and include:
 - (1) the applicant's full name, residence address, residence telephone number, date and place of birth, and social security number;
 - (2) a statement that:
 - (A) lists each name used by the applicant, other than the name by which the applicant is known at the time of application, and an explanation stating each place where each name was used, the date of each use, and a full explanation of the reasons the name was used; or
 - (B) states that the applicant has never used a name other than the name by which the applicant is known at the time of application;
 - (3) the name and address of the applicant's employer and, if applicable, the applicant's consulting firm;
 - (4) the date the employment commenced;
 - (5) a letter from the license holder requesting that the applicant be registered or endorsed;
 - (6) the title of the position occupied by the applicant and a description of the applicant's duties;
 - (7) the required fees, including the criminal history check fee established under Section 1702.282;
 - (8) fingerprints of the applicant provided in the manner prescribed by the board; and
 - (9) any other information, evidence, statement, or

document required by the board.

- (b) The employer of the applicant shall make a reasonable attempt to verify the information required under Subsection (a)(1) before the earlier of:
 - (1) the date the application is submitted; or
 - (2) the date the applicant begins to perform the duties of employment that require registration.
- (c) An applicant must submit an application that substantially meets the requirements of this section before employment in a capacity for which registration is required.
- (d) For purposes of Subsection (a), an application is not considered to be verified until the board has received electronic verification from the department or the Federal Bureau of Investigation, as applicable, that the applicant has submitted the applicant's fingerprints.
- (e) The board shall make information available to the public concerning whether an applicant for registration or endorsement has met the requirements under this chapter for performing a service for which the registration or endorsement is required.
- (f) If information concerning an applicant is not made available under Subsection (e) before the 48th hour after the time the applicant's fingerprints are submitted in accordance with Subsection (a), the applicant may begin performing the duties of employment for which the registration or endorsement is required, other than duties as a commissioned security officer, if the employer or its agent:
 - (1) verifies through the department's publicly accessible website that the applicant is:
 - (A) not disqualified for the registration or endorsement based on the applicant's criminal history; and
 - (B) not required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and
 - (2) maintains in the applicant's employee file a copy of the search results obtained under Subdivision (1).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.629, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.65, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.66, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.14, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 827 (H.B. 4030), Sec. 1, eff. September 1, 2015.

Sec. 1702.2305. PROVISIONAL REGISTRATION.

- (a) The board may issue a provisional registration to an applicant currently registered in another jurisdiction

who seeks an equivalent registration in this state and who:

- (1) has been registered in good standing in the field in which the registration is sought for at least two years in another jurisdiction, including a foreign country, that has registration requirements substantially equivalent to the requirements of this chapter;
 - (2) has passed a national or other examination recognized by the board relating to practice in the field in which the registration is sought; and
 - (3) is employed by a person licensed by the board under this chapter with whom the provisional registration holder will practice during the time the person holds a provisional registration.
- (b) A provisional registration is valid until the date the board approves or denies the provisional registration holder's application for a registration. The board shall issue a registration under this chapter to the provisional registration holder if the provisional registration holder is eligible to be registered under this chapter.
 - (c) The board must approve or deny a provisional registration holder's application for a registration not later than the 180th day after the date the provisional registration is issued. The board may extend the 180-day period if the results of an examination have not been received by the board before the end of that period.
 - (d) The board may establish a fee for provisional registration in an amount reasonable and necessary to cover the cost of issuing the registration.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.630(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.67, eff. September 1, 2009.

Sec. 1702.232. POCKET CARDS.

- (a) The board shall issue a pocket card for each registrant under this chapter. A pocket card for an owner, officer, partner, or shareholder of a license holder shall be issued to the license holder.
- (b) The board shall determine the size, design, and content of the pocket card.
- (c) The pocket card must:
 - (1) state the name of the registrant;
 - (2) contain a color photograph, affixed to the pocket card by the board at the time the card is issued, and the signature of the registrant;
 - (3) state the date the card was issued and the card's expiration date; and
 - (4) state each endorsement held by the registrant and the date the endorsement expires.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.632,

eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.68, eff. September 1, 2009.

Sec. 1702.233. DURATION OF POCKET CARDS.

A pocket card issued for a registrant is valid for two years and expires on the date the registration expires under Section 1702.301(d), (e), or (f).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.633, eff. Sept. 1, 2001.

Sec. 1702.234. REGISTRATION AND ENDORSEMENT TRANSFER.

A registrant may transfer the registrant's registration and endorsements from one employer to another employer if, not later than the 14th day after the date the registrant begins the new employment, the new employer notifies the board of the transfer of employment on a form prescribed by the board accompanied by payment of the employee information update fee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.634(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.69, eff. September 1, 2009.

Sec. 1702.235. PREEMPLOYMENT CHECK FOR NONCOMMISSIONED SECURITY OFFICERS.

A person may not hire a noncommissioned security officer unless the person conducts a preemployment check as required by board rule.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.635, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.70, eff. September 1, 2009.

Sec. 1702.236. EXAMINATION AND TRAINING REQUIREMENTS FOR ELECTRONIC ACCESS CONTROL DEVICE INSTALLERS.

(a) The board shall require an individual who applies for an endorsement as an electronic access control device installer to pass an examination given by the board or a person approved by the board. The examination must cover material related to access control.

(b) On and after September 1, 2005, the board by rule may allow an electronic access control device installer to obtain or renew an endorsement by fulfilling the requirements of a board-approved, industry-based educational training program.

Added by Acts 2003, 78th Leg., ch. 936, Sec. 10, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.71, eff. September 1, 2009.

Sec. 1702.239. TRAINING REQUIREMENTS FOR ALARM SYSTEMS INSTALLER AND SECURITY SALESPERSON; EXAMINATION.

(a) The board may require that an individual employed as an alarm systems installer or security salesperson hold a certification by a board-approved training program to renew an endorsement. The board may approve only nationally recognized training programs that consist of at least 16 hours of classroom study in the areas of work allowed by the endorsement. To be approved, a training program must offer at least two certification programs each year, sufficient to complete the requirements of this subsection, within 100 miles of each county in the state that has a population of more than 500,000.

(b) The board may require an individual who has completed a training program under Subsection (a) to pass an examination given by the board or by a person approved by the board. The board may approve examinations in conjunction with training programs approved under Subsection (a). The individual's performance on the examination must demonstrate the individual's qualifications to perform the duties allowed by the individual's endorsement.

(c) An individual who holds a registration on September 30, 1993, is not required to comply with requirements adopted under Subsections (a) and (b) during the time the individual maintains the registration with the individual's current license holder.

(d) If the board requires certification or examination under this section, the board shall implement rules to require that to renew an endorsement, an individual who is employed as an alarm systems installer or a security salesperson and who has already once renewed the endorsement must obtain continuing education credits related to the line of work for which the individual is licensed. If the board requires the continuing education, the chief administrator must approve classes offered by nationally recognized organizations, and participants in the classes must qualify according to board rules.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.639, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 936, Sec. 12, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.72, eff. September 1, 2009.

Sec. 1702.240. REGISTRATION EXEMPTIONS FOR UNDERCOVER AGENT.

- (a) For the purposes of this section, "undercover agent" means an individual hired by a person to perform a job in or for that person, and while performing that job, to act as an undercover agent, an employee, or an independent contractor of a license holder, but supervised by a license holder.
- (b) An employee of a license holder who is employed exclusively as an undercover agent is not required to register with the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.640, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.73, eff. September 1, 2009.

Sec. 1702.241. JURISPRUDENCE EXAMINATION.

- (a) The board may develop and administer at least twice each calendar year a jurisprudence examination to determine the knowledge that an applicant for an endorsement has of this chapter, board rules, and any other applicable laws of this state affecting the applicant's activities regulated under this chapter.
- (b) Before the board may administer a jurisprudence examination under this section, the board shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results. The board may design different examinations for different types of endorsements.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.74, eff. September 1, 2009.

SUBCHAPTER L. GENERAL PROVISIONS APPLICABLE TO REGULATED PERSONS

Sec. 1702.282. CRIMINAL HISTORY CHECK.

- (a) The board shall conduct a criminal history check, including a check of any criminal history record information maintained by the Federal Bureau of Investigation, in the manner provided by Subchapter F, Chapter 411, Government Code, on each applicant for a license, registration, security officer commission, letter of approval, permit, endorsement, or certification. As part of its criminal history check, the board may request that the applicant provide certified copies of relevant court documents or other records. The failure to provide the requested records within a reasonable time as determined by the board may result in the application being considered incomplete. An applicant

is not eligible for a license, registration, commission, letter of approval, permit, endorsement, or certification if the check reveals that the applicant has committed an act that constitutes grounds for the denial of the license, registration, commission, letter of approval, permit, endorsement, or certification. Except as provided by Subsection (d), each applicant shall submit at the time of application, including an application for the renewal of a license, registration, commission, letter of approval, permit, endorsement, or certification, fingerprints in the manner prescribed by the board accompanied by the fee set by the board.

- (b) Before beginning employment as a commissioned security officer, the applicant must be approved by the board based on the results of the check under Subsection (a). To continue employment in a capacity regulated under this chapter other than as a commissioned security officer, the applicant must be approved by the board based on the results of the check under Subsection (a) not later than the 120th day after the date the applicant begins employment in that capacity.
- (c) A license, registration, security officer commission, letter of approval, permit, endorsement, or certification issued by the board is conditional on the board's receipt of criminal history record information.
- (d) An applicant who is a peace officer is not required to submit fingerprints with the applicant's application. On request, the law enforcement agency or other entity that employs the peace officer or the entity that maintains the peace officer's fingerprints shall provide the fingerprints for the peace officer to the board. The applicant shall provide sufficient information to the board to enable the board to obtain the fingerprints under this subsection.
- (e) On receipt of notice that a check of the applicant's criminal record has uncovered an unresolved and potentially disqualifying arrest that occurred before the 10th anniversary of the date the application is filed, the applicant must provide a letter of reference from the county sheriff, prosecuting attorney, or judge of the county in which the applicant was arrested stating that a record of a disposition related to the arrest does not exist, and to the best of the county sheriff's, prosecuting attorney's, or judge's knowledge the applicant is free of any disqualifying convictions. If the applicant fails to provide either the letter of reference or documentary proof of the final disposition of the arrest, the application is considered incomplete and the applicant may not be issued a license, commission, endorsement, or certificate of registration under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.645(a), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1035 (H.B. 1132), Sec. 1.02, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1278 (H.B. 2303), Sec. 6, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 13, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.75, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.15, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 8, eff. June 14, 2013.

Sec. 1702.283. CRUELTY TO ANIMALS.

A person who has been convicted of cruelty to animals under Section 42.09 or 42.092, Penal Code:

- (1) is ineligible for a license as a guard dog company or for endorsement as a dog trainer; and
- (2) may not be employed to work with dogs as a security officer by a security services contractor or security department of a private business that uses dogs to protect individuals or property or to conduct investigations.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 886 (H.B. 2328), Sec. 6, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.76, eff. September 1, 2009.

Sec. 1702.284. ALARM SYSTEMS RECORDS CONFIDENTIAL.

- (a) Information contained in alarm systems records maintained by a governmental body that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the board, to the alarm company to which the confidential records relate, or as otherwise required by state law or court order.
- (b) Information described by Subsection (a) may be used by the governmental body to inform the occupant of:
 - (1) the governmental body's alarm system response policy and any proposed change to that policy; and
 - (2) the option of the occupant to contract with a security services provider to respond to the occupant's alarm.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.646, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 232 (H.B. 1784), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 14,

eff. September 1, 2007.

Sec. 1702.285. FALSE REPRESENTATION.

A person may not represent falsely that the person:

- (1) is employed by a license holder; or
- (2) is licensed, registered, endorsed, or commissioned under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.77, eff. September 1, 2009.

Sec. 1702.286. DUTIES OF ALARM SYSTEMS COMPANY.

- (a) On the installation or activation of an alarm system, an alarm systems company shall distribute to the occupant of the alarm system location information summarizing:
 - (1) the applicable law relating to false alarms, including the potential for penalties and revocation or suspension of a permit;
 - (2) how to prevent false alarms; and
 - (3) how to operate the alarm system.
- (b) An alarm systems company shall notify the municipality in which the alarm system is located of an installation or activation of an alarm system not later than the 30th day after the date of the installation or activation. The alarm systems company shall provide to the municipality:
 - (1) the alarm systems company name;
 - (2) the alarm systems company license number;
 - (3) the name of the occupant of the alarm system location;
 - (4) the address of the alarm system location; and
 - (5) the date of installation or activation.
- (c) Information provided to a governmental body under this section is confidential and subject to disclosure only as provided under Section 1702.284.
- (d) An alarm systems company commits an offense if the company violates Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.
- (e) The duties imposed by this section on an alarm systems company do not apply to the installation or activation of a personal emergency response system, as defined under Section 1702.331.

Added by Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 7, eff. September 1, 2005.

Sec. 1702.2865. CUSTOMER AUTHORIZATION REQUIRED FOR CERTAIN LOCKSMITH SERVICES.

- (a) A locksmith company or locksmith may not perform services for a customer who seeks entry to a structure, motor vehicle, or other property unless the customer, in the course of the transaction:
 - (1) shows the locksmith company or locksmith a

- government-issued identification; and
- (2) provides a signed authorization stating that the customer owns or is otherwise entitled to legal access to the structure, motor vehicle, or other property.
- (b) A locksmith company or locksmith is exempt from Subsection (a) if the locksmith is requested to perform services in a case of imminent threat to a person or property.

Added by Acts 2005, 79th Leg., Ch. 1102 (H.B. 2243), Sec. 3, eff. September 1, 2005.

Renumbered from Occupations Code, Section 1702.286 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(73), eff. September 1, 2009.

Renumbered from Occupations Code, Section 1702.286 by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.16, eff. September 1, 2009.

Sec. 1702.287. DETECTION DEVICE CONTROL PANELS; MINIMUM STANDARDS.

An alarm systems company may not install any alarm system on or after January 1, 2007, that includes a detection device control panel unless the control panel meets or exceeds the standards of the American National Standards Institute for false alarm reduction.

Added by Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 7, eff. September 1, 2005.

Sec. 1702.288. NOTICE OF CERTAIN INFORMATION TO RECIPIENT OF ALARM SYSTEM SERVICES.

- (a) The board shall adopt rules in accordance with this section that require a license holder acting as an alarm systems company under this chapter to inform each of the license holder's clients that the client is entitled to receive a written contract for alarm system services that contains the client's fee arrangement and other relevant information about services to be rendered.
- (b) The rules shall require that a written contract for alarm system services shall be furnished to a client in accordance with Subsection (a) not later than the seventh day after the date the client requests the written contract.
- (c) The rules shall require that the written contract for services shall be dated and signed by the owner or manager of an alarm systems company or a person expressly authorized by the owner or manager to sign written contracts on behalf of the company.
- (d) The rules shall require that, not later than the seventh day after the date of entering into a contract for services regulated by the board with another alarm systems company or alarm systems monitor, an alarm systems company shall:
- (1) notify the recipient of those services of the name, address, and telephone number and individual to

- contact at the company that purchased the contract;
- (2) notify the recipient of services at the time the contract is negotiated that another licensed company may provide any of the services requested by subcontracting or outsourcing those services; and
- (3) if any of the services are subcontracted or outsourced to a licensed third party, notify the recipient of services, by mail, of the name, address, phone number, and license number of the company providing those services.
- (e) The rules shall require that notice provided to a recipient of services under Subsection (d) shall:
- (1) be mailed to the recipient in a written form that emphasizes the required information; and
- (2) include stickers or other materials to be affixed to an alarm system indicating the alarm systems company's or alarm systems monitor's new telephone number.
- (f) A license holder acting as an alarm systems company does not have to provide the notice required under Subsection (d) if the contact information, including the address and the telephone numbers for the alarm systems company, has not changed.

Added by Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 7, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 9, eff. June 14, 2013.

Sec. 1702.289. INSPECTIONS.

- (a) An employee or agent of the department or board, as applicable, who enters the place of business of a person regulated under this chapter for the purpose of conducting an inspection or audit must:
- (1) notify the manager or owner of the business of the presence of the person conducting the inspection or audit; and
- (2) present the manager or owner of the business with credentials that identify the person conducting the inspection or audit as an employee or agent of the department or board.
- (b) This section does not prohibit the department or board from conducting an undercover investigation or covert audit in order to determine compliance with this chapter or a rule adopted under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 10, eff. June 14, 2013.

SUBCHAPTER M. EXPIRATION; RENEWAL

Sec. 1702.301. EXPIRATION.

- (a) A license is valid for one year from the date of issuance. A license expires at midnight on the last day of the 11th month after the month in which it is issued.

- (b) A security officer commission expires on the second anniversary of the date the commission is issued.
- (c) A personal protection officer endorsement expires on the expiration date of the security officer commission under which the individual's endorsement is issued.
- (d) Endorsement as a private investigator, manager, branch office manager, alarm systems installer, security consultant, security salesperson, alarm systems monitor, or dog trainer expires on the second anniversary of the date of endorsement.
- (e) Endorsement as an owner, officer, partner, or shareholder of a license holder expires on the second anniversary of the date of endorsement.
- (f) Endorsement as a noncommissioned security officer expires on the second anniversary of the date of endorsement.
- (g) A letter of authority, or a school approval or school instructor approval letter issued by the board, expires on the first anniversary of the date of issuance.
- (h) A license, registration, or endorsement issued under this chapter, other than one specified in this section, expires on the date specified by this chapter or by board rule.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.647(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.78, eff. September 1, 2009.

Sec. 1702.302. LICENSE RENEWAL.

- (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the board before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.
- (b) A person whose license has been expired for 90 days or less may renew the license by paying to the board a renewal fee that is equal to 1-1/2 times the normally required renewal fee.
- (c) A person whose license has been expired for longer than 90 days but less than one year may renew the license by paying to the board a renewal fee that is equal to two times the normally required renewal fee.
- (d) A person whose license has been expired for one year or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.
- (e) Not later than the 30th day before the date a person's license is scheduled to expire, the board shall send written notice of the impending expiration to the person at the person's last known address according to the board's records.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.648, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.79, eff. September 1, 2009.

Sec. 1702.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER.

A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date the person applies for renewal may obtain a new license without reexamination. The person must pay to the board a fee that is equal to two times the normally required renewal fee for the license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.649(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.80, eff. September 1, 2009.

Sec. 1702.304. STAGGERED RENEWAL; PRORATION OF LICENSE FEE.

The board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the expiration date of a license is changed, the board shall prorate license fees on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.650(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.81, eff. September 1, 2009.

Sec. 1702.305. EFFECT OF LICENSE RENEWAL ON DISCIPLINARY ACTION.

Renewal of a license does not prohibit the bringing of disciplinary proceedings for an act committed before the effective date of the renewal.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.306. EFFECT OF SUSPENSION ON LICENSE RENEWAL REQUIREMENTS.

