CHAPTER 18

Private Security and Investigation Agencies

CROSS REFERENCES

Licensing or registration requirement, form for issuance of report by person other than CPA or PA, use of titles CPA and PA, exemptions, see Section 40‑2‑30.

**SECTION 40‑18‑20.** Definitions.

As used in this chapter, unless the context otherwise requires, the term:

(A) “Private investigation business” means engaging in business or accepting employment to obtain or furnish information with reference to the:

(1) identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of a person;

(2) location, disposition, or recovery of lost or stolen property;

(3) cause or responsibility for fires, libels, losses, accidents, damage, or injury to persons or property; or

(4) securing of evidence to be used in a criminal or civil proceeding, or before a board, an administrative agency, an officer, or investigating committee.

(B) “Security business” means the provision of personnel whose duties include watching over, protecting, or defending people or property against intrusion, damage, injury, or loss, and specifically includes, but is not limited to, the following authorities or responsibilities: to allow or refuse access to property or certain areas of property; detect, prevent, or report entry by unauthorized persons; observe for and react to hazards or hazardous situations; observe for and react to violations of law or policy; observe for and react to emergencies; observe for and react to thefts or other incidents; apprehend or report intruders or trespassers; and maintain order or discipline.

(1) “Contract security business” means engaging in the security business by providing private patrol, watchman, guard, security, or bodyguard service for a fee.

(2) “Proprietary security business” means employing security officers who are assigned to security duties on the employer’s property.

(C) “Security officer” means a person who provides security service by performing any security function, as detailed in this chapter.

(D) “SLED” means the South Carolina Law Enforcement Division.

(E) “Uniform” means clothing displaying a badge, emblem, insignia, indicia, or print identifying the wearer as a security officer.

HISTORY: 2000 Act No. 372, Section 1.

CROSS REFERENCES

Law enforcement and public safety generally, see Section 23‑1‑15 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Private Detectives and Private Security Businesses Section 2, Overview.

S.C. Jur. Private Detectives and Private Security Businesses Section 3, Private Detectives.

S.C. Jur. Private Detectives and Private Security Businesses Section 4, Private Security Businesses and Their Officers.

S.C. Jur. Private Detectives and Private Security Businesses Section 5, Private Detectives.

Attorney General’s Opinions

Discussion of whether an out‑of‑state company can hire off‑duty police officers to provide armed security in this State without being licensed as a private security business under Chapter 18 of Title 40 of the S.C. Code. S.C. Op.Atty.Gen. (March 17, 2014) 2014 WL 1362648.

Discussion of whether the developer of a “safety‑related” smartphone application and certain employees would be subject to the licensing and registration requirements of Chapter 18, Title 40, if the application is made available for use in this State. S.C. Op.Atty.Gen. (Feb. 3, 2014) 2014 WL 1398588.

The absence of any express authority to charge a fee for the costs incurred for processing evidence, a sheriff who has the resources to provide such a service to a private security agency must do so free of charge in a criminal case. S.C. Op.Atty.Gen. (March 16, 2011) 2011 WL 1444710

There is a corresponding duty to accept and to store evidence of a crime seized by security guards at the time of arrest. S.C. Op.Atty.Gen. (March 16, 2011) 2011 WL 1444710.

A private security guard would not have jurisdiction to direct traffic on a public roadway regardless of the distance from the original location which they are hired to protect. SC Op.Atty.Gen. (Feb. 1, 2010) 2010 WL 928439.

The requirement of registration as private investigators of individuals selling their services as “computer forensics” experts would not be violative of any laws regarding interstate commerce even where most of these individuals would be associated with out‑of‑state companies. S.C. Op.Atty.Gen. (April 23, 2007) 2007 WL 1302770.

Reserve police officers may not receive compensation for working ballgames or fairs, even if such activities are pursuant to specific orders of chief. Reserve police officers not working pursuant to specific orders of chief will not be functioning as reserve police officers and would not have any law enforcement authority of reserve officers (Decided under former 40‑17‑20). 1984 S.C. Op.Atty.Gen. 330, 1984 S.C. Op.Atty.Gen. No. 84‑136, (Nov. 30, 1984) 1984 WL 159942.

“Bounty hunters” must be licensed by SLED since they engage in private detective business. Individual who is hired as body guard on private contractual basis and not as employee would be considered engaging in private security business and would be required to be licensed by SLED (Decided under former 40‑17‑20). 1984 S.C. Op.Atty.Gen. 214, 1984 S.C. Op.Atty.Gen. No. 84‑91, (July 27, 1984) 1984 WL 159898.

There appears to be no authority for individual licensed as private security guard to provide security for moving individual. Licensed private security guard is only authorized to provide security for property he is hired to protect or guard; away from such property he only has power of arrest of private citizen (Decided under former 40‑17‑20). 1984 S.C. Op.Atty.Gen. 199, 1984 S.C. Op.Atty.Gen. No. 84‑80, (July 23, 1984) 1984 WL 159887.