A suspended license expires on the license's expiration date and may be renewed as provided by this chapter, but the renewal does not entitle the license holder, while the license remains suspended and until the license is

reinstated, to engage in the licensed activity or in conduct in violation of the order or judgment by which the license was suspended.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.307. REGISTRATION RENEWAL.

- (a) An individual who is otherwise eligible to renew a registration may renew an unexpired registration by paying the required renewal fee to the board before the expiration date of the registration. An individual whose registration has expired may not engage in activities that require a registration until the registration has been renewed.
- (b) An individual whose registration has been expired for 90 days or less may renew the registration by paying to the board a renewal fee that is equal to 1-1/2 times the normally required renewal fee.
- (c) An individual whose registration has been expired for more than 90 days but less than one year may renew the registration by paying to the board a renewal fee that is equal to two times the normally required renewal fee.
- (d) An individual whose registration has been expired for one year or more may not renew the registration. The individual may obtain a new registration by complying with the requirements and procedures, including any examination required by the board, for obtaining an original registration.
- (e) An individual who was registered in this state, moved to another state, and is currently registered and has been in practice in the other state for the two years preceding the date of application may obtain a new registration without reexamination. The individual must pay to the board a fee that is equal to two times the normally required renewal fee for the registration.
- (f) Not later than the 30th day before the expiration date of an individual's registration, the board shall send written notice of the impending expiration to the individual at the individual's last known address according to board records.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.651(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.82, eff. September 1, 2009.

Sec. 1702.308. CONTINUING EDUCATION.

- (a) This section does not apply to a noncommissioned security officer.
- (b) The board shall recognize, prepare, or administer continuing education programs for license holders, commissioned security officers, and endorsement holders. The board shall set the minimum number of hours that must be completed and the types of

programs that may be offered.

- (c) A license holder, commissioned security officer, or endorsement holder must participate in the programs to the extent required by the board to keep the person's license, commission, or endorsement. A license holder, commissioned security officer, or endorsement holder shall submit evidence of compliance with the board's continuing education requirements in a manner prescribed by the board.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.652(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.83, eff. September 1, 2009.

Sec. 1702.309. SECURITY OFFICER COMMISSION RENEWAL.

- (a) The board by rule shall develop a continuing education course required for renewal of a security officer commission. Only a board-approved instructor may administer the continuing education course. The course must include at least six hours of instruction determined by the chief administrator of the board.
- (b) A commissioned security officer must demonstrate the proficiency required under Section 1702.1685 within the 90-day period before the date the commission is renewed.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.652(a), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 593, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.84, eff. September 1, 2009.

SUBCHAPTER N. EXCEPTIONS

Sec. 1702.321. GOVERNMENT EMPLOYEES.

- (a) Except as provided by this section, this chapter does not apply to an officer or employee of the United States, this state, or a political subdivision of this state while the employee or officer is performing official duties.
- (b) The provisions of this chapter relating to security officer commissions apply to a person employed by a political subdivision whose duties include serving as a security guard, security watchman, or security patrolman on property owned or operated by the political subdivision if the governing body of the political subdivision files a written request with the board for the board to issue a commission to the political subdivision's employees with those duties.
- (c) The board may not charge a fee for issuing a commission to an officer under Subsection (b). The board shall issue to the officer a pocket card designating the political subdivision that employs the

officer.

- (d) The commission expires at the time the officer's employment as a security officer by the political subdivision is terminated.
- (e) The board may approve a security officer training program conducted by the political subdivision in accordance with Sections 1702.1675 and 1702.168.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.653, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.85, eff. September 1, 2009.

Sec. 1702.322. LAW ENFORCEMENT PERSONNEL.

This chapter does not apply to:

- (1) a person who has full-time employment as a peace officer and who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, extra job coordinator, or watchman if the officer:
 - (A) is employed in an employee-employer relationship or employed on an individual contractual basis:
 - (i) directly by the recipient of the services; or
 - (ii) by a company licensed under this chapter;
 - (B) is not in the employ of another peace officer;
 - (C) is not a reserve peace officer; and
 - (D) works as a peace officer on the average of at least 32 hours a week, is compensated by the state or a political subdivision of the state at least at the minimum wage, and is entitled to all employee benefits offered to a peace officer by the state or political subdivision;
- (2) a reserve peace officer while the reserve officer is performing guard, patrolman, or watchman duties for a county and is being compensated solely by that county;
- (3) a peace officer acting in an official capacity in responding to a burglar alarm or detection device; or
- (4) a person engaged in the business of electronic monitoring of an individual as a condition of that individual's community supervision, parole, mandatory supervision, or release on bail, if the person does not perform any other service that requires a license under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.654, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.17, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1247 (S.B. 1600), Sec. 1, eff. June 17, 2011.

Sec. 1702.323. SECURITY DEPARTMENT OF PRIVATE BUSINESS.

- (a) Except as provided by Subsections (b) and (d), this chapter does not apply to an individual employed in an employee-employer relationship exclusively and regularly by one employer in connection with the affairs of the employer.
- (b) An individual described by Subsection (a) who carries a firearm in the course of employment must obtain a private security officer commission under this chapter.
- (c) The security department of a private business may not hire or employ an individual to perform a duty described by Section 1702.222 if the individual has been convicted of a crime that would otherwise preclude the individual from being registered under this chapter. The private business shall maintain the individual's criminal history record on file at the business and shall make the record available for inspection by the Department of Public Safety.
 - (c-1) Although the security department of a private business that hires or employs an individual as a private security officer to possess a firearm in the course and scope of the individual's duties is required to apply for a security officer commission for the individual under this chapter, the security department of a private business is not required to apply to the board for any license under this chapter.
- (d) This chapter applies to an individual described by Subsection (a) who in the course of employment:
 - (1) comes into contact with the public;
 - (2) wears:
 - (A) a uniform commonly associated with security personnel or law enforcement;
 - (B) any type of badge commonly associated with security personnel or law enforcement; or
 - (C) a patch or apparel containing the word "security" or a substantially similar word that is intended to or is likely to create the impression that the individual is performing security services; and
 - (3) performs a duty described by Section 1702.108 or 1702.222.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.655, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 593, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 65 (H.B. 1393), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 663 (H.B. 1241), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 15, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 17.003, eff. September 1, 2009.

Sec. 1702.324. CERTAIN OCCUPATIONS.

- (a) For the purposes of this section, "landman" means an individual who, in the course and scope of the individual's business:
- (1) acquires or manages petroleum or mineral interests; or
 - (2) performs title or contract functions related to the exploration, exploitation, or disposition of petroleum or mineral interests.
- (b) This chapter does not apply to:
- (1) a manufacturer or a manufacturer's authorized distributor while selling equipment intended for resale;
 - (2) a person engaged exclusively in the business of obtaining and providing information to:
 - (A) determine creditworthiness;
 - (B) collect debts; or
 - (C) ascertain the reliability of information provided by an applicant for property, life, or disability insurance or an indemnity or surety bond;
 - (3) a person engaged exclusively in the business of repossessing property that is secured by a mortgage or other security interest;
 - (4) a person who is engaged in the business of psychological testing or other testing and interviewing services, including services to determine attitudes, honesty, intelligence, personality, and skills, for preemployment purposes;
 - (5) a person who:
 - (A) is engaged in obtaining information that is a public record under Chapter 552, Government Code, regardless of whether the person receives compensation;
 - (B) is not a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this chapter; and
 - (C) does not perform any other act that requires a license under this chapter;
 - (6) a licensed engineer practicing engineering or directly supervising engineering practice under Chapter 1001, including forensic analysis, burglar alarm system engineering, and necessary data collection;
 - (7) an employee of a cattle association who inspects livestock brands under the authority granted to the cattle association by the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture;
 - (8) a landman performing activities in the course and scope of the landman's business;
 - (9) an attorney while engaged in the practice of law;
 - (10) a person who obtains a document for use in litigation under an authorization or subpoena issued for a written or oral deposition;
 - (11) an admitted insurer, insurance adjuster, agent, or insurance broker licensed by the state, performing duties in connection with insurance transacted by that person;
 - (12) a person who on the person's own property or on property owned or managed by the person's employer:
 - (A) installs, changes, or repairs a mechanical security device;
 - (B) repairs an electronic security device; or
 - (C) cuts or makes a key for a security device;
 - (13) security personnel, including security contract personnel, working at a commercial nuclear power plant licensed by the United States Nuclear Regulatory Commission;
 - (14) a person or firm licensed as an accountant or accounting firm under Chapter 901, an owner of an accounting firm, or an employee of an accountant or accounting firm while performing services regulated under Chapter 901;
 - (15) a retailer, wholesaler, or other person who sells mechanical security devices, including locks and deadbolts, but who does not:
 - (A) service mechanical security devices for the public outside of the person's premises; or
 - (B) claim to act as a locksmith;
 - (16) an employee while performing investigative services that would otherwise be subject to this chapter for an entity regulated by the:
 - (A) Texas Department of Insurance;
 - (B) Office of Thrift Supervision;
 - (C) Securities and Exchange Commission;
 - (D) Federal Deposit Insurance Corporation; or
 - (E) Financial Industry Regulatory Authority;
 - (17) a social worker who holds a license issued under Chapter 505 who is engaged in the practice of social work;
 - (18) persons licensed under Chapter 1101, an association thereof, their authorized agents, or a multiple listing service, engaged in the business of selling, maintaining, repairing, programming, or placing lockboxes used for accessing real property; or
 - (19) an automobile club that holds a certificate of authority under Chapter 722, Transportation Code, its subcontractor, or a business that provides similar services, that unlocks a vehicle at the request of the owner or operator of the vehicle and that does not otherwise perform a locksmith service.
- (c) The exemptions provided by Subsection (b) apply only to a person described in that subsection while the person is performing services directly related to and dependent on the provision of the exempted service that does not otherwise require licensing under this chapter. The exemptions do not apply to activities or services that are independent of the service or profession that is the basis for the exemption.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.656, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 936, Sec. 13, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1237, Sec. 2, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.801, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 518 (H.B. 808), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 1102 (H.B. 2243), Sec. 4, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1155 (H.B. 3140), Sec. 2, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 16, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.86, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 509 (H.B. 1779), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 11, eff. June 14, 2013.

Sec. 1702.325. COMMON CARRIERS.

This chapter does not apply to:

- (1) a common carrier by rail engaged in interstate commerce, regulated by state and federal authorities, and transporting commodities essential to the national defense and to the general welfare and safety of the community; or
- (2) an officer, employee, or agent of a common carrier, as defined by Section 153 of the federal Communications Act of 1934 (47 U.S.C. Section 153), and its subsequent amendments, while protecting the carrier or a user of the carrier's long-distance services from a fraudulent, unlawful, or abusive use of those long-distance services.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.657, eff. Sept. 1, 2001.

Sec. 1702.326. MEDICAL ALERT SERVICES.

(a) This chapter does not apply to an entity that:

- (1) provides medical alert services for persons who are sick or disabled;
- (2) does not provide any other service that requires a license under this chapter; and
- (3) is:
 - (A) a hospital or a wholly owned subsidiary or an affiliate of a hospital licensed under Chapter 241, Health and Safety Code; or
 - (B) a charitable or a nonprofit entity that provides the services in the manner required by Subsection (b) and that is exempt from the payment of federal income taxes under Section 501(a) of the Internal Revenue Code of 1986

and its subsequent amendments by being listed as an exempt entity under Section 501(c)(3) of that code.

- (b) A charitable or nonprofit entity that provides medical alert services must provide those services through a licensed person, licensed nurse, licensed physician assistant or by a hospital, subsidiary, or affiliate described by Subsection (a)(3)(A).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.327. NONPROFIT AND CIVIC ORGANIZATIONS.

This chapter does not apply to:

- (1) a nonprofit business or civic organization that:
 - (A) employs a peace officer who meets the qualifications of Section 1702.322(1) as a patrolman, guard, or watchman;
 - (B) provides the services of the peace officer only to:
 - (i) the organization's members; or
 - (ii) if the organization does not have members, the members of the communities served by the organization as described in the organization's articles of incorporation or other organizational documents;
 - (C) devotes the net receipts from all charges for the services exclusively to the cost of providing the services or to the costs of other services for the enhancement of the security or safety of:
 - (i) the organization's members; or
 - (ii) if the organization does not have members, the members of the communities served by the organization as described in the organization's articles of incorporation or other organizational documents; and
 - (D) does not perform any other service that requires a license under this chapter; or
- (2) a charitable, nonprofit organization that maintains a system of records to aid in the location of missing children and that:
 - (A) is exempt from the payment of federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 and its subsequent amendments by being listed as an exempt entity under Section 501(c)(3) of that code;
 - (B) exclusively provides services related to locating missing children; and
 - (C) does not perform any other service that requires a license under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.328. SECURITY SYSTEMS SALES AND INSTALLATION.

This chapter does not apply to:

- (1) a person who owns and installs a burglar detection or alarm device on the person's own property or, if the person does not charge for the device or the installation, installs the device for the protection of the person's personal property located on another person's property and does not, as a normal business practice, install the devices on the property of another;
- (2) a person in the business of building construction that installs electrical wiring and devices that may include in part the installation of a burglar alarm or detection device if:
 - (A) the person is a party to a contract that provides that:
 - (i) the installation will be performed under the direct supervision of, and inspected and certified by, a person licensed to install and certify the alarm or detection device; and
 - (ii) the license holder assumes full responsibility for the installation of the alarm or detection device; and
 - (B) the person does not service or maintain alarm systems, electronic access control devices, locks, or detection devices;
- (3) a person who sells or installs automobile burglar alarm devices and who does not perform any other act that requires a license under this chapter; or
- (4) a person who sells exclusively by e-commerce, over the counter transactions, or mail order, alarm systems, electronic access control devices, locks, or detection devices.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 936, Sec. 14, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1155 (H.B. 3140), Sec. 3, eff. June 18, 2005.

Sec. 1702.329. FIRE ALARM AND DETECTION SALES AND INSTALLATION.

This chapter does not apply to:

- (1) a person whose activities are regulated under Article 5.43-2, Insurance Code, except to the extent those activities are specifically regulated under this chapter; or
- (2) a person who holds a license or other credential issued by a municipality to practice as an electrician and who installs fire or smoke detectors only in single-family or multifamily residences.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.330. SECURITY PERSONNEL OF PRIVATE INSTITUTION OF HIGHER EDUCATION.

This chapter does not apply to:

- (1) a person who is employed full-time by and is commissioned as a campus security personnel employee by a private institution of higher education under Section 51.212, Education Code; or
- (2) a peace officer commissioned by an incorporated municipality who is hired under Section 51.212, Education Code, on a regular basis by a private institution of higher education while that peace officer is operating within the scope of the peace officer's employment with the institution of higher education.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.658(a), eff. Sept. 1, 2001.

Sec. 1702.331. PERSONAL EMERGENCY RESPONSE SYSTEMS.

- (a) In this section, "personal emergency response system" means an alarm system that is:
 - (1) installed in the residence of a person;
 - (2) monitored by an alarm systems company;
 - (3) designed only to permit the person to signal the occurrence of a medical or personal emergency on the part of the person so that the company may dispatch appropriate aid; and
 - (4) not part of a combination of alarm systems that includes a burglar alarm or fire alarm.
- (b) This chapter does not apply to:
 - (1) an alarm systems company that sells, installs, services, monitors, or responds to only personal emergency response systems;
 - (2) an alarm systems installer who installs, maintains, or repairs only personal emergency response systems;
 - (3) a manager or branch office manager of an alarm systems company described by Subdivision (1);
 - (4) a security salesperson who is employed by an alarm systems company described by Subdivision (1) to sell services offered by the company; and
 - (5) an owner, officer, partner, or shareholder of an alarm systems company described by Subdivision (1).

Added by Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 8, eff. September 1, 2005.

Sec. 1702.332. TELEMATICS SERVICE PROVIDERS.

- (a) In this section, "telematics service" means:
 - (1) a service that:
 - (A) is provided to owners, operators, and occupants of consumer vehicles or commercial

fleet vehicles through the remote access of in-vehicle data that may rely on global positioning system satellite data to fix the exact location of the vehicle, including:

- (i) location-specific emergency and roadside vehicle breakdown assistance;
 - (ii) automatic collision notification;
 - (iii) real-time traffic and navigation information;
 - (iv) remote vehicle diagnostics; and
 - (v) stolen vehicle recovery;
- (B) is enabled through the two-way communication of voice or data, often with an interactive voice response technology interface, between a service subscriber's vehicle and a telematics company's response center; and
- (C) is provided to:
- (i) enhance vehicle service, safety, and convenience while driving for vehicle owners;
 - (ii) enable automakers and automobile dealerships to achieve greater service and customer management efficiencies and to increase customer retention; and
 - (iii) enable fleet operators to remotely manage their vehicles and other mobile assets; and
- (2) a related service provided to consumers, automakers, automobile dealerships, and commercial fleet operators by a telematics company as part of the emerging technology industry that delivers telematics services on a national basis to service subscribers.
- (b) Except as otherwise provided by this section, this chapter does not apply to a person who provides a telematics service in this state.
- (c) To qualify for the exemption provided by Subsection (b), a telematics service provider shall:
- (1) establish business practices and procedures that are at least as stringent as the guidelines established by the Association of Public Safety Communications Officials International regarding the communication of information from telematics service providers to public safety agencies; and
 - (2) pay an annual fee of \$2,500 to the department.
- (d) The department may adopt rules necessary to carry out the purposes of this section, including rules to determine whether a telematics service provider is complying with Subsection (c).

SUBCHAPTER O. PROHIBITED PRACTICES AND GROUNDS FOR DENIAL AND DISCIPLINARY ACTION

Sec. 1702.361. DENIAL AND DISCIPLINARY ACTIONS; GROUNDS.

- (a) The department, for conduct described by Subsection (b), may:
- (1) deny an application or revoke, suspend, or refuse to renew a license, registration, endorsement, or security officer commission;
 - (2) reprimand a license holder, registrant, or commissioned security officer; or
 - (3) place on probation a person whose license, registration, endorsement, or security officer commission has been suspended.
- (b) The department shall take disciplinary action described by Subsection (a) on proof:
- (1) that the applicant, license holder, manager or majority owner of a license holder, registrant, endorsement holder, or commissioned security officer has:
 - (A) violated this chapter or a rule adopted under this chapter;
 - (B) become ineligible for licensure, registration, or endorsement under Section 1702.113, or a commission under Section 1702.163, if applicable, other than an action for which the department has taken summary action under Section 1702.364;
 - (C) engaged in fraud, deceit, or misrepresentation;
 - (D) made a material misstatement in an application for or renewal of a license, registration, endorsement, or commission;
 - (E) failed to pay in full an administrative penalty assessed under Subchapter Q, for which the board has issued a final order;
 - (F) performed any service for which an endorsement is required under this chapter and either:
 - (i) was not employed with a company licensed under this chapter at the time the service was performed; or
 - (ii) performed the service for a company licensed under this chapter that was not listed on the individual's registration without informing the board of the individual's employment with the company within a reasonable period; or
 - (G) failed to qualify a new manager within the time required by board rule following the termination of a manager; or
 - (2) that the license holder of a registrant or commissioned security officer has submitted to the department sufficient evidence that the registrant or commissioned security officer:

Added by Acts 2005, 79th Leg., Ch. 207 (H.B. 1531), Sec. 1, eff. September 1, 2005.

Renumbered from Occupations Code, Section 1702.331 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(59), eff. September 1, 2007.

- (A) engaged in fraud or deceit while employed by the license holder; or
 - (B) committed theft while performing work as a registrant or commissioned security officer.
- (c) The department may place on probation a person whose license is suspended. If a person's suspension of a license is probated, the department may require the person:
- (1) to report regularly to the department on matters that are the basis of the suspension;
 - (2) to limit practice to the areas prescribed by the department; or
 - (3) to continue or review professional education until the person attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.
- (d) The department may revoke a license, certificate, registration, endorsement, or commission if the person holding that credential under this chapter submits payment of a fee or penalty that is returned for insufficient funds and the person has received notice and an opportunity to provide payment in full.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.659, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 17, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.87, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.18, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 12, eff. June 14, 2013.

Sec. 1702.3615. DIRECT APPEAL IN LIMITED CASES.

- (a) An applicant may appeal directly to the board the denial of a license, registration, or security officer commission application if:
- (1) the sole basis of the denial is the applicant's status as a registered sex offender;
 - (2) the applicant's status as a sex offender is not based on a criminal conviction that would make the applicant ineligible under Section 1702.113 or 1702.163; and
 - (3) the applicant waives the applicant's right to a hearing before the State Office of Administrative Hearings.
- (b) A proceeding under Subsection (a) is governed by Chapter 2001, Government Code. A hearing must be held at a regular meeting of the board.
- (c) In a proceeding held as provided by Subsection (a), the board may approve the application if the board determines the circumstances surrounding the applicant's registration as a sex offender warrant

approval based on factors previously established by rule.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.660(a), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 18, eff. September 1, 2007.

Sec. 1702.362. FAILURE TO FILE REQUIRED NOTICE.

The board may suspend or revoke a license if the license holder fails to notify the board as required by Section 1702.121 that a manager has ceased to be the manager of the license holder.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.661, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.88, eff. September 1, 2009.

Sec. 1702.363. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.

Except as provided by Sections 1702.3615(b) and 1702.364, a person regulated under this chapter against whom the board has taken action is entitled to a hearing before the State Office of Administrative Hearings. A proceeding under this section is a contested case that is governed by Chapter 2001, Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.662, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.89, eff. September 1, 2009.

Sec. 1702.364. SUMMARY ACTIONS.

- (a) On receiving written notice from a law enforcement agency that a person has been charged with or convicted of an offense that would make the person ineligible for a license, certificate of registration, endorsement, or security officer commission under Section 1702.113 or 1702.163, or a rule adopted under Section 1702.004(b), the department shall:
- (1) summarily deny the person's application for a license, registration, endorsement, or security officer commission;
 - (2) in the event of pending charges, summarily suspend the person's license, certificate of registration, endorsement, or security officer commission; or
 - (3) in the event of a conviction, summarily revoke the person's license, certificate of registration, endorsement, or security officer commission.

- (b) To initiate a proceeding to take action under Subsection (a), the department must serve notice to the person. The notice must:
 - (1) inform the person of the right to a preliminary hearing before the department;
 - (2) state the basis for the summary action; and
 - (3) be personally served on the person or the person's authorized representative, or sent to the person by certified or registered mail, return receipt requested, to the person's mailing address as it appears in the department's records.
- (c) The action is effective at the time notice is served. The person shall immediately surrender to the department any certificate of registration, security officer commission, pocket card, or other form of identification issued by the department.
- (d) At a preliminary hearing, the person must show cause why:
 - (1) the application should not have been denied;
 - (2) the registration, license, endorsement, or security officer commission should not have been suspended; or
 - (3) the registration, license, endorsement, or commission should not have been revoked.
- (e) Chapter 2001, Government Code, does not apply to the department's initial action under this section or to a preliminary hearing before the department under this section.
- (f) The dismissal of a complaint, information, or indictment or an acquittal releases the person from automatic grounds for a summary denial of an application or summary suspension of a registration, endorsement, or security officer commission under this section. A conviction for the offense giving rise to a summary suspension is automatic grounds for immediate, summary revocation.
- (g) The results of the preliminary hearing may be appealed by requesting, in writing, a hearing before an administrative law judge of the State Office of Administrative Hearings. On receipt of the request, the department shall set a hearing and give written notice of the hearing to the person.
- (h) The administrative law judge shall make findings of fact and conclusions of law regarding the person's eligibility for a license, registration, or endorsement under this section and promptly issue to the board a proposal for a decision.
- (i) At its earliest possible quarterly meeting, the board shall consider the proposal for decision and promptly issue a final order.
- (j) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1146, Sec. 4.102(8), eff. September 1, 2009.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
 Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.663, eff. Sept. 1, 2001.
 Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 19, eff. September 1, 2007.
 Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.90, eff. September 1, 2009.
 Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.102(8), eff. September 1, 2009.
 Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 13, eff. June 14, 2013.

Sec. 1702.365. ABDUCTION OF CHILD.

The board shall revoke a person's license, registration, endorsement, or security officer commission or deny a person's application for, or renewal of, a license, registration, endorsement, or security officer commission on proof that the person or an agent of the person has, after the date of application for a license, registration, endorsement, or security officer commission, abducted or attempted to abduct by force or the threat of force or by misrepresentation, stealth, or unlawful entry a child who at the time of the abduction or attempt is under the care and control of a person who:

- (1) has custody or physical possession of the child under a court order; or
- (2) is exercising the care and control with the consent of a person who has custody or physical possession of the child under a court order.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
 Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.664, eff. Sept. 1, 2001.

Amended by:
 Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.91, eff. September 1, 2009.

Sec. 1702.367. COMPLAINT INVESTIGATION; SUBPOENA; WITNESS.

- (a) For an investigation conducted under this chapter, if necessary to enforce this chapter or the board's rules, the department may issue an administrative subpoena to any person in this state compelling:
 - (1) the production of information or documents; or
 - (2) the attendance and testimony of a witness.
- (b) A witness is not privileged to refuse to testify to a fact or to produce a record or document with respect to which the witness is properly examined by the hearings officer.
- (c) A person required to testify or to produce a record or document on any matter properly under inquiry by the board who refuses to testify or to produce the record or document on the ground that the testimony or the production of the record or document would incriminate or tend to incriminate the person is nonetheless required to testify or to produce the record or document. A person who is required to testify or to produce a record or document under this subsection is not subject to indictment or prosecution for a transaction, matter, or thing concerning which the

person truthfully testifies or produces evidence.

- (d) If a witness refuses to obey a subpoena or to give evidence relevant to proper inquiry by the board, the board may petition a district court of the county in which the hearing is held to compel the witness to obey the subpoena or to give the evidence. The court shall immediately issue process to the witness and shall hold a hearing on the petition as soon as possible.
- (e) An investigator employed by the board may take statements under oath in an investigation of a matter covered by this chapter.
- (f) A person licensed or otherwise regulated under this chapter who fails without good cause to comply with a subpoena issued under this section may be subject to suspension of a license under Section 1702.361.
- (g) If a subpoena issued under this section relates to an ongoing criminal investigation by the department and the department determines that disclosure could significantly impede the investigation, the subpoena may provide that the person to whom the subpoena is directed may not:
 - (1) disclose that the subpoena has been issued;
 - (2) identify or describe any records requested by the subpoena; or
 - (3) disclose whether records have been furnished in response to the subpoena.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.666, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.92, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.19, eff. September 1, 2009.

Sec. 1702.368. NOTIFICATION OF CONVICTION FOR CERTAIN OFFENSES.

The department shall notify the board and the police department of the municipality and the sheriff's department of the county in which a person licensed, registered, or commissioned under this chapter resides of the conviction of the person for a Class B misdemeanor or equivalent offense or a greater offense.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.667(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.93, eff. September 1, 2009.

Sec. 1702.369. NO REINSTATEMENT AFTER REVOCATION.

A revoked license may not be reinstated.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.370. EFFECT OF SUSPENSION; MONITORING OF EXISTING ALARM CONTRACTS.

Subject to expiration of the license under Section 1702.306, a license holder may continue to monitor under an existing alarm contract or contract to monitor under an existing alarm contract for 30 days after the date of suspension of the person's license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.3705. PROHIBITION AGAINST CERTAIN POLITICAL SUBDIVISIONS ACTING AS ALARM SYSTEMS COMPANY.

- (a) Except as provided by Subsection (b), a political subdivision may not offer residential alarm system sales, service, installation, or monitoring unless it has been providing monitoring services to residences within the boundaries of the political subdivision as of September 1, 1999. Any fee charged by the political subdivision may not exceed the cost of the monitoring.
- (b) A political subdivision may:
 - (1) offer service, installation, or monitoring for property owned by the political subdivision or another political subdivision;
 - (2) allow for the response of an alarm or detection device by a law enforcement agency or by a law enforcement officer acting in an official capacity;
 - (3) offer monitoring in connection with a criminal investigation; or
 - (4) offer monitoring to a financial institution, as defined by Section 59.301, Finance Code, that requests, in writing, that the political subdivision provide monitoring service to the financial institution.
- (c) The limitations of Subsection (a) do not apply to a political subdivision in a county with a population of less than 80,000 or in a political subdivision where monitoring is not otherwise provided or available.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.668(a), eff. Sept. 1, 2001.

Sec. 1702.371. CONVICTION OF CERTAIN CRIMES.

For purposes of this chapter, a person is considered to be convicted of an offense if a court enters a judgment against the person for committing an offense under the laws of this state, another state, or the United States, including a conviction:

- (1) in which a person is placed on and subsequently discharged from community supervision;
- (2) that has been set aside or dismissed following the completion of probation; or
- (3) for which a person is pardoned, unless the pardon was granted for reasons relating to a wrongful

conviction.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.669(a), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 20, eff. September 1, 2007.

Sec. 1702.372. RECUSAL OF BOARD MEMBER.

- (a) A board member who participated in the investigation of a complaint or in informal settlement negotiations regarding the complaint:
 - (1) may not vote on the matter at a board meeting related to the complaint; and
 - (2) shall state at the meeting the reason for which the member is prohibited from voting on the matter.
- (b) A statement under Subsection (a)(2) shall be entered into the minutes of the meeting.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.94, eff. September 1, 2009.

SUBCHAPTER P. PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 1702.381. CIVIL PENALTY.

- (a) A person who is not licensed under this chapter, who does not have a license application pending, and who violates this chapter may be assessed a civil penalty to be paid to the state not to exceed \$10,000 for each violation.
- (b) A person who contracts with or employs a person who is required to hold a license, registration, endorsement, or security officer commission under this chapter knowing that the person does not hold the required license, registration, endorsement, or commission or who otherwise, at the time of contract or employment, is in violation of this chapter may be assessed a civil penalty to be paid to the state in an amount not to exceed \$10,000 for each violation.
- (c) A civil penalty under this section may be assessed against a person on proof that the person has received at least 30 days' notice of the requirements of this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.670, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 21, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.95, eff. September 1, 2009.

Sec. 1702.382. INJUNCTION.

- (a) An attorney for the department, the attorney general's

office, or any criminal prosecutor in this state may institute an action against a person to enjoin a violation by the person of this chapter or an administrative rule.

- (b) An injunction action instituted under this section does not require an allegation or proof that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation to sustain an action under this section. A bond is not required for an injunction action instituted under this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.671, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 22, eff. September 1, 2007.

Sec. 1702.383. ACTION FOR CIVIL PENALTY OR INJUNCTION.

If a person has violated a provision of this chapter for which a penalty is imposed under Section 1702.381, an attorney for the department, the attorney general's office, or any criminal prosecutor in this state may institute a civil suit in a Travis County district court or in a district court in the county in which the violation occurred for injunctive relief under Section 1702.382 or for assessment and recovery of the civil penalty.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.672, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 23, eff. September 1, 2007.

Sec. 1702.3835. DECEPTIVE TRADE PRACTICE.

- (a) A person who performs or offers to perform an activity regulated under this chapter, but who is not licensed or otherwise authorized under this chapter to perform the activity, commits a false, misleading, or deceptive act or practice within the meaning of Section 17.46, Business & Commerce Code.
- (b) A public or private right or remedy under Chapter 17, Business & Commerce Code, may be used to enforce this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4B.20, eff. September 1, 2009.

Sec. 1702.384. FALSIFICATION OF CERTAIN DOCUMENTS; OFFENSE.

- (a) A person commits an offense if the person knowingly falsifies fingerprints or photographs submitted under Section 1702.110.
- (b) An offense under this section is a felony of the third degree.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.3841. INSUFFICIENT INSURANCE COVERAGE; OFFENSE.

- (a) A person commits an offense if the person is subject to Section 1702.124 and knowingly fails to provide and maintain a certificate of insurance or other documentary evidence of insurance sufficient to cover all of the business activities of the person related to private security. A person is presumed to have acted knowingly for purposes of this subsection if the person received reasonable notice from the department and an opportunity to provide or maintain the documentation required by Section 1702.124 and failed to do so.
- (b) An offense under this section is a Class A misdemeanor.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1084 (H.B. 3433), Sec. 14, eff. June 14, 2013.

Sec. 1702.385. NEGLIGENCE BY GUARD DOG COMPANY; OFFENSE.

- (a) A license holder commits an offense if the license holder:
 - (1) operates a guard dog company; and
 - (2) fails to provide necessary food, care, or shelter for an animal used by the guard dog company.
- (b) An offense under this section is a Class A misdemeanor.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1702.386. UNAUTHORIZED EMPLOYMENT; OFFENSE.

- (a) A person commits an offense if the person contracts with or employs a person who is required to hold a license, registration, endorsement, or commission under this chapter knowing that the person does not hold the required license, registration, endorsement, or commission or who otherwise, at the time of contract or employment, is in violation of this chapter.
- (b) An offense under Subsection (a) is a Class A misdemeanor.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.96, eff. September 1, 2009.

Sec. 1702.3863. UNAUTHORIZED CONTRACT WITH BAIL BOND SURETY; OFFENSE.

- (a) A person commits an offense if the person contracts with or is employed by a bail bond surety as defined by Chapter 1704 to secure the appearance of a person who has violated Section 38.10, Penal Code, unless the person is:
 - (1) a peace officer;

- (2) an individual endorsed or licensed as a private investigator or the manager of a licensed investigations company; or
 - (3) a commissioned security officer employed by a licensed guard company.
- (b) An offense under Subsection (a) is a state jail felony.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.673(a), eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.97, eff. September 1, 2009.

Sec. 1702.3867. EXECUTION OF CAPIAS OR ARREST WARRANT; OFFENSE.

- (a) A private investigator executing a capias or an arrest warrant on behalf of a bail bond surety may not:
 - (1) enter a residence without the consent of the occupants;
 - (2) execute the capias or warrant without written authorization from the surety;
 - (3) wear, carry, or display any uniform, badge, shield, or other insignia or emblem that implies that the private investigator is an employee, officer, or agent of the federal government, the state, or a political subdivision of the state; or
 - (4) notwithstanding Section 9.51, Penal Code, use deadly force.
- (b) Notwithstanding Subsection (a)(3), a private investigator may display identification that indicates that the person is acting on behalf of a bail bond surety.
- (c) A private investigator executing a capias or an arrest warrant on behalf of a bail bond surety shall immediately take the person arrested to:
 - (1) if the arrest is made in the county in which the capias or warrant was issued:
 - (A) the county jail for that county if:
 - (i) the offense is a Class A or Class B misdemeanor or a felony; or
 - (ii) the offense is a Class C misdemeanor and the capias or warrant was issued by a magistrate of that county; or
 - (B) the municipal jail for the appropriate municipality if the offense is a Class C misdemeanor and the capias or warrant was issued by a magistrate of the municipality; or
 - (2) if the arrest is made in a county other than the county in which the capias or warrant was issued, the county jail for the county in which the arrest is made.
- (d) A person commits an offense if the person violates this section. An offense under this section is a state jail felony.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.674(a), eff. Sept. 1, 2001.

Sec. 1702.387. FAILURE TO SURRENDER CERTAIN DOCUMENTS; OFFENSE.

- (a) A person commits an offense if the person fails to surrender or immediately return to the board the person's registration, commission, pocket card, or other identification issued to the person by the board on notification of a summary suspension or summary denial under Section 1702.364.
- (b) An offense under this section is a Class A misdemeanor.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.675, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.98, eff. September 1, 2009.

Sec. 1702.3875. IMPERSONATING SECURITY OFFICER; OFFENSE.

- (a) A person commits an offense if the person:
 - (1) impersonates a commissioned or noncommissioned security officer with the intent to induce another to submit to the person's pretended authority or to rely on the person's pretended acts of a security officer; or
 - (2) knowingly purports to exercise any function that requires registration as a noncommissioned security officer or a security officer commission.
- (b) An offense under this section is a Class A misdemeanor.

Added by Acts 2001, 77th Leg., ch. 822, Sec. 1, eff. Sept. 1, 2001.

Sec. 1702.388. VIOLATION OF CHAPTER; OFFENSE.

- (a) A person commits an offense if the person violates a provision of this chapter for which a specific criminal penalty is not prescribed.
- (b) An offense under this section is a Class A misdemeanor, except that the offense is a felony of the third degree if the person has previously been convicted under this chapter of failing to hold a license, registration, endorsement, certificate, or commission that the person is required to hold under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.99, eff. September 1, 2009.

Sec. 1702.389. VENUE.

An offense under this chapter may be prosecuted in Travis County or in the county in which the offense occurred.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER Q. ADMINISTRATIVE PENALTY

Sec. 1702.401. IMPOSITION OF PENALTY.

In addition to any other disciplinary action taken by the department, and subject to the board's final order in a hearing under this subchapter, the department may impose an administrative penalty on a person licensed, commissioned, or registered under this chapter who violates this chapter or a rule or order adopted under this chapter.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.676(a), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 24, eff. September 1, 2007.

Sec. 1702.402. AMOUNT OF PENALTY.

- (a) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The amount of each separate violation may not exceed \$5,000.
- (b) The amount of a violation shall be based on:
 - (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
 - (2) the economic harm to property or the public caused by the violation;
 - (3) the history of previous violations;
 - (4) the amount necessary to deter a future violation;
 - (5) efforts to correct the violation; and
 - (6) any other matter that justice may require.
- (c) The board by rule shall develop a standardized penalty schedule based on the criteria listed in Subsection (b).

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.676(a), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 25, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 4.100, eff. September 1, 2009.

Sec. 1702.403. NOTICE OF VIOLATION AND PENALTY.

- (a) If the department determines that a violation has occurred, the department shall give written notice to the person.
- (b) The notice must:
 - (1) include a brief summary of the alleged violation;
 - (2) state the amount of the recommended penalty; and
 - (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.676(a), eff. Sept. 1, 2001.

Amended by:
Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 26,
eff. September 1, 2007.

Sec. 1702.404. PENALTY TO BE PAID OR HEARING REQUESTED.