Security officers working for a private security agency falling within the purview of Section 56‑646.1 [1976 Code 40‑17‑10] et seq. have no authority to exercise police powers except on the private property they were hired to protect (Decided under former 40‑17‑10). 1977 S.C. Op.Atty.Gen. 154, 1977 S.C. Op.Atty.Gen. No. 77‑203, (June 29, 1977) 1977 WL 24545.

NOTES OF DECISIONS

In general 1

1. In general

Plaintiff’s right to recovery against security agency is barred by operation of rule of respondeat superior where plaintiff was assaulted and raped by security guard furnished to her employer by agency, since assault was neither in furtherance of agency’s business nor within scope of guard’s employment, and since case may not be treated as exception to rule under existing precedents or statutes (Decided under former Section 40‑17‑10). Rabon v. Guardsmark, Inc. (C.A.4 (S.C.) 1978) 571 F.2d 1277, certiorari denied 99 S.Ct. 191, 439 U.S. 866, 58 L.Ed.2d 176.

Mere existence of 1962 Code Section 56‑646.1 [Section 40‑17‑10 (1976)] et seq. does not evidence legislative intention to impose upon private security agencies a higher standard of civil liability than that to which ordinary business enterprises are held, and does not justify extension of common carrier’s standard of care to private security agencies (Decided under former Section 40‑17‑10). Rabon v. Guardsmark, Inc. (C.A.4 (S.C.) 1978) 571 F.2d 1277, certiorari denied 99 S.Ct. 191, 439 U.S. 866, 58 L.Ed.2d 176.

Employer’s actions taken under intensive regulation of South Carolina Private Detective and Private Security Agencies Act, Code 1962 Sections 56‑646.1 et seq. [Code 1976 Sections 40‑17‑10 et seq.], together with grant of police authority to approved applicants pursuant to Code 1962 Section 56‑646.13 [Code 1976 Section 40‑17‑130] reached necessary degree of state control and cooperation to be characterized properly as action taken “under color of state law” for purposes of 42 USCA Section 1983 (Decided under former Section 40‑17‑10). Thompson v. McCoy (D.C.S.C. 1976) 425 F.Supp. 407. Civil Rights 1326(11)

**SECTION 40‑18‑30.** Powers and duties of South Carolina Law Enforcement Division (SLED).

(A) The Chief of SLED has the following powers and duties as they relate to the practice of security businesses:

(1) to determine the qualifications of applicants for licenses or registration under this chapter;

(2) to promulgate regulations necessary to carry out this chapter;

(3) to investigate alleged violations of this chapter and regulations promulgated by SLED;

(4) to establish and enforce standards governing the safety and conduct of persons licensed and registered under this chapter;

(5) to provide, with the advice and consent of the South Carolina Criminal Justice Academy, for the curriculum, training, and certification of training officers, and to approve the curriculum utilized by licensees for the training of their security officers to ensure that security officers have the requisite knowledge and skills necessary to carry out their duties in the private security business. The fee for the training of security company training officers must be determined by the designated training facility and be retained by the facility to defray the costs of conducting the training; and

(6) to certify and register company training officers.

(B) The Chief of SLED has the following powers and duties as they relate to the practice of private investigation businesses:

(1) to determine the eligibility of applicants for licenses and registration under this chapter;

(2) to investigate alleged violations of this chapter and regulations promulgated by SLED;

(3) to promulgate regulations necessary to carry out this chapter; and

(4) to require training necessary to provide for competent delivery of services to the public;

(C) SLED must keep a record of all information received from other states and the United States Department of Justice pertaining to criminal identification systems. SLED must cooperate with other jurisdictions in criminal identification.

(D) Fingerprint cards submitted to SLED pursuant to Sections 40‑18‑50, 40‑18‑60, 40‑18‑70, and 40‑18‑100 must be submitted by SLED to the Federal Bureau of Investigation to facilitate a national criminal records check of the applicant.

HISTORY: 2000 Act No. 372, Section 1; 2002 Act No. 339, Section 31; 2006 Act No. 317, Section 6; 2008 Act No. 335, Section 11.

CROSS REFERENCES

Regulations for private security and private investigation businesses, see S.C. Code of Regulations R. 73‑400 et seq.

Library References

Detectives and Security Guards 3.

Westlaw Topic No. 125.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Private Detectives and Private Security Businesses Section 8, Role of South Carolina Law Enforcement Division (SLED).

Attorney General’s Opinions

The requirement of registration as private investigators of individuals selling their services as “computer forensics” experts would not be violative of any laws regarding interstate commerce even where most of these individuals would be associated with out‑of‑state companies. S.C. Op.Atty.Gen. (April 23, 2007) 2007 WL 1302770.

Private and/or premise security companies may not utilize blue lights in carrying out their functions and duties. (Decided under former 40‑17‑30) 1983 S.C. Op.Atty.Gen. 160, 1983 S.C. Op.Atty.Gen. No. 83‑94, (Dec. 8, 1983) 1983 WL 142763.