- (a) Not later than the 20th day after the date the person receives the notice, the person in writing may:
 - (1) accept the determination and recommended penalty; or
 - (2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.
- (b) If the person accepts the determination and recommended penalty, the person shall pay the penalty in a timely manner.
- (c) The department may initiate suspension proceedings under Section 1702.361 against a person who, before the 21st day after the day the person receives the notice, either:
 - (1) accepts the penalty but fails to pay; or
 - (2) fails to respond to the notice.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.676(a),
eff. Sept. 1, 2001.

Amended by:
Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 27,
eff. September 1, 2007.

Sec. 1702.405. HEARING.

- (a) If the person requests a hearing, the department shall set a hearing and give written notice of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.
- (b) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the board a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.676(a),
eff. Sept. 1, 2001.

Amended by:
Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 28,
eff. September 1, 2007.

Sec. 1702.406. DECISION BY BOARD.

- (a) Based on the findings of fact, conclusions of law, and proposal for a decision, the board by order may:
 - (1) find that a violation occurred and impose a penalty;
or
 - (2) find that a violation did not occur.
- (b) The notice of the board's order given to the person must include a statement of the right of the person to judicial review of the order. Judicial review is under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code.
- (c) If the person does not file a petition in the appropriate

civil court for judicial review of the board's order not later than the 30th day after the date of the order, the board's order is final for purposes of Section 1702.361.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.676(a),
eff. Sept. 1, 2001.

Amended by:
Acts 2007, 80th Leg., R.S., Ch. 906 (H.B. 2833), Sec. 29,
eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec.
4.101, eff. September 1, 2009.

Sec. 1702.413. ADMINISTRATIVE PROCEDURE.

A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.676(a),
eff. Sept. 1, 2001.

CHAPTER 53

OCCUPATIONS CODE



TEXAS OCCUPATIONS CODE
TITLE 2. GENERAL PROVISIONS RELATING TO LICENSING
CHAPTER 53. CONSEQUENCES OF CRIMINAL CONVICTION

Effective January 1, 2017

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SUBCHAPTER A: GENERAL PROVISIONS

Text of subsection effective on January 01, 2017

Sec. 53.001: APPLICABILITY OF CERTAIN DEFINITIONS.

The definitions provided by Chapter [2001](#), Government Code, apply to this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 53.002: APPLICABILITY OF CHAPTER.

This chapter does not apply to:

- (1) the Supreme Court of Texas, a person licensed under the court's authority on behalf of the judicial department of government, or an applicant for a license issued under the court's authority on behalf of the judicial department of government;
- (2) a person licensed or an applicant for a license under Chapter [1701](#);
- (3) an applicant for certification as emergency medical services personnel under Chapter [773](#), Health and Safety Code; or
- (4) a person who:
 - (A) is licensed by the Texas Medical Board, the Texas State Board of Pharmacy, the State Board of Dental Examiners, or the State Board of Veterinary Medical Examiners; and
 - (B) has been convicted of a felony under Chapter [481](#) or [483](#) or Section [485.033](#), Health and Safety Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1149 (H.B. [2845](#)), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 754 (H.B. [1402](#)), Sec. 1, eff. September 1, 2011.

SUBCHAPTER B: INELIGIBILITY FOR LICENSE

Sec. 53.021: AUTHORITY TO REVOKE, SUSPEND, OR DENY LICENSE

Text of subsection effective until January 01, 2017

- (a) A licensing authority may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of:
 - (1) an offense that directly relates to the duties and responsibilities of the licensed occupation;
 - (2) an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the person applies for the license;
 - (3) an offense listed in Section 3g, Article [42.12](#), Code of Criminal Procedure; or
 - (4) a sexually violent offense, as defined by Article [62.001](#), Code of Criminal Procedure.

- (a) A licensing authority may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of:
 - (1) an offense that directly relates to the duties and responsibilities of the licensed occupation;
 - (2) an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the person applies for the license;
 - (3) an offense listed in Article [42A.054](#), Code of Criminal Procedure; or
 - (4) a sexually violent offense, as defined by Article [62.001](#), Code of Criminal Procedure.
- (a-1) Subsection (a) does not apply to a person who has been convicted only of an offense punishable as a Class C misdemeanor unless:
 - (1) the person is an applicant for or the holder of a license that authorizes the person to possess a firearm; and
 - (2) the offense for which the person was convicted is a misdemeanor crime of domestic violence as that term is defined by 18 U.S.C. Section 921.
- (b) A license holder's license shall be revoked on the license holder's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.
- (c) Except as provided by Subsections (d) and (e), notwithstanding any other law, a licensing authority may not consider a person to have been convicted of an offense for purposes of this section if, regardless of the statutory authorization:
 - (1) the person entered a plea of guilty or nolo contendere;
 - (2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and
 - (3) at the end of the period of supervision, the judge dismissed the proceedings and discharged the person.
- (d) A licensing authority may consider a person to have been convicted of an offense for purposes of this section regardless of whether the proceedings were dismissed and the person was discharged as described by Subsection (c) if:
 - (1) the person was charged with:
 - (A) any offense described by Article [62.001](#)(5), Code of Criminal Procedure; or
 - (B) an offense other than an offense described by Paragraph (A) if:
 - (i) the person has not completed the period of supervision or the person completed the

period of supervision less than five years before the date the person applied for the license; or

(ii) a conviction for the offense would make the person ineligible for the license by operation of law; and

(2) after consideration of the factors described by Sections [53.022](#) and [53.023\(a\)](#), the licensing authority determines that:

(A) the person may pose a continued threat to public safety; or

(B) employment of the person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct.

(e) Subsection (c) does not apply if the person is an applicant for or the holder of a license that authorizes the person to provide:

(1) law enforcement or public health, education, or safety services; or

(2) financial services in an industry regulated by a person listed in Section [411.0765\(b\)\(18\)](#), Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 616 (H.B. [963](#)), Sec. 3, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1148 (H.B. [2808](#)), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 938 (H.B. [1659](#)), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1265 (H.B. [798](#)), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 2.79, eff. January 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. [1902](#)), Sec. 31, eff. September 1, 2015.

Sec. 53.0211: LICENSING OF CERTAIN APPLICANTS WITH PRIOR CRIMINAL CONVICTIONS

(a) This section does not apply to an applicant for a license that would allow the applicant to provide:

(1) law enforcement services;

(2) public health, education, or safety services; or

(3) financial services in an industry regulated by the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner.

(b) Notwithstanding any law other than Subsection (a) and unless the applicant has been convicted of an offense described by Section [53.021\(a\)](#), a licensing authority shall issue to an otherwise qualified applicant who has been convicted of an offense:

(1) the license for which the applicant applied; or

(2) a provisional license described by Subsection (c).

(c) A licensing authority may issue a provisional license for a term of six months to an applicant who has been convicted of an offense.

(d) The licensing authority shall revoke a provisional license if the provisional license holder:

(1) commits a new offense;

(2) commits an act or omission that causes the person's community supervision, mandatory supervision, or parole to be revoked, if applicable; or

(3) violates the law or rules governing the practice of the occupation for which the provisional license is issued.

(e) The licensing authority shall issue the license for which the applicant originally applied to a provisional license holder on the expiration of the provisional license term if the provisional license holder does not engage in conduct described by Subsection (d).

(f) If the licensing authority revokes a provisional license under Subsection (d), the provisional license holder is disqualified from receiving the license for which the applicant originally applied.

(g) An applicant who is on community supervision, mandatory supervision, or parole and who is issued a provisional license under this section shall provide to the licensing authority the name and contact information of the probation or parole department to which the person reports. The licensing authority shall notify the probation or parole department that a provisional license has been issued. The probation or parole department shall notify the licensing authority if the person's community supervision, mandatory supervision, or parole supervision is revoked during the term of the provisional license.

Added by Acts 2009, 81st Leg., R.S., Ch. 616 (H.B. [963](#)), Sec. 4, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1182 (H.B. [3453](#)), Sec. 13, eff. September 1, 2011.

Sec. 53.022: FACTORS IN DETERMINING WHETHER CONVICTION RELATES TO OCCUPATION

In determining whether a criminal conviction directly relates to an occupation, the licensing authority shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 53.023: ADDITIONAL FACTORS FOR LICENSING AUTHORITY TO CONSIDER

- (a) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority shall consider, in addition to the factors listed in Section [53.022](#):
 - (1) the extent and nature of the person's past criminal activity;
 - (2) the age of the person when the crime was committed;
 - (3) the amount of time that has elapsed since the person's last criminal activity;
 - (4) the conduct and work activity of the person before and after the criminal activity;
 - (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
 - (6) other evidence of the person's fitness, including letters of recommendation from:
 - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
 - (B) the sheriff or chief of police in the community where the person resides; and
 - (C) any other person in contact with the convicted person.
- (b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required by Subsection (a)(6).
- (c) In addition to fulfilling the requirements of Subsection (b), the applicant shall furnish proof in the form required by the licensing authority that the applicant has:
 - (1) maintained a record of steady employment;
 - (2) supported the applicant's dependents;
 - (3) maintained a record of good conduct; and
 - (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 53.024: PROCEEDINGS GOVERNED BY ADMINISTRATIVE PROCEDURE ACT

A proceeding before a licensing authority to establish factors required to be considered under this subchapter is governed by Chapter [2001](#), Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 53.025: GUIDELINES

- (a) Each licensing authority shall issue guidelines relating to the practice of the licensing authority under this

chapter. The guidelines must state the reasons a particular crime is considered to relate to a particular license and any other criterion that affects the decisions of the licensing authority.

- (b) A state licensing authority that issues guidelines under this section shall file the guidelines with the secretary of state for publication in the Texas Register.
- (c) A local or county licensing authority that issues guidelines under this section shall post the guidelines at the courthouse for the county in which the licensing authority is located or publish the guidelines in a newspaper having countywide circulation in that county.
- (d) Amendments to the guidelines, if any, shall be issued annually.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C: NOTICE AND REVIEW OF SUSPENSION, REVOCATION, OR DENIAL OF LICENSE

Sec. 53.051: NOTICE

A licensing authority that suspends or revokes a license or denies a person a license or the opportunity to be examined for a license because of the person's prior conviction of a crime and the relationship of the crime to the license shall notify the person in writing of:

- (1) the reason for the suspension, revocation, denial, or disqualification;
- (2) the review procedure provided by Section [53.052](#); and
- (3) the earliest date the person may appeal the action of the licensing authority.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 53.052: JUDICIAL REVIEW

- (a) A person whose license has been suspended or revoked or who has been denied a license or the opportunity to take an examination under Section [53.021](#) and who has exhausted the person's administrative appeals may file an action in the district court in the county in which the licensing authority is located for review of the evidence presented to the licensing authority and the decision of the licensing authority.
- (b) The petition for an action under Subsection (a) must be filed not later than the 30th day after the date the licensing authority's decision is final and appealable.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D: PRELIMINARY EVALUATION OF LICENSE ELIGIBILITY

Sec. 53.101: DEFINITIONS

In this subchapter:

- (1) "License" means a license, certificate, registration,

permit, or other authorization that:

- (A) is issued by a licensing authority; and
- (B) a person must obtain to practice or engage in a particular business, occupation, or profession.

(2) "Licensing authority" means a department, commission, board, office, or other agency of the state that issues a license.

Added by Acts 2009, 81st Leg., R.S., Ch. 616 (H.B. [963](#)), Sec. 1, eff. June 19, 2009.

Sec. 53.102: REQUEST FOR CRIMINAL HISTORY EVALUATION LETTER

- (a) A person may request a licensing authority to issue a criminal history evaluation letter regarding the person's eligibility for a license issued by that authority if the person:
- (1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license; and
 - (2) has reason to believe that the person is ineligible for the license due to a conviction or deferred adjudication for a felony or misdemeanor offense.
- (b) The request must state the basis for the person's potential ineligibility.

Added by Acts 2009, 81st Leg., R.S., Ch. 616 (H.B. [963](#)), Sec. 1, eff. June 19, 2009.

Sec. 53.103: AUTHORITY TO INVESTIGATE

A licensing authority has the same powers to investigate a request submitted under this subchapter and the requestor's eligibility that the authority has to investigate a person applying for a license.

Added by Acts 2009, 81st Leg., R.S., Ch. 616 (H.B. [963](#)), Sec. 1, eff. June 19, 2009.

Sec. 53.104: DETERMINATION OF ELIGIBILITY; LETTER

- (a) If a licensing authority determines that a ground for ineligibility does not exist, the authority shall notify the requestor in writing of the authority's determination on each ground of potential ineligibility.
- (b) If a licensing authority determines that the requestor is ineligible for a license, the licensing authority shall issue a letter setting out each basis for potential ineligibility and the authority's determination as to eligibility. In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the licensing authority at the time the letter is issued, the authority's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.
- (c) A licensing authority must provide notice under Subsection (a) or issue a letter under Subsection (b) not later than the 90th day after the date the authority

receives the request.

Added by Acts 2009, 81st Leg., R.S., Ch. 616 (H.B. [963](#)), Sec. 1, eff. June 19, 2009.

Sec. 53.105: FEES

A licensing authority may charge a person requesting an evaluation under this subchapter a fee adopted by the authority. Fees adopted by a licensing authority under this subchapter must be in an amount sufficient to cover the cost of administering this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 616 (H.B. [963](#)), Sec. 1, eff. June 19, 2009.

CODE OF CRIMINAL PROCEDURE



**CODE OF CRIMINAL PROCEDURE
TITLE 1. CODE OF CRIMINAL PROCEDURE
CHAPTER 42A. COMMUNITY SUPERVISION
SUBCHAPTER B. PLACEMENT ON COMMUNITY SUPERVISION
Art. 42A.054: LIMITATION ON JUDGE-ORDERED COMMUNITY SUPERVISION
&
CHAPTER 62. SEX OFFENDER REGISTRATION PROGRAM
SUBCHAPTER A. GENERAL PROVISIONS
Art. 62.001(6): DEFINITIONS**

Art. 42A.054: LIMITATION ON JUDGE-ORDERED COMMUNITY SUPERVISION

- (a) Article [42A.053](#) does not apply to a defendant adjudged guilty of an offense under:
- (1) Section [15.03](#), Penal Code, if the offense is punishable as a felony of the first degree;
 - (2) Section [19.02](#), Penal Code (Murder);
 - (3) Section [19.03](#), Penal Code (Capital Murder);
 - (4) Section [20.04](#), Penal Code (Aggravated Kidnapping);
 - (5) Section [20A.02](#), Penal Code (Trafficking of Persons);
 - (6) Section [21.11](#)(a)(1), Penal Code (Indecency with a Child);
 - (7) Section [22.011](#), Penal Code (Sexual Assault);
 - (8) Section [22.021](#), Penal Code (Aggravated Sexual Assault);
 - (9) Section [22.04](#)(a)(1), Penal Code (Injury to a Child, Elderly Individual, or Disabled Individual), if:
 - (A) the offense is punishable as a felony of the first degree; and
 - (B) the victim of the offense is a child;
 - (10) Section [29.03](#), Penal Code (Aggravated Robbery);
 - (11) Section [30.02](#), Penal Code (Burglary), if:
 - (A) the offense is punishable under Subsection (d) of that section; and
 - (B) the actor committed the offense with the intent to commit a felony under Section [21.02](#), [21.11](#), [22.011](#), [22.021](#), or [25.02](#), Penal Code;
 - (12) Section [43.05](#), Penal Code (Compelling Prostitution);
 - (13) Section [43.25](#), Penal Code (Sexual Performance by a Child); or
 - (14) Chapter [481](#), Health and Safety Code, for which punishment is increased under:
 - (A) Section [481.140](#) of that code (Use of Child in Commission of Offense); or
 - (B) Section 481.134(c), (d), (e), or (f) of that code (Drug-free Zones) if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any of those subsections.
- (b) Article [42A.053](#) does not apply to a defendant when it is shown that:
- (1) a deadly weapon as defined by Section [1.07](#), Penal Code, was used or exhibited during the:
 - (A) commission of a felony offense; or
 - (B) immediate flight from the commission of a felony offense; and
 - (2) the defendant:
 - (A) used or exhibited the deadly weapon; or
 - (B) was a party to the offense and knew that a deadly weapon would be used or exhibited.
- (c) On an affirmative finding regarding the use or exhibition of a deadly weapon as described by Subsection (b), the trial court shall enter the finding in the judgment of the court.

- (d) On an affirmative finding that the deadly weapon under Subsection (c) was a firearm, the court shall enter that finding in its judgment.

Added by Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 1.01, eff. January 1, 2017.

Art. 62.001: DEFINITIONS

In this chapter:

- (6) "Sexually violent offense" means any of the following offenses committed by a person 17 years of age or older:
- (A) an offense under Section [21.02](#) (Continuous sexual abuse of young child or children), [21.11](#)(a)(1) (Indecency with a child), [22.011](#) (Sexual assault), or [22.021](#) (Aggravated sexual assault), Penal Code;
 - (B) an offense under Section [43.25](#) (Sexual performance by a child), Penal Code;
 - (C) an offense under Section [20.04](#)(a)(4) (Aggravated kidnapping), Penal Code, if the defendant committed the offense with intent to violate or abuse the victim sexually;
 - (D) an offense under Section [30.02](#) (Burglary), Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit a felony listed in Paragraph (A) or (C) of Subdivision (5); or
 - (E) an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice if the offense contains elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), or (D).

PRIVATE SECURITY ADMINISTRATIVE RULES



**TEXAS ADMINISTRATIVE CODE
TITLE 37. PUBLIC SAFETY AND CORRECTIONS
PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY
CHAPTER 35. PRIVATE SECURITY**

Revised November 3, 2016 reflecting amendments effective September 15, 2016

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SUBCHAPTER A - GENERAL PROVISIONS

RULE §35.1 - Definitions

The terms in this section have the following meanings when used in this chapter unless the context clearly indicates otherwise:

- (1) Act--Texas Occupations Code, Chapter 1702.
- (2) Application--Includes an application for an original, renewal, duplicate or updated registration, endorsement, commission, or license issued under the Act
- (3) Board--The Texas Private Security Board.
- (4) Department--The Texas Department of Public Safety.
- (5) Licensee--A company licensed under the Act.
- (6) Mechanical security device--Any device designed to control the opening or closing of a room, building, safe, vault, lockbox, safety deposit box, or motor vehicle, and which is not an electric access control device or alarm system as defined by the Act.
- (7) Registrant--An individual who holds a registration, endorsement, or commission under the Act.
- (8) SOAH--The State Office of Administrative Hearings.
- (9) Television camera or still camera system--Any device or system of devices that produces a visual image or series of images either recorded, transmitted through an intranet or internet protocol based device, or monitored by security personnel, for the purposes of private security or surveillance. The phrase does not refer to a television camera or still camera system used exclusively:
 - (A) To monitor traffic conditions on public roads;
 - (B) To detect motor vehicle violations on public roads;
 - (C) For telephone or video conferencing;
 - (D) To monitor a manufacturing process;
 - (E) For medical purposes by medical practitioners;
 - (F) By a court reporter or videographer to record depositions or testimony; or
 - (G) By a licensed private investigator who installs, operates, and maintains ownership of the system for the purposes of an ongoing investigation.

Source Note: The provisions of this §35.1 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.2 - Employment Requirements

- (a) Those registered with the department to perform a regulated service may only perform such services for the employer with whom they are registered. A person may not contract to perform a regulated service unless licensed by the department as a company under Subchapter F of the Act.
- (b) The employment relationship between a licensed company and its registered or commissioned employees must be such that the licensee's commercial liability insurance policy provides the statutorily required coverage for claims arising from the regulated services provided on behalf of the licensee by its registered or commissioned employees. The failure to maintain and provide current documentation of such coverage is a violation of the Act.

Source Note: The provisions of this §35.2 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.3 - Registration Applicant Pre-employment Check

- (a) Pursuant to §1702.230 of the Act, the pre-employment background check of the applicant described in subsection (c) of this section must be conducted when:
 - (1) An application meeting the requirements of §35.21 of this title (relating to Registration Applications) has been submitted;
 - (2) The department's website does not indicate the application is complete within 48 hours after the submission of the applicant's fingerprints; and
 - (3) Regulated services are to be performed by the applicant prior to issuance of the registration.
- (b) The ability to perform a non-commissioned regulated service prior to licensure is conditional on either:
 - (1) Department notification that a complete application has been received and:
 - (A) Performance of the pre-employment background check required under subsection (c) of this section;
 - (B) The determination that the applicant is not disqualified based on the background check; and
 - (C) The employer's retention of the search results in the employee's file, as required by subsection (e) of this section; or
 - (2) The absence of notification by the department that a complete application has been received, the passage of 48 hours since submission of the application materials required by §35.21 of this title, and:
 - (A) Performance of the pre-employment background check required under subsection (d) of this section;

- (B) The determination that the applicant is not disqualified based on the background check; and
- (C) The employer's retention of the search results in the employee's file, as required by subsection (e) of this section.
- (c) For purposes of subsection (b)(1) of this section, the pre-employment background check must at a minimum include the review of either the department's publicly accessible criminal history website or a commercial criminal history website, review of the department's sex offender registry website, and confirmation the applicant is not disqualified for the registration or endorsement based on either the applicant's criminal history or the requirement to register as a sex offender under Chapter 62, Code of Criminal Procedure. Nothing in this subsection precludes an employer from using a more stringent method of determining an applicant's eligibility.
- (d) For purposes of subsection (b)(2) of this section, the pre-employment background check must at a minimum include the review of the department's publicly accessible criminal history and sex offender registry website(s), and confirmation the applicant is not disqualified for the registration or endorsement based on either the applicant's criminal history or the requirement to register as a sex offender under Chapter 62, Code of Criminal Procedure. Nothing in this subsection precludes an employer from using a more stringent method of determining an applicant's eligibility.
- (e) The employer must maintain written documentation of the pre-employment check for at least two (2) years, regardless of the subsequent employment status of the applicant. The absence of such documentation constitutes a rebuttable presumption that the background check was not conducted.

Source Note: The provisions of this §35.3 adopted to be effective September 15, 2016, 41 TexReg 7121

RULE §35.4 - Guidelines for Disqualifying Criminal Offenses

- (a) The private security industry is in a position of trust; it provides services to members of the public that involve access to confidential information, to private property, and to the more vulnerable and defenseless persons within our society. By virtue of their licenses, security professionals are provided with greater opportunities to engage in fraud, theft, or related property crimes. In addition, licensure provides those predisposed to commit assaultive or sexual crimes with greater opportunities to engage in such conduct and to escape detection or prosecution.
- (b) Therefore, the board has determined that offenses of the following types directly relate to the duties and responsibilities of those who are licensed under the Act. Such offenses include crimes under the laws of another state or the United States, if the offense contains elements that are substantially similar to the elements of an offense under the laws of this state. Such offenses also include those "aggravated" or otherwise enhanced versions of the listed offenses.
- (c) The list of offenses in this subsection is intended to provide guidance only and is not exhaustive of either the offenses that may relate to a particular regulated occupation or of those that are independently disqualifying under Texas Occupations Code, §53.021(a)(2) - (4). The listed offenses are general categories that include all specific offenses within the corresponding chapter of the Texas Penal Code. In addition, after due consideration of the circumstances of the criminal act and its relationship to the position of trust involved in the particular licensed occupation, the board may find that an offense not described below also renders a person unfit to hold a license. In particular, an offense that is committed in one's capacity as a registrant under the Act, or an offense that is facilitated by one's registration, endorsement, or commission under the Act, will be considered related to the licensed occupation and may render the person unfit to hold the license.
 - (1) Arson, damage to property--Any offense under the Texas Penal Code, Chapter 28.
 - (2) Assault--Any offense under the Texas Penal Code, Chapter 22.
 - (3) Bribery--Any offense under the Texas Penal Code, Chapter 36.
 - (4) Burglary and criminal trespass--Any offense under the Texas Penal Code, Chapter 30.
 - (5) Criminal homicide--Any offense under the Texas Penal Code, Chapter 19.
 - (6) Disorderly conduct--Any offense under the Texas Penal Code, Chapter 42.
 - (7) Fraud--Any offense under the Texas Penal Code, Chapter 32.
 - (8) Kidnapping--Any offense under the Texas Penal Code, Chapter 20.
 - (9) Obstructing governmental operation--Any offense under the Texas Penal Code, Chapter 38.
 - (10) Perjury--Any offense under the Texas Penal Code, Chapter 37.
 - (11) Robbery--Any offense under the Texas Penal Code, Chapter 29.
 - (12) Sexual offenses--Any under the Texas Penal Code, Chapter 21.
 - (13) Theft--Any offense under the Texas Penal Code, Chapter 31.
 - (14) In addition:
 - (A) An attempt to commit a crime listed in this subsection;
 - (B) Aiding and abetting in the commission of a crime listed in this subsection; and
 - (C) Being an accessory (before or after the fact) to a crime listed in this subsection.
- (d) A felony conviction for an offense listed in subsection (c) of this section is disqualifying for ten (10) years from the date of the completion of the sentence, unless subject to this subsection.

- (e) A Class A misdemeanor conviction for an offense listed in subsection (c) of this section is disqualifying for five (5) years from the date of completion of the sentence.
- (f) Conviction for a felony or Class A offense that does not relate to the occupation for which license is sought is disqualifying for five (5) years from the date of commission, pursuant to Texas Occupations Code, §53.021(a)(2).
- (g) Independently of whether the offense is otherwise described or listed in subsection (c) of this section, a conviction for an offense listed in Texas Code of Criminal Procedure, Article 42.12 §3g, or Article 42A.054, or that is a sexually violent offense as defined by Texas Code of Criminal Procedure, Article 62.001, or a conviction for burglary of a habitation, is permanently disqualifying subject to the requirements of Texas Occupations Code, Chapter 53.
- (h) A Class B misdemeanor conviction for an offense listed in subsection (c) of this section is disqualifying for five (5) years from the date of conviction.
- (i) Any unlisted offense that is substantially similar in elements to an offense listed in subsection (c) of this section is disqualifying in the same manner as the corresponding listed offense.
- (j) A pending Class B misdemeanor charged by information for an offense listed in subsection (c) of this section is grounds for summary suspension.
- (k) Any pending Class A misdemeanor charged by information or pending felony charged by indictment is grounds for summary suspension.
- (l) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person against whom disqualifying charges have been filed or who has been convicted of a disqualifying offense, the board shall consider:
 - (1) The extent and nature of the person's past criminal activity;
 - (2) The age of the person when the crime was committed;
 - (3) The amount of time that has elapsed since the person's last criminal activity;
 - (4) The conduct and work activity of the person before and after the criminal activity;
 - (5) Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;
 - (6) The date the person will be eligible; and
 - (7) Any other evidence of the person's fitness, including letters of recommendation from:
 - (A) Prosecutors or law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; or
 - (B) The sheriff or chief of police in the community where the person resides.
- (m) In addition to the documentation listed in subsection (l) of this section, the applicant or licensee or registrant shall furnish proof in the form required by the department that the person has:
 - (1) Maintained a record of steady employment;
 - (2) Supported the applicant's dependents;
 - (3) Maintained a record of good conduct; and
 - (4) Paid all outstanding court costs, supervision fees, fines and restitution ordered in any criminal case in which the applicant has been charged or convicted.
- (n) The failure to timely provide the information listed in subsection (l) and subsection (m) of this section may result in the proposed action being taken against the application or license.
- (o) The provisions of this section are authorized by the Act, §1702.004(b), and are intended to comply with the requirements of Texas Occupations Code, Chapter 53.

Source Note: The provisions of this §35.4 adopted to be effective May 6, 2014, 39 TexReg 3606; amended to be effective September 15, 2016, 41 TexReg 7122

RULE §35.5 - Standards of Conduct

- (a) The State Seal of Texas may not be displayed as part of a uniform or identification card, or markings on a motor vehicle, other than such items prepared or issued by the department.
- (b) Licensees and registrants shall cooperate fully with any investigation conducted by the department, including but not limited to the provision of employee records upon request by the department and compliance with any subpoena issued by the department.
- (c) If arrested, charged, or indicted for a criminal offense above the level of Class C misdemeanor, a registrant shall within seventy-two (72) hours notify the employer, and the employer (when notified by the employee or otherwise informed) shall notify the department in writing (including by email) within seventy-two (72) hours of notification. The notification shall include the name of the arresting agency, the offense, court, and cause number of the charge or indictment. The registrant and employer must supplement their respective notifications as further information becomes available.
- (d) Any registrant who has been issued a pocket card shall carry the pocket card on or about his person while on duty and shall present same upon request from a peace officer or to a representative of the department.

Source Note: The provisions of this §35.5 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.6 - Contract and Notification Requirements

- (a) A licensee shall inform the client of the right to a written contract describing the fees to be charged and the services to be rendered.
- (b) If requested, a written contract for regulated services shall be furnished to a client within seven (7) days.
- (c) The written contract shall be dated and signed by the owner, manager, or other individual expressly authorized to execute contracts on behalf of the licensee.
- (d) Within seven (7) days of contracting for regulated services with another licensee, the licensee shall:
 - (1) Notify the recipient of those services of the name, address, and telephone number, and individual to contact at the company that purchased the contract;
 - (2) Notify the recipient of services at the time the contract is negotiated that another licensed company may provide any, all or part of the services requested by subcontracting or outsourcing those services; and
 - (3) Notify the recipient of services of the name, address, phone number, and license number of the company providing those services, if any of the services are subcontracted or outsourced to a licensed third party.
- (e) The notice required under subsection (d) of this section shall:
 - (1) Be mailed to the recipient in a written form that emphasizes the required information; and
 - (2) If the services are those of an alarm system company, required notice shall include stickers or other materials to be affixed to the alarm system indicating the alarm system company's or alarm systems monitor's new telephone number.
- (f) Subsection (e) of this section shall not apply to an alarm system company that subcontracts its monitoring services to another alarm system company if the conditions detailed in this subsection are met:
 - (1) The contract for monitoring is with another alarm systems company licensed under the Act;
 - (2) The contract between the original contracting licensee and the client remains in full force and effect, continues to govern all rights of the client with respect to the provision of alarm services, and remains in the control of the original contracting licensee;
 - (3) Neither the contact information provided to the client, nor the address and telephone numbers for alarm service, have changed as a result of the subcontracting arrangement; and
 - (4) The contact information provided to the client relating to the monitoring of the alarm system has not changed.

Source Note: The provisions of this §35.6 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.7 - Firearm Standards

- (a) Commissioned security officers and personal protection officers may only carry a firearm of the category with which they have been formally trained as required under the Act and this chapter, and for which documentation of the training is on file with the department.
- (b) The recognized firearm categories are:
 - (1) SA--Any handgun, whether semi-automatic or not;
 - (2) NSA--Handguns that are not semi-automatic; and
 - (3) STG--Shotgun.
- (c) Commissioned security officers and personal protection officers must exercise care and sound judgment in the use and storage of their firearms.
- (d) No security officer may carry an inoperative, unsafe, replica, or simulated firearm in the course and scope of employment or while in uniform.
- (e) No commissioned security officer or personal protection officer may brandish, point, exhibit, or otherwise display a firearm at anytime, except as authorized by law.
- (f) The discharge of a firearm by a security officer while on duty or otherwise acting or purporting to act under the authority of a security officer commission shall be immediately reported to the officer's employer. The employer must notify the department of the discharge of a firearm in writing within twenty-four (24) hours of the incident. The notification to the department must include:
 - (1) The name of the person discharging the firearm;
 - (2) The name of the employer;
 - (3) The location of the incident;
 - (4) A brief description of the incident;
 - (5) A statement reflecting whether death, personal injury, or property damage resulted; and
 - (6) The name of the investigating or arresting law enforcement agency, if applicable.

Source Note: The provisions of this §35.7 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.8 - Consumer Information and Signage

- (a) A licensee shall, either orally or in writing, notify all clients or recipients of services of the license number and the mailing address, telephone number, and email address of the department's Regulatory Services Division for the purpose of directing complaints.
- (b) If a licensee chooses to provide the notice required by subsection (a) of this section in written form, the notice shall contain the company's license number, and mailing address, telephone number, and email address of the department, in a type face of the same size as that which appears in the document as a whole but in no case less than ten (10) point font.
- (c) All licensees must display conspicuously in the principal place of business and in any branch office a sign containing the name, mailing address, telephone number, and email address of the department's Regulatory Services Division, and a statement informing consumers or recipients of services that complaints against licensees may be directed to the department.
- (d) The company's license number must be displayed on any vehicle on which the company name is displayed, and must be in letters and numbers at least one (1) inch high and permanently affixed or magnetically attached to each side of the vehicle in a color contrasting with the background color.

Source Note: The provisions of this §35.8 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.9 - Advertisements

- (a) A licensee's advertisements must include:
 - (1) The company name and address as it appears in the records of the department; and
 - (2) The company's license number.
- (b) No licensee shall use the Texas state seal or the insignia of the department to advertise or publicize a commercial undertaking, or otherwise violate Texas Business & Commerce Code, §17.08 or Texas Government Code, §411.017.
- (c) The use of the department's name is prohibited when it may give a reasonable person the impression that the department issued the statement or that the individual is acting on behalf of the department.
- (d) For purposes of this section, an advertisement includes any media created or used for the purpose of promoting the regulated business of the licensee.

Source Note: The provisions of this §35.9 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.10 - Residential Solicitation

A licensee or employee of a licensee who offers or attempts to sell regulated goods or services to a homeowner or resident of a home or apartment through direct physical contact, including door to door solicitation, shall:

- (1) Carry a department issued pocket card, or a receipt of registration issued by the department, and present said pocket card or proof of registration for inspection to the homeowner or resident;
- (2) Inform the homeowner or resident of the person's name and employer's name;
- (3) Provide to the homeowner or resident, at no charge, a document or business card listing the person's name, employer's name, address, phone number, license number, and the department's phone number with instructions on how to contact or file a complaint with the department;
- (4) Not approach or solicit a home or residence during any times where a placard is displayed indicating that the homeowner or residential occupant does not wish to be solicited; and
- (5) Provide to the local law enforcement agency with primary jurisdiction a written list of all registrants that will be engaging in the door to door solicitation of its residents before any solicitation occurs. The licensed company shall update the information provided to the above referenced agency if there are any changes to the list. This notification can be made via fax, email, regular mail, or by hand delivery to the agency. This notification shall include the company name and department issued license number.

Source Note: The provisions of this §35.10 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.11 - Guard Dog Welfare Requirements

Each guard dog company and any licensed company using guard dogs shall comply with the requirements detailed in this section:

- (1) All pens, spaces, rooms, runs, cages, compartments, or hutches where guard dogs are housed, exercised, trained, or placed shall be kept clean and maintained in a sanitary condition. Excreta shall be removed as often as necessary to prevent contamination of the inhabitants and reduce disease hazards and odors. Adequate shelter shall be provided to protect animals from any form of overheating or cold or inclement weather.

- (2) All animals shall be fed at least once a day except as otherwise might be directed by a licensed veterinarian. The food shall be free from contamination, wholesome, palatable, and of sufficient quality and nutritive value to meet the normal daily requirements for the condition and size of the animal. Food receptacles shall be accessible to all animals and shall be located so as to minimize contamination by excreta. Feeding pans shall be durable and kept clean and sanitary. Disposable food receptacles may be used but must be discarded after each feeding. Self feeders may be used for the feeding of food and shall be kept clean and sanitary to prevent molding, deterioration, or caking of feed.
- (3) All animals shall be furnished ample water. If potable water is not accessible to the animals at all times, it shall be offered to them at least twice daily for periods of not less than one hour, except as directed by a licensed veterinarian. Watering receptacles shall be kept clean and sanitary.
- (4) All animals shall be vaccinated by a licensed veterinarian against rabies by the time they are four (4) months of age and within each subsequent twelve (12) month interval thereafter. Official rabies vaccination certificates issued by the vaccinating veterinarian shall contain certain standard information as designated by the Department of State Health Services. Information required is detailed in this paragraph:
 - (A) Owner's name, address, and telephone number;
 - (B) Animal identification, including species, sex, age (3 Month to 12 Month, 12 Month or older), size (lbs.), predominant breed and colors;
 - (C) Vaccine used, producer, expiration date, and serial number;
 - (D) Date vaccinated;
 - (E) Rabies tag number; and
 - (F) Veterinarian's signature and license number.

Source Note: The provisions of this §35.11 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.12 - Classification of Electronic Access Control Device Company License

Pursuant to the Act, the department has established that the electronic access control device company license will be classified as a Class B, security services contractor license.

Source Note: The provisions of this §35.12 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.13 - Drug-Free Workplace Policy

- (a) In the interest of creating a safe and drug-free work environment for clients and employees, all licensed companies shall establish and implement a drug-free workplace policy consistent with the Texas Workforce Commission's "Drug-Free Workplace Policy."
- (b) A copy of the company's drug-free workplace policy shall be signed by each employee and kept in each employee's file.

Source Note: The provisions of this §35.13 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.14 - Security Officer Uniforms

- (a) All commissioned and noncommissioned private security officers shall, at a minimum, display on their outermost garment the name of the company by which the security officer is employed, the word "Security," and the last name of the security officer. These items shall each be of a size, style, shape, design, and type that are clearly visible by a reasonable person under normal conditions.
- (b) Subsection (a) of this section does not apply to a personal protection officer while performing personal protection services in plain clothes.

Source Note: The provisions of this §35.14 adopted to be effective July 13, 2015, 40 TexReg 4461

SUBCHAPTER B - REGISTRATION AND LICENSING

RULE §35.21 - Registration Applications

- (a) It is the responsibility of the licensed company to ensure an application that meets the requirements of this section has been submitted to the department by or on behalf of any employee who is required to register under the Act. An application must include all the items required under subsection (b) of this section in order to comply with the requirements of §1702.230(c) of the Act.
- (b) The items detailed in this subsection must be submitted in the manner prescribed by the department:
 - (1) The required fee;
 - (2) A copy of the applicant's Level II certificate of completion when applicable;

- (3) Fingerprints in the form and manner approved by the department; and
- (4) The criminal history check fee as provided in this chapter.
- (c) As part of the department's criminal history check, additional court documents or related materials may be requested of the applicant. Failure to comply with such a request may result in the rejection of the application as incomplete.