Under the South Carolina Private Detective and Private Security Agencies Act, the chief of the State Law Enforcement Division has the power and duty to promulgate all rules and regulations necessary to qualify corporations for licenses to conduct private security agencies. (Decided under former 40‑17‑110) 1977 S.C. Op.Atty.Gen. 116, 1977 S.C. Op.Atty.Gen. No. 77‑139, (May 5, 1977) 1977 WL 24481.

**SECTION 40‑18‑40.** Licenses to operate security or private investigation business; transferability; surrender on termination of business or change of ownership.

Licenses to operate security or private investigation businesses are the property of SLED and are not transferable. Licenses must be surrendered immediately to SLED upon the termination of a business or upon a change of ownership, possession, or control of a corporation or business entity. The transfer of twenty‑five percent or more of corporate stock is considered a change in ownership.

HISTORY: 2000 Act No. 372, Section 1.

Library References

Detectives and Security Guards 3.

Westlaw Topic No. 125.

Attorney General’s Opinions

Regulation 73‑40(3), promulgated under the Private Detective and Private Security Agencies Act, Sections 40‑17‑10, et seq., prohibits the transferability of licenses or registrations issued by SLED where there is a change of company operator, change of company name or sale of company. (Decided under former 40‑17‑40) 1986 S.C. Op.Atty.Gen. 235, 1986 S.C. Op.Atty.Gen. No. 86‑75, (July 7, 1986) 1986 WL 192033.

There appears to be no constitutional or statutory prohibition against a private security guard being registered with more than one company concurrently. The act of registration does not create an additional office within the dual office holding prohibition of the State Constitution nor does it require an additional license from SLED. (Decided under former 40‑17‑40) 1986 S.C. Op.Atty.Gen. 167, 1986 S.C. Op.Atty.Gen. No. 86‑56, (May 14, 1986) 1986 WL 192016.

Reserve police officers may not receive compensation for working ballgames or fairs, even if such activities are pursuant to specific orders of chief. Reserve police officers not working pursuant to specific orders of chief will not be functioning as reserve police officers and would not have any law enforcement authority of reserve officers. (Decided under former 40‑17‑40) 1984 S.C. Op.Atty.Gen. 330, 1984 S.C. Op.Atty.Gen. No. 84‑136, (Nov. 30, 1984) 1984 WL 159942.

Corporate security guards may not do private security work on privately owned residential premises, away from corporate office or industrial site. (Decided under former 40‑17‑40) 1984 S.C. Op.Atty.Gen. 216, 1984 S.C. Op.Atty.Gen. No. 84‑92, (July 30, 1984) 1984 WL 159899.

“Bounty hunters” must be licensed by SLED since they engage in private detective business. Individual who is hired as body guard on private contractual basis and not as employee would be considered engaging in private security business and would be required to be licensed by SLED. (Decided under former 40‑17‑20) 1984 S.C. Op.Atty.Gen. 214, 1984 S.C. Op.Atty.Gen. No. 84‑91, (July 27, 1984) 1984 WL 159898.

There appears to be no authority for individual licensed as private security guard to provide security for moving individual. Licensed private security guard is only authorized to provide security for property he is hired to protect or guard; away from such property he only has power of arrest of private citizen. (Decided under former 40‑17‑20) 1984 S.C. Op.Atty.Gen. 199, 1984 S.C. Op.Atty.Gen. No. 84‑80, (July 23, 1984) 1984 WL 159887.

**SECTION 40‑18‑50.** Contract security business license; application; bond; renewal; qualifications of licensees; display of license; arrest of licensee; exemptions.

(A) Any person engaged in the contract security business in an individual, self‑employed capacity, or as an officer or principal of a corporation, or who furnishes security officers for a fee must make application in writing to SLED for a contract security business license and pay an annual license fee which must be set by regulation.

(1) If the applicant company is an association or corporation, the chief executive officer of the association or corporation must be the applicant or must designate in writing the corporate officer or principal who is the applicant.

(2) If the applicant company is a partnership, each partner must complete an application form.

(3) The application for license must be made, under oath, on a form approved by SLED. The application must state the applicant’s full name, age, date and place of birth, current residence address, residence addresses for the past ten years, employment for the past ten years, including names and addresses of employers, the applicant’s current occupation, including the name and address of the current employer, the date and place of any arrests, any convictions for violations of federal or state laws, and any additional information SLED may require. Each applicant must submit with the application one complete set of the applicant’s fingerprints on forms specified and furnished by SLED and one color photograph of the applicant’s full face, without head covering, taken within six months of the application.

(B) The applicant must post a ten thousand dollar bond with SLED in a form approved by the Attorney General in favor of the State. The bond must be issued by a surety insurer licensed to transact surety insurance in this State. The surety on the bond may cancel the bond upon giving thirty days’ notice to SLED, and the surety is relieved of liability for a breach of condition after the effective date of the cancellation.

(C) SLED must grant a license to the applicant to conduct the security business stated in the application upon satisfaction of the competency and integrity of an applicant, or, if the applicant is an officer of an association, partnership, or corporation, upon satisfaction of the competency and integrity of any officers, principals, and partners. Licensure is for one year and application for renewal must be on a form approved by SLED. Issuance of the license authorizes establishment by the licensee of the number of branch offices the licensee considers feasible.