Source Note: The provisions of this §35.21 adopted to be effective May 6, 2014, 39 TexReg 3606; amended to be effective September 15, 2016, 41 TexReg 7122

RULE §35.22 - Renewal Applications for Registrations and Licenses

- (a) An application for renewal must be submitted in the manner prescribed by the department. The application must include:
 - (1) The required fee;
 - (2) Fingerprints in the form and manner approved by the department; and
 - (3) The criminal history check fee as provided in this chapter.
- (b) A complete renewal application must be submitted prior to expiration for the current registration, endorsement or license to remain in effect pending the approval of the renewal application. If the completed application is not received by the department prior to the expiration date, no regulated services may be performed until a complete renewal application is submitted in compliance with this chapter.

Source Note: The provisions of this §35.22 adopted to be effective May 6, 2014, 39 TexReg 3606; amended to be effective September 15, 2016, 41 TexReg 7122

RULE §35.23 - Termination of Incomplete Applications

- (a) If an application is illegible or incomplete, the department will notify the applicant of the deficiency. The applicant will have ninety (90) days from the date of notice to address the deficiency. Upon request of the applicant, the department may extend the period to address the deficiency for one additional ninety (90) day period. If the applicant is unable to provide the required information the applicant may request a hearing before the department to determine whether the application may proceed without the requested information. If the applicant has neither provided the required information nor requested a hearing prior to the expiration of the time allowed for compliance, the application will be terminated. An application will not be terminated while a hearing requested under this subsection is pending.
- (b) If an applicant fails to provide all required application materials, or fails to respond to a request by the department for additional information necessary to process the application, the application will be terminated under the process set out in subsection (a) of this section.
- (c) Following the termination of an application, a new application must be submitted.

Source Note: The provisions of this §35.23 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.24 - Photographs

If the applicant does not have a digital photograph on file with the department or the department is unable to access the photograph on file, the laminated pocket card will be issued without a photograph. When presenting such a pocket card to a peace officer or to a representative of the department, the registrant shall also present a valid government issued identification card or drivers license.

Source Note: The provisions of this §35.24 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.25 - Assumed Names; Corporations

- (a) All individual applicants doing business under an assumed name shall submit an assumed name certificate from the county clerk of the county in which the applicant either:
 - (1) has or will maintain business or professional premises; or
 - (2) conducts business or renders a professional service, if the person does not or will not maintain business or professional premises in any county.
- (b) Corporations and other entities permitted and governed by the Texas Business Organizations Code using an assumed name shall submit an assumed name certificate from the Texas Secretary of State and the county clerk of the county in which the entity either:
 - (1) has or will maintain business or professional premises; or
 - (2) conducts business or renders a professional service, if the entity does not or will not maintain business or professional premises in any county.

- (c) Corporate applicants shall submit a current certificate of existence or a certificate of authority from the Texas Secretary of State.
- (d) Licensees may not operate under any name not reflected in current department records as the name under which the licensee will be doing business.

Source Note: The provisions of this §35.25 adopted to be effective May 6, 2014, 39 TexReg 3606; amended to be effective September 15, 2016, 41 TexReg 7122

RULE §35.26 - Reclassification and Assignment

- (a) When a Class A or B license is reclassified as a Class C license, a fee in the amount of the difference in the cost of the licenses shall be paid. There shall be no refund when a Class C license is reclassified as a Class A or Class B license.
- (b) The department may approve the assignment of a company license to the spouse or heir(s) of a deceased owner provided:
 - (1) A copy of the owner's death certificate is filed with the department;
 - (2) A copy of the Will, Order Admitting Will to Probate, Letters of Testament, Affidavit of Heirship with two affiants' signatures, or Order of Heirship is filed with the department; and
 - (3) In the case of the death of a qualified manager, that a replacement manager is qualified within ninety (90) days.
- (c) Other assignments will be permitted only where the majority owners of the original licensee maintain majority ownership of the proposed assignee. The assignor must provide the department written documentation establishing the intended date of assignment, and must ensure any new owners required to register have been approved by the department. The assignee may not perform regulated services prior to the proposed date of assignment or the date of the department's approval of all required registration applications for new owners, whichever is later.
- (d) An additional assignment fee will be assessed as provided by this chapter upon assignment of a license under subsection (b) or (c) of this section.

Source Note: The provisions of this §35.26 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.27 - Insurance

- (a) To comply with the Act's requirements relating to documentary evidence of insurance coverage, the documents submitted to the department must specifically show:
 - (1) That the insurance is applicable to the conduct for which the licensee is licensed;
 - (2) The exclusions or endorsements specific to the activity for which the licensee is licensed, or that there are no such exclusions or endorsements; and
 - (3) The statutory minimum coverage limits, specifically distinguishing the limits for:
 - (A) Each occurrence of bodily injury and property damage;
 - (B) Each occurrence of personal injury; and
 - (C) The total aggregate amount of coverage for all occurrences.
- (b) The applicant or licensee must also provide the department with the insurance agent's current contact information and Texas license number.
- (c) Proof of insurance must be submitted in a form and manner prescribed by the department.
- (d) Pursuant to the Act, failure to maintain on file with the department evidence of current insurance coverage as required under this chapter will result in immediate suspension of the license. The suspension will become effective upon receipt of the notice.
- (e) The suspension may be rescinded upon receipt by the department of proof that there was no lapse in coverage. Such proof must be submitted within ten (10) business days following the effective date of the suspension.
- (f) In the event of a lapse in coverage, or the failure to provide evidence of continuous coverage within ten (10) business days, the license will not be reinstated until a complete application for reinstatement is submitted and approved. The application may be denied on grounds that the licensee has violated the Act or this chapter, including having provided regulated services while suspended pursuant to the Act.

Source Note: The provisions of this §35.27 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.28 - Registrant Name Change

A change of name must be reported to the department within thirty (30) days of the effective date of change. The notice of the change shall be in writing, and shall include a certified copy of the legal document ordering the name change.

Source Note: The provisions of this §35.28 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.29 - Registrant Termination

When a registered employee of a licensee is terminated for any conduct in violation of the Act or this chapter, the licensee shall notify the department of such conduct within fourteen (14) days of termination. The notification shall be submitted in the manner prescribed by the department and must include any and all available documentation or evidence concerning the alleged offense.

Source Note: The provisions of this §35.29 adopted to be effective May 6, 2014, 39 TexReg 3606

SUBCHAPTER C - MANAGER STANDARDS**RULE §35.41 - Manager Standards**

- (a) A qualified manager shall not knowingly allow or direct any person under their control to violate a provision of the Act, this chapter, or any criminal statute.
- (b) For purposes of the supervision required under the Act, a manager must have continuous oversight of no more than three (3) companies and two (2) schools, the supervised individuals, or their intermediate level supervisors, in a manner sufficient to ensure that all supervised individuals are in compliance with the Act and this chapter.

Source Note: The provisions of this §35.41 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.42 - Manager Examination

- (a) All applicants for registration as qualified manager of a licensee must pass the written examination administered by the department. All applicants must pass the examination with a minimum score of 70%.
- (b) Good order and discipline will be maintained during the examination. Conduct which is disruptive is grounds for immediate removal.
- (c) An oral examination may be given upon receipt of proof of dyslexia as defined by Texas Education Code, §51.970. Proof must be submitted in writing in a manner prescribed by the department.
- (d) Any examination other than the single examination authorized by payment of the original license fee shall be considered a reexamination for which the reexamination fee shall be required.

Source Note: The provisions of this §35.42 adopted to be effective May 6, 2014, 39 TexReg 3606

RULE §35.43 - Operation Without Manager

- (a) When a qualified manager of a licensee has been terminated or is no longer employed as manager, and the department has been notified of the action in writing within fourteen (14) days, the business may be temporarily operated by an owner, officer, partner, or shareholder for a period not to exceed sixty (60) days following the date of the manager's termination or cessation of managerial duties.
- (b) In the event summary action has been taken against the manager, the manager must immediately cease all regulated functions as qualified manager. Any applicable period of temporary operation pursuant to subsection (a) of this section shall run from the effective date of the summary action.

Source Note: The provisions of this §35.43 adopted to be effective May 6, 2014, 39 TexReg 3606

SUBCHAPTER D - DISCIPLINARY ACTIONS**RULE §35.51 - Complaints**

Complaints relating to alleged violations of the Act or this chapter should be submitted in writing to department headquarters through the Private Security Program's website or mail to the department's Regulatory Services Division. The complaint should provide:

- (1) Name and contact information of complainant;
- (2) Name and type of business of licensee;
- (3) Specific dates and times of described events; and
- (4) Detailed description of the violation.

Source Note: The provisions of this §35.51 adopted to be effective May 6, 2014, 39 TexReg 3607

RULE §35.52 - Administrative Penalties

The administrative penalties in this section are guidelines to be used in enforcement proceedings under the Act. The fines are to be construed as maximum penalties only, and are subject to application of the factors provided in §1702.402 of the Act.

Figure: 37 TAC §35.52

VIOLATION	VIOLATION DESCRIPTION	FINE AMOUNT
UNI – Uniform Violation	Failure to display last name identification on outermost garment	\$ 25.00
UNI – Uniform Violation	Failure to display the word “Security” on outermost garment	\$ 50.00
UNI – Uniform Violation	Failure to display company name on outermost garment	\$ 50.00
FPPC – Failure to present pocket card	Failure to present pocket card upon request; failure to present valid government issued photo I.D. if no photo on card	\$100.00
RECV – Employee records violation	Full name of employee	\$ 25.00
RECV – Employee records violation	Position of employee	\$ 25.00
RECV – Employee records violation	Current residence of the security officer as reported by security officer	\$ 25.00
RECV – Employee records violation	Date of employment when performing a regulated service	\$ 25.00
RECV – Employee records violation	Address of employee as reported by employee	\$ 25.00
RECV – Employee records violation	Social security number	\$ 25.00
RECV – Employee records violation	Last date of employment	\$ 25.00
RECV – Employee records violation	Date of birth	\$ 25.00
RECV – Employee records violation	Place of birth	\$ 25.00
RECV – Employee records violation	One color photograph	\$ 25.00
RECV – Employee records violation	Failure to keep employee records two (2) years from termination	\$100.00
RECV – Employee records violation	Commission only – Current duty assignment and location	\$ 50.00
RECV – Employee records violation	Signed copy of drug-free workplace policy	\$ 25.00
NDP – No drug policy	Failure to establish drug-free workplace policy	\$100.00 per quarter
OPSL – Operating while license suspended	Operating with a suspended license	\$500.00 every fourteen (14) days
OPEL – Operating while license expired	Operating with an expired license	\$500.00 every fourteen (14) days
REG – Registration violation	Failure to comply with registration application requirements prior to regulated employment	\$200.00 every fourteen (14) days
REGN – Registration violation, ineligible	Enhancement to above violation (REG) for employing ineligible individual	\$200.00 (additional)
ADDR – Address change violation	Failure to notify the department within fourteen (14) days of change of address	\$350.00
CON – Other Contract Violation	Licensee failure to provide written report within seven (7) days	\$500.00

DISP – Consumer Sign Violation	Failure to display the consumer sign in a prominent place	\$100.00
POST – Failure to post license	Failure to post the license	\$100.00
ADV – Advertising Violation	Failure to have company name as stated in department records	\$100.00
ADV – Advertising Violation	Failure to have company address as stated in department records	\$100.00
ADV – Advertising Violation	Failure to display license number as issued by the department	\$100.00
ADV – Advertising Violation	Misrepresentation; deceptive or fraudulent advertisement	\$500.00
BRNC – Failure to notify establishment of branch office	Failure to notify department within fourteen (14) days of opening branch office	\$500.00
BRNT – Failure to notify closing of branch office	Failure to notify department within fourteen (14) days of closing of branch office	\$350.00
CHNG – Failure to notify Department of change of license name	Failure to notify department of a change in business name	\$500.00
MGRQ – Failure to Qualify a Manager	Failure to qualify a manager within sixty (60) days	\$500.00 every fourteen (14) days
MGRS- Manager failing to control business	Manager failing to maintain adequate supervision	\$3,000.00
MGRT – Failure to notify Department of manager termination within 14 days	Failure to notify department of manager termination within fourteen (14) days	\$500.00
OPS – Failure to notify Department of a change of ownership	Failure to notify change of ownership within fourteen (14) days	\$500.00 every fourteen (14) days
SEAL – Using State Seal or DPS Seal	Improper use of State Seal of Texas or Insignia of Texas Department of Public Safety	\$500.00
OPINS – Operational Insurance Violation	Operating without insurance, or outside scope of coverage	\$500.00 every fourteen (14) days
INSD – Insurance Documentation Violation	Failure to comply with requirements relating to proof of insurance	\$500.00
RECV – Employee records violation	Failure to conduct pre employment check	\$ 500.00
TSREC– Training / CE School records violation	Failure to maintain required records	\$ 50.00
FAV– Firearm violations	Commission only – violations of firearm related rules on conduct	\$ 500.00
OPOS– Operating Outside Scope of License	Performing regulated service beyond scope of current license	\$ 5000.00
FD	Failure to maintain required records	\$ 50.00
RSOL- Residential Solicitation Violation	Violation of §35.10 by company	\$500.00 per violation
RSOL- Residential Solicitation Violation	Violation of §35.10 by individual	\$100.00 per violation

Source Note: The provisions of this §35.52 adopted to be effective May 6, 2014, 39 TexReg 3607; amended to be effective September 15, 2016, 41 TexReg 7122

SUBCHAPTER E - ADMINISTRATIVE HEARINGS

RULE §35.61 - Service of Notice

- (a) Licensees shall maintain on file with the department their current mailing and principal place of business address. Notification shall be submitted in writing and received by the department within fourteen (14) days of the date of the change of address.
- (b) The department is entitled to rely on the address currently on file for all purposes relating to notification. The failure to maintain a current address with the department is not a defense to any action based on the licensee's failure to respond.
- (c) Service by mail is complete upon deposit of the document enclosed in a postage paid, properly addressed envelope in a U.S. Post Office or official depository under the care and control of the U.S. Postal Service.

Source Note: The provisions of this §35.61 adopted to be effective May 6, 2014, 39 TexReg 3607

RULE §35.62 - Default Judgments

Following adequate notice of a hearing on a contested case before SOAH, failure of the respondent to appear at the time of hearing shall entitle the department to request from the administrative law judge an order dismissing the case from the SOAH docket and to informally dispose of the case on a default basis.

Source Note: The provisions of this §35.62 adopted to be effective May 6, 2014, 39 TexReg 3607

RULE §35.63 - Hearing Costs

- (a) In cases brought before SOAH, in the event the respondent is adjudicated as being in violation of the Act or this chapter after a trial on the merits, the department has authority to assess the actual costs of the administrative hearing in addition to the penalty imposed. Such costs include, but are not limited to, investigative costs, witness fees, deposition expenses, travel expenses of witnesses, transcription expenses, or any other costs that are necessary for the preparation of the department's case.
- (b) The costs of transcribing the testimony and preparing the record for an appeal by judicial review shall be paid by the respondent.

Source Note: The provisions of this §35.63 adopted to be effective May 6, 2014, 39 TexReg 3607

RULE §35.64 - Preliminary Hearings

- (a) Preliminary hearings must be requested in writing within thirty (30) calendar days of receipt of the summary action notice letter.
- (b) The appeal of the preliminary hearing determination to SOAH must be submitted no later than fifteen (15) calendar days following the date of the determination letter.
- (c) Requests for continuance must be submitted in writing at least three (3) business days prior to the scheduled hearing. Requests must be based on good cause. Multiple requests may be presumed to lack good cause and may be denied on that basis.

Source Note: The provisions of this §35.64 adopted to be effective May 6, 2014, 39 TexReg 3607

RULE §35.65 - Contested Cases Based On Sex Offender Registration Requirement

- (a) Pursuant to §1702.3615 of the Act, in cases in which the department seeks to deny an application or revoke a license or registration solely on the basis the individual is required to register as a sex offender, the applicant or licensee may waive the right to a hearing before SOAH and appeal directly to the board. This hearing before the board is an evidentiary hearing, conducted at one of the board's quarterly public meetings. Such a hearing may be requested by submitting a written request to the department, at the address provided on the notice.
- (b) The factors detailed in this subsection may be employed by the department, the SOAH Administrative Law Judge, or by the board in cases of direct appeal under §1702.3615 of the Act:
 - (1) The age of the applicant or licensee at the time of the offense giving rise to the sex offender registration requirement;
 - (2) The classification of the offense;
 - (3) Evidence of rehabilitation or recidivism;
 - (4) The amount of time that has passed since the commission of the offense;

- (5) The relationship between the offense and the occupation for which the individual seeks a license, including whether licensure will facilitate the commission of a similar offense; and
- (6) Any other factors determined to be significant to a particular case.

Source Note: The provisions of this §35.65 adopted to be effective May 6, 2014, 39 TexReg 3607

SUBCHAPTER F - COMMISSIONED SECURITY OFFICERS

RULE §35.81 - Application for a Security Officer Commission

- (a) A complete security officer commission application must be submitted on the most current version of the form provided by the department. The application must include:
 - (1) The required application fee;
 - (2) Fingerprints in form and manner approved by the department;
 - (3) The required criminal history check fee;
 - (4) A copy of the applicant's Level II certificate of completion;
 - (5) A copy of the applicant's Level III certificate of completion;
 - (6) Non Texas residents must provide a copy of an identification card issued by the state of the applicant's residence, or other government issued identification card; and
 - (7) Non United States citizens must submit a copy of their current alien registration card. Non-resident aliens must also submit documents establishing the right to possess firearms under federal law.
- (b) Incomplete applications will not be processed and will be returned for clarification or missing information.

Source Note: The provisions of this §35.81 adopted to be effective May 6, 2014, 39 TexReg 3607; amended to be effective September 15, 2016, 41 TexReg 7123

RULE §35.82 - Commissioned Security Officer Standards

- (a) Commissioned security officers shall carry their pocket cards while on duty and when traveling to and from the place of assignment, and shall present the cards upon request by a peace officer or to a representative of the department.
- (b) A commissioned security officer shall not:
 - (1) Perform the duties of a commissioned security officer for any person(s) other than the licensed employer reflected in department records;
 - (2) Possess or use any security officer commission pocket card that has been altered; or
 - (3) Deface or allow improper use of his security officer commission pocket card.
- (c) Commissioned private security officers shall comply with §35.14 of this title (relating to Security Officer Uniforms).
- (d) Subsection (c) of this section does not apply to a personal protection officer while performing personal protection services in plain clothes.