(D) SLED may grant a license to a person who:

(1) is a least twenty‑one years of age;

(2) has a high school diploma or equivalent;

(3) is a citizen of the United States;

(4) has not been convicted of a felony or crime involving moral turpitude;

(5) is of good moral character;

(6) has not been discharged from military service with other than an honorable discharge;

(7) does not unlawfully use drugs;

(8) does not use alcohol to such a degree as to affect adversely his ability to perform competently the duties of a security company licensee, has not been adjudicated an incapacitated person without being restored to legal competency, and who has no physical or mental impairment which would prevent him from competently performing the duties of a security company licensee;

(9) has satisfied SLED that the applicant security business has or will have a competent certified training officer and an adequate training program with a curriculum approved by SLED, or that adequate training will be obtained from another approved source;

(10) has had at least two years of experience as a supervisor or administrator in industrial security with a licensed security business, a security program approved by SLED, or as a sworn member of a federal, state, county, or municipal law enforcement agency; and

(11) meets other qualifications SLED may establish by regulation.

(E) Immediately upon the receipt of the license certificate issued by SLED pursuant to this chapter, the licensee must post and at all times display the license in a conspicuous place at his place of business. A copy or duplicate of the license certificate must be conspicuously posted at each branch office. The licensee must immediately notify SLED of the address of each branch office opened or closed.

(F) Licensees must make business records available for inspection during normal business hours. The Chief of SLED or his designee may conduct inspections as necessary to ensure compliance with this chapter and SLED regulations.

(G) A licensee who is arrested must report the custodial arrest to SLED within seventy‑two hours of the arrest.

(H) A person is exempt from the provisions of this section if he receives compensation for private employment on an individual, independent contractor basis as a patrolman, guard, or watchman and if he has full‑time employment as a law enforcement officer with a state, county, or municipal law enforcement agency. For this exemption to be valid, the person must not be employed by another law enforcement officer.

(I) A person is exempt from the provisions in this section if:

(1) the person is employed solely as a nonuniformed, unarmed fire watchman, gatekeeper, or security officer;

(2) the person is without delegated or assigned arrest authority; and

(3) the employer is not a private investigation or security business.

HISTORY: 2000 Act No. 372, Section 1; 2002 Act No. 339, Section 32.

Library References

Detectives and Security Guards 3.

Westlaw Topic No. 125.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Bonds Section 83, Chapter 17 Detective and Private Security Agencies.

S.C. Jur. Private Detectives and Private Security Businesses Section 9, Application Requirements for Registration of Private Detectives and Licensing of Private Security Businesses.

S.C. Jur. Private Detectives and Private Security Businesses Section 11, Bond Requirements for Private Security Businesses.

Attorney General’s Opinions

Discussion of whether an out‑of‑state company can hire off‑duty police officers to provide armed security in this State without being licensed as a private security business under Chapter 18 of Title 40 of the S.C. Code. S.C. Op.Atty.Gen. (March 17, 2014) 2014 WL 1362648.

Officer who is duly registered, employed, and certified as private security training officer by State Law Enforcement Division may, upon Division’s approval, train other private security officers at technical colleges or other types of campuses, and such would meet training requirements mandated by 40‑17‑50(6), but such training would not qualify an individual to later serve as company training officer. (Decided under former 40‑17‑50) 1985 S.C. Op.Atty.Gen. 196, 1985 S.C. Op.Atty.Gen. No. 85‑72, (July 26, 1985) 1985 WL 166042.

**SECTION 40‑18‑60.** Proprietary security business license; applications; qualifications of licensee; display of license; renewal; inspection of employment records; exemptions.

(A) An employer who utilizes a person who is armed, uniformed, or has been delegated arrest authority for work on the employer’s premises in connection with the affairs of the employer must make application to SLED for a proprietary security business license and pay an annual license fee, set by SLED regulation.

(1) If the applicant is an association or corporation, the chief executive officer of the association or corporation must be the applicant or must designate in writing the corporate officer or principal who is the applicant.

(2) If the applicant is a partnership, all partners must complete an application form.

(3) The application for license must be made, under oath, on a form approved by SLED. The application must state the applicant’s full name, age, date and place of birth, current residence address, residence addresses for the past ten years, employment for the past ten years, including names and addresses of employers, the applicant’s current occupation with the name and address of the current employer, the date and place of any arrests, any convictions for violations of federal or state laws, and any additional information as SLED may require. Each applicant must submit with the application one complete set of the applicant’s fingerprints on forms specified and furnished by SLED and one color photograph of the applicant’s full face, without head covering, taken within six months of the application.