Source Note: The provisions of this §35.82 adopted to be effective May 6, 2014, 39 TexReg 3607; amended to be effective July 13, 2015, 40 TexReg 4462

RULE §35.83 - Renewal of Security Officer Commission

- (a) An application for renewal of a security officer commission may not be submitted more than ninety (90) days prior to expiration. A completed renewal application must be submitted on the most current version of the form provided by the department. The application must include:
 - (1) The required renewal application fee;
 - (2) Non Texas residents must provide a copy of an identification card issued by the state of the applicant's residence, or other government issued identification card;
 - (3) Non United States citizens must submit a copy of their current alien registration card. Non resident aliens must also submit a copy of a current work authorization card and documents establishing the right to possess firearms under federal law;
 - (4) A valid firearms proficiency certificate issued no more than ninety (90) days prior to date of the renewal application;
 - (5) Unless usable prints are on file with the department, fingerprints in a manner approved by the department; and
 - (6) The required criminal history check fee.
- (b) Incomplete applications will not be processed and will be returned for clarification or missing information.

Source Note: The provisions of this §35.83 adopted to be effective May 6, 2014, 39 TexReg 3607

SUBCHAPTER G - PERSONAL PROTECTION OFFICERS

RULE §35.91 - Requirements for Personal Protection Endorsement

- (a) An applicant for personal protection endorsement shall:
- (1) Submit a written application for a personal protection endorsement on a form prescribed by the department;
 - (2) Be at least twenty-one (21) years of age;
 - (3) Either possess a valid security officer commission issued prior to applying for a personal protection endorsement, or submit an application for security officer commission in conjunction with the application for a personal protection endorsement;
 - (4) Submit proof that the applicant has successfully completed the personal protection officer course taught by an approved personal protection officer instructor; and
 - (5) Submit proof of completion of the Minnesota Multiphasic Personality Inventory test or equivalent (proof of completion of the Minnesota Multiphasic Personality Inventory test shall be on the prescribed form Declaration of Psychological and Emotional Health and shall be signed by a licensed psychologist).
- (b) A personal protection officer may transfer his endorsement to another employer if the personal protection officer:
- (1) Has transferred his security officer commission to the new employer; and
 - (2) Submits the appropriate form and transfer fee to the department within fourteen (14) days of the transfer of employment to the new employer.

Source Note: The provisions of this §35.91 adopted to be effective May 6, 2014, 39 TexReg 3608

RULE §35.92 - Employer Requirements

Personal protection officer employers shall:

- (1) Issue the personal protection officer endorsement pocket card issued by the department to the personal protection officer;
- (2) Maintain on file for inspection all contracts for personal protection officer services; and
- (3) Maintain on file for inspection all current records on all persons issued a personal protection endorsement including the personal protection officer's name, current residential address, and telephone number.

Source Note: The provisions of this §35.92 adopted to be effective May 6, 2014, 39 TexReg 3608

RULE §35.93 - Personal Protection Officer Standards

- (a) Personal protection officers must comply with all standards and requirements applicable to commissioned security officers, as provided in this chapter and the Act.
- (b) In addition, a personal protection officer shall not:
- (1) Perform personal protection officer duties for any person(s) other than the person(s) employer indicated in the department records;
 - (2) Fail to timely surrender the personal protection officer pocket card upon written notice served by the department or his employer;
 - (3) While in the course and scope of employment as a personal protection officer, provide or engage in any other service regulated by the Act or this chapter other than providing personal protection from bodily harm to one (1) or more individuals;
 - (4) Fail to conceal a firearm if providing the services as a commissioned personal protection officer in plain clothes;
 - (5) Fail to carry on his or her person, the pocket card issued while performing the officer's duties as a personal protection officer; or
 - (6) Fail to present the pocket card for security officer commission and personal protection endorsement upon request made by a peace officer or representative of the department.

Source Note: The provisions of this §35.93 adopted to be effective May 6, 2014, 39 TexReg 3608

SUBCHAPTER H - LETTER OF AUTHORITY

RULE §35.101 - Private Business Letter of Authority

- (a) The security department of a private business, as defined in the Act, must obtain a letter of authority in order to employ a commissioned security officer.

- (b) A security department of a private business that employs in a non commissioned capacity an individual meeting the conditions of §1702.323(d) of the Act must obtain a guard company license.
- (c) A security department of a private business shall not provide guard company services to a third party.
- (d) The holder of a private business letter of authority must qualify a manager who meets the requirements of the Act as they pertain to the manager of a security services contractor and maintain on file with the department the name of the individual responsible to ensure the commissioned security officer's compliance and ensure records are maintained in accordance with applicable laws and rules.
- (e) A private business letter of authority is valid for one year and may be renewed by submitting the department approved renewal application and the required renewal fee no earlier than ninety (90) days prior to expiration.

Source Note: The provisions of this §35.101 adopted to be effective May 6, 2014, 39 TexReg 3608

RULE §35.102 - Governmental Letter of Authority

- (a) A political subdivision that employs a commissioned private security officer must obtain a governmental letter of authority.
- (b) The governmental letter of authority is valid for one (1) year and may be renewed by submitting the department approved renewal application and required renewal fee no earlier than ninety (90) days prior to expiration.
- (c) The holder of the governmental letter of authority must designate and maintain on file with the department the name of the individual responsible for ensuring the commissioned security officer's compliance with the Act and this chapter and for ensuring records are maintained in accordance with this chapter.

Source Note: The provisions of this §35.102 adopted to be effective May 6, 2014, 39 TexReg 3608

SUBCHAPTER I - COMPANY RECORDS

RULE §35.111 - Employee Records

Licenses shall keep records of all employees registered or commissioned under the Act. The employee records, detailed in this section, shall be maintained for a period of two (2) years from the last date of employment:

- (1) Full name, date of employment, position, and address;
- (2) Social security number;
- (3) Last date of employment;
- (4) Date and place of birth;
- (5) One color photograph;
- (6) The results of any drug tests;
- (7) Documentation of the pre-employment check required under §35.3 of this chapter (relating to Registration Applicant Pre-employment Check); and
- (8) All training certificates earned by the employee while employed by the licensee.

Source Note: The provisions of this §35.111 adopted to be effective May 6, 2014, 39 TexReg 3608

RULE §35.112 - Business Records

- (a) Licensees shall maintain copies of the records detailed in this section, or otherwise required under this chapter, for two (2) years from the later of the date the related service was provided or the date the contract was completed:
 - (1) All contracts for regulated service and related documentation reflecting the actual provision of the regulated service; and
 - (2) Copies of any timesheets, invoices, or scheduling records reflecting the employment dates of any registered employees.
- (b) If the company has no physical place of business within the State of Texas, the records shall be maintained:
 - (1) At the office of the registered agent within the State of Texas; or
 - (2) At any physical location within the State of Texas of an agent or employee of the company.

The provisions of this §35.112 adopted to be effective May 6, 2014, 39 TexReg 3608; amended to be effective September 15, 2016, 41 TexReg 7123

RULE §35.113 - Records Required on Commissioned Security Officers

In addition to any other records required under this chapter, the employer of a commissioned security officer shall maintain and make available for inspection the records detailed in this section:

- (1) The current residential address of the officer as reported by the officer;
- (2) The current duty assignment and location of assignment;
- (3) The results of all drug tests administered; and

(4) Documented information on all required training obtained by the officer while employed by the licensee.

Source Note: The provisions of this §35.113 adopted to be effective May 6, 2014, 39 TexReg 3608

SUBCHAPTER J - SPECIAL COMPANY LICENSE QUALIFICATIONS

RULE §35.121 - Investigations Company License

(a) Pursuant to the Act, the department has determined that an applicant for licensure as a private investigations company or the prospective manager of the applicant company must meet one of the qualifications detailed in this section:

- (1) Three (3) consecutive years of investigation related experience;
- (2) A bachelor's degree in criminal justice or related course of study;
- (3) A bachelor's degree with twelve (12) months of investigation related experience;
- (4) An associate degree in criminal justice or related course of study, with twenty-four (24) months of investigation related experience;
- (5) A specialized course of study directly designed for and related to the private investigation profession, taught and presented through affiliation with a four (4) year college or university accredited and recognized by the State of Texas. This course of study must be endorsed by the four (4) year college or university's department of criminal justice program and include a departmental faculty member(s) on its instructional faculty. This course of study must consist of a minimum of two hundred (200) instructional hours including coverage of ethics, the Act, and this chapter; or
- (6) Other combinations of education and investigation related experience may be substituted for the above at the discretion of the department or its designated representative.

(b) The degrees referenced in subsection (a) of this section must be affiliated with a college or university recognized by the Texas Higher Education Coordinating Board, Southern Association of Colleges and Schools, or other accreditation organization recognized by the State of Texas.

Source Note: The provisions of this §35.121 adopted to be effective May 6, 2014, 39 TexReg 3608

RULE §35.122 - Guard Company License

Pursuant to the Act, the department has determined that an applicant for licensure as a guard company or the prospective manager of the applicant company must meet the qualifications detailed in this section:

- (1) Must be at least twenty one (21) years of age at the time of application;
- (2) Must have at least three (3) years accumulated employment experience in the field in which the company is licensed; and
- (3) Must have at least one (1) year of experience in a managerial or supervisory position.

Source Note: The provisions of this §35.122 adopted to be effective May 6, 2014, 39 TexReg 3608

RULE §35.123 - Locksmith Company License

Pursuant to the Act, the department has determined that an applicant for licensure as a locksmith company (as owner) or the prospective manager of the applicant company must meet one of the qualifications detailed in this section:

- (1) Qualification option one. Two (2) consecutive years of full-time locksmith-related experience; or
- (2) Qualification option two.
 - (A) Successful completion of a department approved forty-eight (48) hour basic locksmith course and a six hundred (600) hour fundamentals of locksmith course, with the curriculum content detailed in this subparagraph:
 - (i) Introduction to locksmithing.
 - (ii) The Act and this chapter.
 - (iii) State of Texas and United States Government business requirements.
 - (iv) Key blank identification.
 - (v) Key machine and key duplication.
 - (vi) Codes and code cutting.
 - (vii) Basic lock types.
 - (viii) Basic picking.
 - (ix) Rim and mortise cylinders.
 - (x) Key in knob/key in lever locks.
 - (xi) Deadbolts and mortise locks.
 - (xii) Installations.
 - (xiii) Impressioning.

- (xiv) Basic master-keying.
 - (xv) Basic safe servicing.
 - (xvi) Small format interchangeable core.
 - (xvii) High security and key control cylinders.
 - (xviii) Automotive opening.
 - (xix) Automotive key generation and programming.
 - (xx) Exit/panic device servicing, replacement, and installation.
 - (xxi) Door closer servicing, replacement, and installation.
 - (xxii) Cabinet and drawer lock servicing, replacement, and installation.
 - (xxiii) Safe installation, moving, and anchoring.
 - (xxiv) Single door access control service and installation.
- (B) Successful completion of a basic locksmith proficiency exam that covers a minimum of twelve (12) locksmith subjects and is approved by the department; and
- (C) One (1) year of full-time locksmith related experience.

Source Note: The provisions of this §35.123 adopted to be effective May 6, 2014, 39 TexReg 3608

SUBCHAPTER K - FEES

RULE §35.131 - Licensing and Examination Fees

(a) Pursuant to the Act, the figure in this subsection details the fee schedule:

Figure: 37 TAC §35.131(a)

Class A license (original and renewal)	\$350.00
Class B license (original and renewal)	\$400.00
Class C license (original and renewal)	\$540.00
Class T license (original and renewal)	\$2,500.00
Assignment of license	\$150.00
Branch office certificate and renewal	\$300.00
Change name of licensee	\$75.00
Delinquency fee (post-expiration renewal penalty)	\$30.00
Duplicate pocket card	\$10.00
Employee information update fee	\$15.00
Criminal history check fee	\$31.50
Letter of authority fee for private business	\$400.00
Letter of authority renewal fee for private business and political subdivision	\$225.00
Manager reexamination	\$100.00
Personal protection officer endorsement	\$50.00
Preliminary criminal history check and evaluation letter	\$100.00
Pocket card endorsement (add or delete)	\$20.00
Reinstate suspended company license	\$150.00
Registration fee for alarm systems monitor	\$30.00
Registration fee for dog trainer	\$30.00
Registration fee for employee of license holder	\$30.00
Registration fee for noncommissioned security officer (original and renewal)	\$30.00
Registration fee for owner, officer, partner, or shareholder of a license holder	\$50.00
Registration fee for private investigator, manager, branch office manager, locksmith, electronic access control device installer, and alarm systems installer (original and renewal)	\$30.00
Registration fee for security consultant	\$30.00
Registration fee for security salesperson	\$30.00
School instructor fee (original and renewal)	\$100.00
Security officer commission fee (original and renewal)	\$50.00
Training school and continuing education (CE) school approval fee (original and renewal)	\$350.00

- (b) Upon completion of development and production of the department's new laminated pocket card, an additional fee of \$5.00 will be charged for any new application or renewal requiring the new card.
- (c) Fees collected are non-refundable and non-transferable.
- (d) Payment of fees shall be made in a manner approved by the department.
- (e) If payment is dishonored or reversed prior to issuance, the application will be abandoned as incomplete. If the registration, endorsement, commission, or license has been issued prior to being dishonored or reversed, revocation proceedings will be initiated pursuant to the Act, §1702.361. The department may dismiss a pending revocation proceeding upon receipt of payment of the full amount due, including any additional processing fees.

(f) Original fees shall not be prorated. The full fee shall accompany all original applications.

Source Note: The provisions of this §35.131 adopted to be effective May 6, 2014, 39 TexReg 3609

RULE §35.132 - Subscription Fees

The fees detailed in this section are authorized under Texas Government Code, §2054.252.

- (1) Each individual licensee, registrant, or commissioned security officer shall pay the following fee for occupational license renewal: \$3.00 for a \$30.00 renewal and \$5.00 for renewals from \$50.00 to \$100.00. This fee is in addition to the renewal fee.
- (2) Each company licensee shall pay the following fee for occupational license renewal: \$7.00 for a \$225.00 renewal; \$11.00 for a \$300.00 to \$350.00 renewal; \$12.00 for a \$400.00 renewal; and \$16.00 for a \$540.00 renewal. This fee is in addition to the renewal fee.
- (3) Each individual applicant for a license, registration or security officer commission shall pay the following fee upon application: \$3.00 for a \$30.00 application; and \$5.00 for a \$50.00 to \$100.00 application. This fee is in addition to the application fee.
- (4) Each company license applicant shall pay the following fee upon application: \$11.00 for a \$300.00 to \$350.00 application; \$12.00 for a \$400.00 application; and \$16.00 for a \$540.00 application. This fee is in addition to the application fee.
- (5) Each individual registrant or commissioned security officer shall pay a \$2.00 fee for an employee information update. This fee is in addition to the employee information update fee.

Source Note: The provisions of this §35.132 adopted to be effective May 6, 2014, 39 TexReg 3609

SUBCHAPTER L - TRAINING

RULE §35.141 - Training Requirements

(a) Security and Personal Protection Officer Training.

- (1) The Level II training course shall be completed by all applicants for a security officer commission or for registration as a noncommissioned security officer. The course material shall be prepared or approved by the department. A certificate indicating completion of Level II training shall be submitted to the department with the required application. Level II training may be taught by the licensee's manager, the manager's designee, or a board approved school and board approved instructor using the most current version of the respective Board Level II training course manuals.
- (2) The Level III training course shall be completed by all applicants for a security officer commission and a personal protection officer endorsement. The course material shall be prepared by and obtained from the department. A certificate indicating completion of Level III training shall be submitted to the department along with the application to register the individual. Level III training must be taught by a department approved school and a department approved instructor.
- (3) The Level IV training course shall be completed by all applicants for a personal protection officer endorsement. The course material shall consist of a minimum of fifteen (15) classroom hours and shall be offered by department approved personal protection officer training schools and taught by department approved personal protection training instructors. All training shall be conducted with a department approved instructor present during all instruction. All students of a personal protection officer training course shall be tested with an examination prepared by and obtained from the department.

(b) Peace Officer Exemption.

- (1) Applicants for either a security officer commission or a personal protection officer endorsement who are full-time peace officers, certified by the Texas Commission on Law Enforcement (TCOLE), may be exempted from the Level III training requirements upon submission to the department a sworn affidavit attesting to the applicant's review of and familiarity with the Act and the related administrative rules.
- (2) Applicants for either a security officer commission or a personal protection officer endorsement who have honorably retired as Texas peace officers within the preceding two (2) years may be exempted from the Level III training requirements upon submission to the department of proof of their honorably retired status (in the form of documentation from the employing agency or TCOLE), and of a sworn affidavit attesting to the applicant's review of and familiarity with the Act and this chapter. For purposes of the above exemption, "honorably retired" means that the applicant:
 - (A) Did not retire in lieu of a disciplinary action;
 - (B) Was eligible to retire from the law enforcement agency or was ineligible to retire only as a result of an injury received in the course of the applicant's employment with the agency; and

- (C) Is entitled to receive a pension or annuity for service as a law enforcement officer or is not entitled to receive a pension or annuity only because the law enforcement agency that employed the applicant does not offer a pension or annuity to its employees.
- (c) Alarm Systems Training.
- (1) The Level I alarm systems training course shall be successfully completed, and the certification submitted to the department, by any registrant employed as an alarm systems installer or a security alarm salesperson, in order to renew an original registration.
 - (2) Alarm systems Level I training must be taught by a department approved alarm systems training school and a department approved alarm instructor.
- (d) An inactive or expired registrant who has not been employed in the investigation or security services industry in the past three (3) years or more must submit current training certificate(s) to the department.

Source Note: The provisions of this §35.141 adopted to be effective May 6, 2014, 39 TexReg 3609

RULE §35.142 - Training School Approval

- (a) An application for training school approval shall be submitted in the manner prescribed by the department.
- (b) To be approved, the school must:
- (1) Use the department's most current training manual;
 - (2) Register and obtain approval of all instructors as provided under §35.133 of this chapter (relating to Training Instructor Approval);
 - (3) Register a qualified manager;
 - (4) Register all owners, officers, partners, or shareholders, as provided in the Act, §1702.110.
- (c) The letter of approval or license certificate shall be valid for one (1) year and may be renewed by submitting an application for renewal thirty (30) days prior to the expiration date.
- (d) An entity having a private business letter of authority or a governmental letter of authority may seek approval as a training school by meeting requirements of this chapter where applicable. A training school approved under this section may only train employees of the entity.
- (e) The department may deny an application for approval for any reason relating to the failure to satisfy the requirements of this section, or for prior violations of the Act or this chapter on the part of the owners or instructors associated with the applicant.
- (f) The department may withdraw or suspend approval of a training school upon evidence the school has operated in violation of the Act or this chapter. Certificates of completion or proficiency submitted for courses taught subsequent to notification of withdrawal or suspension of the school's approval will be rejected.