(B) SLED may grant a license to a person who:

(1) is at least twenty‑one years of age;

(2) has a high school diploma or equivalent;

(3) is a citizen of the United States;

(4) has not been convicted of a felony or crime involving moral turpitude;

(5) is of good moral character;

(6) has not been discharged from military service with other than an honorable discharge;

(7) does not unlawfully use drugs;

(8) does not use alcohol to such a degree as to affect adversely his ability to perform competently the duties of a security company licensee, has not been adjudicated an incapacitated person without being restored to legal competency, and who has no physical or mental impairment which would prevent him from competently performing the duties of a security company licensee;

(9) has satisfied SLED that the applicant and company are financially responsible;

(10) has satisfied SLED that the person or company has or will have a competent, certified training officer and an adequate training program with a curriculum approved by SLED, or that adequate training will be obtained from another approved source; and

(11) has met other qualifications SLED may establish by regulation.

(C) SLED must grant a license to the applicant to employ security officers upon satisfaction of the competency and integrity of an applicant, or, if the applicant is an officer of an association, partnership, or corporation, upon satisfaction of the competency and integrity of the officers and principals.

(D) Immediately upon receipt of a license, the licensee must post and at all times display the license in a conspicuous location at his place of business and at each location where security personnel are posted.

(E) Issuance of the license authorizes the licensee to post persons performing the duties of security officers at each location of company property owned by the licensee. The licensee must immediately notify SLED of the address of each site where security officers are assigned and where assignments are discontinued.

(F) Licensure is for one year and application for renewal must be on a form approved by SLED.

(G) A licensee who is arrested must report the custodial arrest to SLED within seventy‑two hours of the arrest.

(H) Licensees must make employment records available for inspection during normal business hours. The Chief of SLED or his designee may conduct inspections as necessary to ensure compliance with this chapter and SLED regulations.

(I) A person is exempt from the provisions of this section if he receives compensation for private employment on an individual, independent contractor basis as a patrolman, guard, or watchman and if he has full‑time employment as a law enforcement officer with a state, county, or municipal law enforcement agency. For this exemption to be valid, the person must not be employed by another law enforcement officer.

(J) A person is exempt from the provisions of this section if:

(1) the person is employed solely as a nonuniformed, unarmed fire watchman, gatekeeper, or security officer;

(2) the person is without delegated or assigned arrest authority; and

(3) the employer is not a private investigation or security business.

HISTORY: 2000 Act No. 372, Section 1.

Library References

Detectives and Security Guards 3.

Westlaw Topic No. 125.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Private Detectives and Private Security Businesses Section 3, Private Detectives.

S.C. Jur. Private Detectives and Private Security Businesses Section 4, Private Security Businesses and Their Officers.

Attorney General’s Opinions

Only state Supreme Court could make ultimate determination of whether crime of attempted possession of crack cocaine is crime of moral turpitude, since question is one of first impression in state; indications exist to support Attorney General’s belief that Court very well might hold that it was. (Decided under former Section 40‑17‑80) 1991 S.C. Op.Atty.Gen. 104, 1991 S.C. Op.Atty.Gen. No. 91‑41, (June 25, 1991) 1991 WL 474771.

Corporate security guards may not do private security work on privately owned residential premises, away from corporate office or industrial site. (Decided under former 40‑17‑40) 1984 S.C. Op.Atty.Gen. 216, 1984 S.C. Op.Atty.Gen. No. 84‑92, (July 30, 1984) 1984 WL 159899.

“Bounty hunters” must be licensed by SLED since they engage in private detective business. Individual who is hired as body guard on private contractual basis and not as employee would be considered engaging in private security business and would be required to be licensed by SLED. (Decided under former 40‑17‑20) 1984 S.C. Op.Atty.Gen. 214, 1984 S.C. Op.Atty.Gen. No. 84‑91, (July 27, 1984) 1984 WL 159898.

There appears to be no authority for individual licensed as private security guard to provide security for moving individual. Licensed private security guard is only authorized to provide security for property he is hired to protect or guard; away from such property he only has power of arrest of private citizen. (Decided under former 40‑17‑20) 1984 S.C. Op.Atty.Gen. 199, 1984 S.C. Op.Atty.Gen. No. 84‑80, (July 23, 1984) 1984 WL 159887.

**SECTION 40‑18‑70.** Private Investigation License; applications; bond; renewal; display of license; qualifications of licensee; contract; reports to clients; arrest of licensee; inspections of business records; prior licensees.

(A) A person who desires to operate a private investigation business in this State must apply for a Private Investigation License from SLED and pay an annual license fee which must be set by SLED regulation.

(1) If the applicant is an association or corporation, the chief executive officer of the association or corporation must be the applicant or must designate in writing the corporate officer or principal who is the applicant.

(2) If the applicant is a partnership, all partners must complete an application form.

(3) The application for license must be made, under oath, on a form approved by SLED. The application must state the applicant’s full name, age, date and place of birth, current residence address, residence addresses for the past ten years, employment for the past ten years, including names and addresses of employers, the applicant’s current occupation with the name and address of the current employer, the date and place of any arrests, any convictions for violations of federal or state laws, excluding traffic violations, and any additional information as SLED requires. Each applicant must submit with the application one complete set of the applicant’s fingerprints on forms specified and furnished by SLED and one color photograph of the applicant’s full face, without head covering, taken within six months of the application.

(B) The applicant must post a ten thousand dollar bond with SLED in a form approved by the Attorney General in favor of the State. The bond must be issued by a surety insurer licensed to transact surety insurance in this State. The surety on the bond may cancel the bond upon giving thirty days’ notice to SLED and is relieved of liability for a breach of condition after the effective date of cancellation.

(C) Upon receiving the application, bond, and license fee and upon satisfaction after investigation of the competency and integrity and qualifications of the applicant, SLED must grant a license to the applicant to conduct the private investigation business stated in the application. Licensure is for one year and application for renewal must be on a form approved by SLED. The initial and annual renewal license fee for conducting a private investigation business must be set by regulation.

(D) Issuance of a license authorizes the licensee to engage in the private investigation business and to operate branch offices. Immediately upon receipt of the license certificate issued by SLED pursuant to this chapter, the licensee must post and at all times display the license in a conspicuous place at his primary place of business. A copy or duplicate of the license certificate must be conspicuously posted at each branch office. The licensee must immediately notify SLED of the address of each branch office opened or closed.

(E) SLED may issue a license to a person who:

(1) is at least twenty‑one years of age;

(2) has a high school diploma or equivalent;

(3) is a citizen of the United States;

(4) has not been convicted of a felony or a crime involving moral turpitude;

(5) is of good moral character;

(6) does not unlawfully use drugs;

(7) does not use alcohol to such a degree as to affect adversely his ability to perform competently the duties of a private investigator, has not been adjudicated an incapacitated person without being restored to legal competency, and who has no physical or mental impairment which would prevent him from competently performing the duties of a private investigator;

(8) has not been discharged from the military service with other than an honorable discharge;

(9) has at least three years’ experience:

(a) as a private investigator employed by a licensed private investigation agency;

(b) as an investigator for a law firm, a government agency, a private corporation, a nonprofit organization, or in a capacity that SLED determines has provided the requisite investigative experience; or

(c) as a sworn officer with a federal, state, county, or municipal law enforcement agency.

(F) A private investigator licensed under this chapter must, prior to commencement of services or investigation ordered by a client, secure a contract signed by the client and the private investigator, on a form approved by SLED, describing in detail the services to be provided, fees to be charged, and an understanding by both parties concerning delivery of the written report. A client may waive the right to a written contract by signing a form approved by SLED.

(G) A private investigator licensed under the provisions of this chapter must provide to each client, in compliance with the contract describing the investigation or other services, and within a reasonable time of the conclusion of contracted work, a written report accurately detailing hours worked, activities accounting for time charged, and results of an investigation. This requirement is satisfied if the private investigator maintains in his files a waiver of written report signed by a client.

(H) A private investigator licensed under the provisions of this chapter must maintain for a period of three years copies of all written service contracts and investigation reports.

(I) Evidence of criminal activity discovered by a licensed or registered private investigator must be immediately reported to the Chief of SLED.

(J) A licensee who is arrested must report the custodial arrest to SLED within seventy‑two hours of the arrest.

(K) Licensees must make business records available during normal business hours for inspection by the Chief of SLED or his designee.

(L) A person initially licensed as a private investigator before the effective date of this section, and who has maintained his license, is not required to meet the requirements contained in subsections (E)(1), (4), and (8).

HISTORY: 2000 Act No. 372, Section 1; 2002 Act No. 339, Sections 33, 34, 35.

Library References

Detectives and Security Guards 3.

Westlaw Topic No. 125.

Attorney General’s Opinions

The requirement of registration as private investigators of individuals selling their services as “computer forensics” experts would not be violative of any laws regarding interstate commerce even where most of these individuals would be associated with out‑of‑state companies. S.C. Op.Atty.Gen. (April 23, 2007) 2007 WL 1302770.

**SECTION 40‑18‑80.** Security officer registration certificates; application; qualifications of applicants; report of arrests; exemptions.

(A) Persons performing the duties of security officers must also obtain valid security officer registration certificates. Except as provided in Section 40‑18‑90, a licensee may not authorize a person to perform the duties of a security officer unless that person holds a valid security officer registration certificate or has applied for a security officer registration certificate and meets the requirements of Section 40‑18‑80(A)(2). A contract or proprietary security business licensee must verify that each security officer immediately upon hiring possesses a valid security officer registration certificate or has applied for one. The licensee may apply and pay the fee for the security officer registration certificate or may require the person to be employed as a security officer to apply and pay the fee. For purposes of the penalties provisions of this chapter, the licensee and the person to be employed as a security officer are both responsible for ensuring that the person performing duties of a security officer is registered or has made application to be registered.

(1) The application must be made on forms approved by SLED and, under oath, the applicant must furnish the applicant’s full name, age, date and place of birth, current residence address, residence addresses for the past ten years, employment for the past ten years, including names and addresses of employers, the applicant’s current occupation with the name and address of the current employer, the date and place of any arrests, any convictions for violations of federal or state laws, and any additional information as SLED requires. The application must be accompanied by one set of fingerprints of the applicant and one photograph of the applicant in color, full face and without head covering, taken within six months prior to the application and certified results of a SLED‑approved drug screen.