Source Note: The provisions of this §35.142 adopted to be effective May 6, 2014, 39 TexReg 3609

RULE §35.143 - Training Instructor Approval

- (a) An application for approval as a training instructor shall contain evidence of qualification as required by the department. Instructors may be approved for classroom or firearm training, or both. An individual may apply for approval for one or both of these categories. To qualify for classroom or firearm instructor approval, the applicant must submit acceptable certificates of training for each category. The classroom instructor and firearm certificates shall represent a combined minimum of forty (40) hours of department approved instruction.
- (b) The items detailed in this subsection may constitute proof of qualification as a classroom instructor for security officers:
- (1) An instructor's certificate issued by Texas Commission on Law Enforcement (TCOLE);
 - (2) An instructor's certificate issued by federal, state, or political subdivision law enforcement agency approved by the department;
 - (3) An instructor's certificate issued by the Texas Education Agency (TEA);
 - (4) An instructor's certificate relating to law enforcement, private security, or industrial security issued by a junior college, college, or university; or
 - (5) A concealed handgun instructor certificate issued by the department.
- (c) The items listed in this subsection may constitute proof of qualification as a firearm training instructor, if reflecting training completed within two (2) years of the date of the application:
- (1) A handgun instructor's certificate issued by the National Rifle Association;
 - (2) A firearm instructor's certificate issued by TCOLE; or
 - (3) A firearm instructor's certificate issued by a federal, state, or political subdivision law enforcement agency approved by the department.
- (d) Proof of qualification as an alarm systems training instructor shall include proof of completion of an approved training course on alarm installation.

- (e) Proof of qualification as a personal protection officer instructor shall include, but not be limited to:
 - (1) A firearm instructor's certificate issued by TCOLE along with proof that the individual has instructed nonlethal self-defense or nonlethal defense of a third party for three (3) or more years. Evidence may include:
 - (A) Affidavit from employer; or
 - (B) A copy of curriculum taught.
 - (2) An instructor's certificate issued by federal, state, or political subdivision law enforcement academy along with proof that the individual has instructed nonlethal self defense or nonlethal defense of a third party for three (3) or more years. Evidence may include:
 - (A) Affidavit from employer; or
 - (B) A copy of curriculum taught.
 - (3) An instructor's certificate issued by TEA along with proof that the individual has instructed nonlethal self defense or nonlethal defense of a third party for three (3) or more years. Evidence may include:
 - (A) Affidavit from employer; or
 - (B) A copy of curriculum taught.
 - (4) An instructor's certificate relating to law enforcement, private security or industrial security issued by a junior college, college or university along with proof that the individual has instructed nonlethal self defense or nonlethal defense of a third party for three (3) or more years. Evidence may include:
 - (A) An affidavit from an employer; or
 - (B) A copy of curriculum taught.
 - (5) Evidence of successful completion of a department approved training course for personal protection officer instructors.
- (f) A letter of approval from the department shall be issued to each approved instructor and shall be valid for a period of one (1) year. The instructor's approval may be renewed for a period of one (1) year, upon application to the department and payment of the renewal fee.
- (g) Notice shall be given in writing to the department within fourteen (14) days after a change in address of the approved instructor.
- (h) A letter of approval from the department shall be issued to each approved instructor and shall be valid for a period of one (1) year. The instructor's approval may be renewed at any time up to one (1) year after expiration, upon application to the department and payment of the renewal fee.
- (i) In addition to summary actions under the Act, based on criminal history disqualifiers, the department may revoke or suspend an instructor's approval or deny the application or renewal thereof upon evidence that:
 - (1) The instructor or applicant has violated any provisions of the Act or this chapter;
 - (2) The qualifying instructor's certificate has been revoked or suspended by the issuing agency;
 - (3) A material false statement was made in the application; or
 - (4) The instructor does not meet the qualifications set forth in the provisions of the Act and this chapter.

Source Note: The provisions of this §35.143 adopted to be effective May 6, 2014, 39 TexReg 3609

RULE §35.144 - Training Manuals and Examinations for Commissioned Security Officer and Personal Protection Officer

- (a) The most current version of department's training manuals shall be used by all department approved Level III and Level IV training schools.
- (b) All students of a Level III or Level IV training school shall be tested with the most current version examination prepared by and obtained from the department.
- (c) The passing grade of all examinations shall be a minimum of 75% correct answers.

Source Note: The provisions of this §35.144 adopted to be effective May 6, 2014, 39 TexReg 3609

RULE §35.145 - Handgun Courses

- (a) In addition to the firearm qualification requirements as set forth in the Act, a department approved firearm training instructor may qualify a student by using:
 - (1) The Texas Department of Public Safety Primary Issued Handgun Qualification Course; or
 - (2) The Texas Department of Public Safety Approved Concealed Handgun License Course.
- (b) All individuals qualifying with a firearm to satisfy the requirements of the Act shall qualify with an actual demonstration by the individual of the ability to safely and proficiently use the category of firearm for which the individual seeks qualification.
- (c) The categories of handguns are:
 - (1) SA--Semi-automatic; and
 - (2) NSA--Non semi-automatic.

(d) The SA qualification authorizes the carrying of either semi automatic or non semi-automatic handguns.

Source Note: The provisions of this §35.145 adopted to be effective May 6, 2014, 39 TexReg 3609

RULE §35.146 - Shotgun Course of Fire

- (a) Any commissioned security officer licensed by the department who, in the performance of his/her duties, has a shotgun available to assist in the protection of life or property must demonstrate proficiency to a department approved firearms training instructor by successfully completing the course of fire for shotgun training. The course of fire shall consist of nine rounds of nine (9) pellet "00" buckshot (no slugs) fired as detailed in this section:
- (1) From a standing position at a distance of fifteen (15) yards, three (3) rounds of "00" buckshot in twelve (12) seconds;
 - (2) From a standing position at a distance of ten (10) yards, three (3) rounds of "00" buckshot in ten (10) seconds;
 - (3) From a standing position at a distance of five (5) yards, three (3) rounds of "00" buckshot in ten (10) seconds; or
 - (4) An alternate course of fire may be approved by the director upon receipt of written application.
- (b) A biennial familiarization of six (6) rounds of "00" buckshot shall be required for renewal of a commissioned security officer. The course of fire shall be as outlined in subsection (a) of this section reducing the number of rounds from three (3) to two (2) with a commensurate halving of time in each category.
- (c) The category for any shotgun is STG.

Source Note: The provisions of this §35.146 adopted to be effective May 6, 2014, 39 TexReg 3609

RULE §35.147 - Certificates of Completion and Training Records

- (a) A department approved training school shall:
- (1) Issue an original certificate of completion to each qualifying student within seven (7) days after the student qualifies;
 - (2) Maintain adequate records to show attendance, progress and grades of students and maintain on file a copy of each certificate issued to students at the department approved training school;
 - (3) Make all required records available to investigators employed by the department for inspection during reasonable business hours; and
 - (4) Retain all training records for twenty-four (24) months from the date of completion of training.
- (b) The certificate of completion shall reflect the particular course or courses completed by a student during the training period.
- (1) Certificates of completion for Level II shall contain the:
 - (A) Name and approval number of the school;
 - (B) Date of completion;
 - (C) Name, signature, and approval number of training instructor; and
 - (D) Full name and last six (6) digits of social security number of student.
 - (2) Certificates of completion for Level III and IV shall contain the:
 - (A) Name and approval number of the school;
 - (B) Date of firearm training completion (Level III only);
 - (C) Name, signature, and approval number of classroom and/or firearm training instructor;
 - (D) Full name and last six (6) digits of the social security number of student; and
 - (E) The specific date of firearm qualification along with the name and approval number of the firearms instructor on those certificates designating completion of Level III.
 - (3) Certificate of completion for firearms qualification (firearm proficiency) shall contain the:
 - (A) Name and approval number of the school;
 - (B) Name, signature, and approval number of firearms training instructor;
 - (C) Full name and last six (6) digits of the social security number of student;
 - (D) Firearms completion date;
 - (E) Note the category of firearm as defined in this chapter;
 - (F) Note the caliber of firearm; and
 - (G) Be on a certificate form designed or approved by the department.
 - (4) Certificates of completion for alarm systems installation or sales training shall contain:
 - (A) The name and approval number of the school;
 - (B) The name, signature and approval number of training instructor;
 - (C) The full name and last six (6) digits of the social security number of student;
 - (D) The date of final completion of the entire course; and
 - (E) The words "Has successfully completed the alarm installers or alarm systems salespersons alarm training school approved by the Texas Department of Public Safety."

SUBCHAPTER M - CONTINUING EDUCATION

RULE §35.161 - Continuing Education Requirements

- (a) A license, registration, endorsement, or commission may not be renewed until the required minimum hours of department approved continuing education credits have been earned in accordance with the Act and this chapter. Proof of the required continuing education must be maintained by the employer and contained in the personnel file of the registrant's employing company. All registrants shall indicate they have completed the required minimum hours of department approved continuing education credits on their application for renewal. A renewal application shall also include the name of the school, school number, seminar number, seminar date, and credits earned.
- (b) Nonparticipating owners, partners, shareholders, noncommissioned security officers, and administrative support personnel are specifically exempted from the continuing education requirements.
- (c) All registrants not specifically addressed in this section shall complete a total of eight (8) hours of continuing education, seven (7) hours of which must be in subject matter that relates to the type of registration held, and one (1) hour of which must cover ethics. Following the initial registration period, qualified managers of Class B licensed companies may take a one (1) hour course devoted to changes in laws and rules applicable to the security industry, as a substitute for the above one (1) hour ethics requirement.
- (d) Private investigators and managers of Class A and Class C licenses with more than fifteen (15) years of continued registration as a private investigator or manager of a Class A or Class C license shall complete a total of twelve (12) hours of continuing education, eight (8) hours of which must be in subject matter that relates to the type of registration held, two (2) hours of which must cover ethics, and two (2) hours of which must involve the review of the Act and the rules of this chapter.
- (e) Private Investigators and managers of Class A and Class C licenses with less than fifteen (15) years of continued registration as a private investigator or manager of a Class A or Class C license shall complete a total of eighteen (18) hours of continuing education, fourteen (14) of which must be in subject matter that relates to the type of registration held, two (2) hours of which must cover ethics, and two (2) hours of which must involve the review of the Act and the rules of this chapter.
- (f) Any person registered as a private investigator who fails to complete the required continuing education during the twenty-four (24) months of an initial registration is not eligible to make a new or renewal application until such time as the training requirement for the previous registration period has been satisfied.
- (g) Commissioned security officers and personal protection officers shall complete six (6) hours of continuing education. Continuing education for commissioned security officers and personal protection officers must be taught by schools and instructors approved by the department to instruct commissioned security officers as defined in the Act. Commissioned security officers shall submit a firearms proficiency certificate along with the renewal application.
- (h) During the first twelve (12) months of initial registration, each person employed as an alarm system installer or alarm systems salesperson must complete Alarm Level I training, consisting of sixteen (16) hours of classroom instruction or equivalent online course as approved by the department, with two (2) hours covering the National Electrical Code (NEC) as it applies to low voltage. Any person employed as an alarm systems installer or alarm systems salesperson must earned eight (8) hours of continuing education credits in an alarm related field, with one (1) hour covering the National Electrical Code (NEC) as it applies to low voltage, during each subsequent twenty-four (24) month period. This requirement must be satisfied prior to the expiration date of registration in order to renew the registration.
- (i) For the protection of the installer and the general public, the work of an alarm system installer who has not completed the required sixteen (16) hours of instruction must be overseen by an installer who has completed the required sixteen (16) hours of instruction. The oversight required under this section need not involve direct physical supervision, but the overseeing installer is responsible for ensuring the installation complies with all applicable requirements and regulations.
- (j) Any person registered as an alarm systems installer or salesperson who fails to complete sixteen (16) hours of training during the twenty-four (24) months of initial licensure, or who fails to complete eight (8) hours of continuing education during any subsequent licensing period is not eligible to make a new or renewal application until such time as all training requirements for the previous license period have been satisfied.
- (k) Alarm monitors shall complete four (4) hours of continuing education in subject matter that relates to the duties and responsibilities of an alarm monitor.
- (l) All persons registered or licensed as locksmiths must complete sixteen (16) hours of continuing education every two (2) years.
- (m) Attendees of continuing education courses shall maintain certificates of completion furnished by the school director in their files for a period of two (2) years. Attendees shall furnish the department with copies of all certificates of completion upon request.

Source Note: The provisions of this §35.161 adopted to be effective May 6, 2014, 39 TexReg 3610

RULE §35.162 - Continuing Education Schools

- (a) Except as otherwise provided by this subchapter, all continuing education credits must be earned through department approved continuing education schools.
- (b) All department approved continuing education schools shall comply with:
 - (1) Each school must identify to the department a school director as its agent responsible for ensuring the school's compliance with this subchapter, including the maintenance of attendance records, the provision of such records to department personnel upon request, and the verification of curricula and instructors' qualifications. The failure of this individual to perform these duties or to otherwise comply with this subchapter may result in the cancellation of the school's certificate of approval and the rejection of claims for continuing education credit obtained from that school.
 - (2) School attendance records shall include:
 - (A) Subjects taught in each course of instruction;
 - (B) Total hours of each course of instruction and the hours instructed on each subject;
 - (C) Date of instruction;
 - (D) Name, license number, and date(s) of attendance for each individual that attended a course of instruction; and
 - (E) Name and qualifications of instructor.
 - (3) Schools shall issue certificates of attendance to registrants or licensees attending a course of instruction. The certificates of attendance shall contain the name and license number of the attendee, the date of attendance, the number of hours of attendance, and the course(s) of instruction attended. Each certificate shall be signed and dated by the school director.
 - (4) Schools shall maintain all records required by this section for a period of two (2) years.
 - (5) The school shall provide copies of all records required under this subchapter to the department upon request.
 - (6) The school director shall verify that the curriculum of each continuing education course offered is in compliance with this chapter.
 - (7) The school director shall verify the qualifications of each instructor.
- (c) Attendees of courses of continuing education shall maintain certificates of completion furnished by the school director in their files for a period of two (2) years. Attendees shall furnish the department with copies of all certificates of completion upon request.
- (d) Licensed companies with ten (10) or more registered employees may make a written request for a letter of exemption allowing them to provide continuing education to those employees registered under the requesting company's license. Such requests shall be addressed to the department. A letter of exemption granted under this section shall be valid for two (2) years. To qualify for a letter of exemption, the company must appoint a training director, assure that all training is in compliance with all related administrative rules, maintain proof of all training, and provide each employee with a certificate of training as required by this section. There is no annual fee associated with a letter of exemption issued under this subsection.

Source Note: The provisions of this §35.162 adopted to be effective May 6, 2014, 39 TexReg 3610

SUBCHAPTER N - EXEMPTIONS

RULE §35.171 - Unlicensed General Contractors or Other Intermediaries

An unlicensed general contractor or other intermediary may not offer to provide and may not provide a regulated service unless the contract expressly includes:

- (1) The offer, bid, or proposal and any related advertisements must clearly and conspicuously state that the general contractor or broker is not licensed to perform the service in question and that the regulated service is to be provided exclusively by a licensed party;
- (2) The contract and any bid or offer to perform a regulated service must identify the licensee by name and license number;
- (3) The licensed subcontractor must be an express party to the contract; and
- (4) The contract must clearly and conspicuously provide that the licensee is fully responsible for the regulated service and that the unlicensed general contractor will have no involvement in the regulated service.

Source Note: The provisions of this §35.171 adopted to be effective May 6, 2014, 39 TexReg 3610

RULE §35.172 - Certain Locksmith Services

- (a) An owner or employee of a retail establishment open to the general public may perform work on a mechanical security device within the confines of the establishment, provided the work is limited to servicing products sold by the establishment, or duplicating keys.
- (b) The installation of a pre-keyed lockset may be performed by an unlicensed person, so long as the installer is hired directly by the recipient of the service, is not employed by or under contract with the retail establishment from which the lockset was purchased and the installation involves no rekeying or other internal manipulation of the locking mechanism or of any existing mechanical security devices.
- (c) Repossession agents who are exclusively engaged in the business of repossession are exempted from licensure under the Act while using their own equipment and employees to decode or make keys, or to install or repair locks for the property repossessed. Any third party contractor engaged to perform such services must be licensed as a locksmith.
- (d) The exemptions listed in subsection (a), (b), or (c) of this section apply only if the person does not use the term "locksmith" or any similar term, or otherwise create the impression to a reasonable consumer that the person is a licensed locksmith.

Source Note: The provisions of this §35.172 adopted to be effective May 6, 2014, 39 TexReg 3610

RULE §35.173 - Electronic Access Control Device

This chapter does not apply to manufacturers, manufacturers' distributors, or installers of electronic access control devices whose sole intended purpose is to provide the public with convenient and unrestricted access, such as automatic pedestrian doors.

Source Note: The provisions of this §35.173 adopted to be effective May 6, 2014, 39 TexReg 3610

SUBCHAPTER O - MILITARY SERVICE MEMBERS, MILITARY VETERANS, AND MILITARY SPOUSES - SPECIAL CONDITIONS

RULE §35.181 - Exemption from Penalty for Failure to Renew in Timely Manner

An individual who holds a registration, commission, or license issued under the Act is exempt from any increased fee or other penalty for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the department the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

Source Note: The provisions of this §35.181 adopted to be effective May 6, 2014, 39 TexReg 3611; amended to be effective January 10, 2016, 41 TexReg 496

RULE §35.182 - Extension of License Renewal Deadlines for Military Service Members

A military service member who holds a registration, commission, or license issued under the Act is entitled to two (2) years of additional time to complete:

- (1) Any continuing education requirements; and
- (2) Any other requirement related to the renewal of the military service member's license.

Source Note: The provisions of this §35.182 adopted to be effective May 6, 2014, 39 TexReg 3611; amended to be effective January 10, 2016, 41 TexReg 496

RULE §35.183 - Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses

- (a) An individual who is a military service member, military veteran, or military spouse may apply for a license under this section if the individual:
 - (1) Holds a current license issued by another jurisdiction with licensing requirements substantially equivalent to the Act's requirements for the license; or
 - (2) Within the five (5) years preceding the application date held the license in this state.
- (b) The department may accept alternative demonstrations of professional competence in lieu of existing experience, training, or educational requirements.

Source Note: The provisions of this §35.183 adopted to be effective May 6, 2014, 39 TexReg 3611; amended to be effective January 10, 2016, 41 TexReg 496

RULE §35.184 - Credit for Military Experience and Training

- (a) Verified military service, training, or education that relates to the registration, commission, or license for which a military service member or military veteran has applied will be credited toward the respective experience or training requirements.
- (b) This section does not apply to an applicant who:
 - (1) Holds a restricted license issued by another jurisdiction; or
 - (2) Is ineligible for the registration, commission, or license under the Act or this chapter, based on a disqualifying criminal history.

Source Note: The provisions of this §35.184 adopted to be effective May 6, 2014, 39 TexReg 3611

RULE §35.185 - Definitions

For purposes of this subchapter, the terms 'military service member', 'military veteran', and 'military spouse' have the meanings provided in Texas Occupations Code, §55.001.

Source Note: The provisions of this §35.185 adopted to be effective January 10, 2016, 41 TexReg 496