(2) Pending issuance of a registration certificate, a security officer may perform the duties of a security officer for up to thirty days after receipt by SLED of his application for registration; however, a person authorized to perform duties under this section has no arrest authority and must not carry a firearm until SLED issues a registration certificate. If SLED does not issue a registration certificate within thirty days of receipt of the application, a security officer must cease performing all security‑related activities.

(3) Upon being satisfied of the suitability of the applicant for employment and the applicant’s successful completion of an approved training program, SLED must register the employee and notify the licensee.

(4) SLED may issue or renew a registration certificate to a person who:

(a) is employed by a licensed security business;

(b) is at least eighteen years of age;

(c) is a citizen of the United States;

(d) has not been convicted of a felony or crime involving moral turpitude;

(e) is of good moral character;

(f) does not unlawfully use drugs;

(g) does not use alcohol to such a degree as to affect adversely his ability to perform competently the duties of a security company licensee, has not been adjudicated an incapacitated person without being restored to legal competency, and who has no physical or mental impairment which would prevent him from competently performing the duties of a security company licensee;

(h) has passed a SLED‑approved pre‑employment drug test;

(i) has not been discharged from the military service with other than honorable conditions; and

(j) has not been refused a license under this chapter for any reason other than minimum experience requirements and has not had a license under this chapter revoked or suspended.

(5) While on duty, a registered person must have his registration certificate in possession.

(6) A registered person who is arrested must report the arrest to SLED within seventy‑two hours of the arrest.

(7) The licensee must notify SLED within ten days of the termination or hiring of a registered security officer.

(8) Registration is valid for one year; however, the registered person may perform the duties of a security officer only while employed by a person licensed under this chapter to provide security services or while working in a self‑employed capacity provided that the officer is also a licensee.

(9) Application for renewal of registration must be made on a form approved by SLED.

(10) The initial and annual renewal registration fee for an employee registered in accordance with this section must be set by SLED by regulation.

(B) Within thirty days of the employment of a person who will perform the functions of a private investigator, a private investigator licensee, or the person to be employed as an investigator must make application to SLED for registration of the person to be employed as a private investigator. After thirty days, a licensee may not authorize a person to perform the duties of a private investigator unless that person holds a valid private investigator registration certificate or has applied for one. The licensee may apply and pay the fee for the private investigator registration certificate or may require the person to be employed as an investigator to apply and pay the fee. For purposes of the penalties provisions of this chapter, the licensee and the person to be employed as an investigator are both responsible for ensuring that the person performing duties of an investigator is registered or has made application to be registered.

(1) The application must be made under oath and must state the applicant’s full name, age, date and place of birth, current residence address, residence addresses for the past ten years, employment for the past ten years, including names and addresses of employers, the applicant’s current occupation with the name and address of the current employer, the date and place of any arrests, any convictions for violations of federal or state laws, and any additional information SLED may require. Each applicant must submit with the application one set of the applicant’s fingerprints on forms specified and furnished by SLED and one color photograph of the applicant’s full face, without head covering, taken within six months prior to the application.

(2) Pending issuance of a registration certificate, a person who does not possess a valid registration certificate must not perform the duties of a private investigator unless accompanied by a registered private investigator.

(3) SLED may issue a registration certificate to a person who:

(a) has a high school diploma or its equivalent;

(b) is at least eighteen years of age;

(c) is a citizen of the United States;

(d) has not been convicted of a felony or crime involving moral turpitude;

(e) is of good moral character;

(f) does not unlawfully use drugs;

(g) does not use alcohol to such a degree as to affect adversely his ability to perform competently the duties of a private investigator, has not been adjudicated an incapacitated person without being restored to legal competency, and who has no physical or mental impairment which would prevent him from competently performing the duties of a private investigator; and

(h) has not been discharged from the military service with other than honorable conditions.

(4) Upon receiving the application, SLED must, after investigation sufficient to verify the applicant’s eligibility, integrity, and suitable background, grant registration to the applicant and so notify the employer. The registration is for a period of one year. Applications for renewal must be on a form approved by SLED.

(5) While performing the functions of a private investigator, a registered person must have his valid registration certificate or a copy in his possession.

(6) A registration certificate expires upon the registered investigator’s termination of employment and is nontransferable to a different employer. The employer of a registered investigator must notify SLED within ten days of the termination of employment of any registered employee.

(7) Initial and renewal registration fees must be set by SLED by regulation.

(C) A person registered as a private investigator who is arrested must report the custodial arrest to SLED within seventy‑two hours of the arrest.

(D) A person is exempt from the registration and licensing requirements of this section when the employer is not a private investigation business and the employee is exclusively employed by that employer. The exemption from registration and licensing requirements applies only to work performed for the exclusive employer. If the person, during the period of his exclusive employment, performs or is available to perform investigative work for a different employer or more than one employer, the person must obtain a private investigation license or registration pursuant to this section.

HISTORY: 2000 Act No. 372, Section 1; 2018 Act No. 131 (S.297), Section 1, eff February 12, 2018.

Effect of Amendment

2018 Act No. 131, Section 1, in (A)(2), substituted “thirty days” for “twenty days” in two places.

Library References

Detectives and Security Guards 3.

Westlaw Topic No. 125.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Private Detectives and Private Security Businesses Section 2, Overview.

Notes of Decisions

In general 1

1. In general

Statutory provision that provided a person is exempt from the registration and licensing requirements for “this section” when the employer is not a private investigation business and the employee is exclusively employed by that employer did not subject death penalty mitigation specialist to any licensing requirement, regardless of whether statutory provision overrode any exemption specialist could claim under “exceptions from application of chapter” statute, and thus, specialist was not required to be licensed as a private investigator, where statutory provision included only registration provisions, and no licensing provisions. O’Shea v. South Carolina Law Enforcement Div. (S.C.App. 2010) 390 S.C. 118, 700 S.E.2d 255. Detectives And Security Guards 3

**SECTION 40‑18‑90.** Use of temporary employees for special events; notice of use; fees.

Notwithstanding any other provision of this chapter, a person who holds a security business license may use temporary employees for special events without registering the temporary employees if the temporary employment does not exceed ten days in a calendar year and the employees have no arrest authority and are not armed during the employment. The names, addresses, and birth dates of the temporary employees, along with the identity and date of the special event for which they are to be employed, must be furnished to SLED at least five days prior to the commencement of the special event, along with a fee of five dollars for each temporary employee.

HISTORY: 2000 Act No. 372, Section 1.

Library References

Detectives and Security Guards 3.

Westlaw Topic No. 125.

**SECTION 40‑18‑100.** Security Weapons Permits; Security Concealed Weapons Permits.

(A) SLED may grant a Security Weapons Permit to carry a particular type of firearm to a person who is at least twenty‑one years of age, is eligible to possess firearms, and is licensed or registered as a security officer. Application for the permit must be made on forms approved by SLED and the fee must be set by SLED regulation. An applicant must submit with the application one complete set of the applicant’s fingerprints on forms specified or furnished by SLED. Fingerprint cards submitted to SLED pursuant to this section must be used to facilitate a national criminal records check, as required by Section 40‑18‑30. The permit is for one year and application for renewal must be on a form approved by SLED. The permit renewal must specifically reauthorize the type of firearm to be used by the permittee.

(B) No person may be issued a Security Weapons Permit and no permit may be renewed until the applicant or registered person has presented to SLED proof of proficiency, as determined by SLED, in the use of the type of firearm issued or authorized by his employer.

(C) A person issued a Security Weapons Permit in accordance with this section may only carry a firearm in an open and fully‑exposed manner while in uniform and performing security duties or while in a vehicle enroute directly to or from a security post or place of assignment.

(D) SLED in its discretion may issue a Security Concealed Weapons Permit to a registered security officer to carry, whether concealed or not, a firearm about his person, even though he is not in uniform or on duty if SLED determines that the additional permit would enable the permittee to better perform his assigned duties. The authority conveyed by the permit may be restricted by SLED, and violation of these restrictions constitutes a violation of Section 40‑18‑130.

HISTORY: 2000 Act No. 372, Section 1; 2002 Act No. 339, Section 36.

CROSS REFERENCES

Offenses connected with weapons, see Sections 16‑23‑410 et seq.

Library References

Weapons 130, 133.

Westlaw Topic No. 406.

Attorney General’s Opinions

Corporate security guards may not do private security work on privately owned residential premises, away from corporate office or industrial site. (Decided under former 40‑17‑40) 1984 S.C. Op.Atty.Gen. 216, 1984 S.C. Op.Atty.Gen. No. 84‑92, (July 30, 1984) 1984 WL 159899.

Section 16‑23‑20(12) provides that persons granted pistol permits by the State Law Enforcement Division may carry such weapons about their persons in the circumstances and under the conditions set forth in their particular permit; section 40‑17‑120 contains the specific requirements which must be met for the issuance of a pistol permit by the State Law Enforcement Division. (Decided under former 40‑17‑120) 1978 S.C. Op.Atty.Gen. 14, 1978 S.C. Op.Atty.Gen. No. 78‑6, (Jan. 6, 1978) 1978 WL 22494.

Under 40‑17‑120(c), the Chief of the South Carolina Law Enforcement Division has the discretion to issue permits to allow firearms, whether concealed or not, to be carried by guards, whether or not on duty or in uniform. (Decided under former 40‑17‑120) 1977 S.C. Op.Atty.Gen. 179, 1977 S.C. Op.Atty.Gen. No. 77‑242, (August 4, 1977) 1977 WL 24584.

Under the South Carolina Private Detective and Private Security Agencies Act, the chief of the State Law Enforcement Division has the power and duty to promulgate all rules and regulations necessary to qualify corporations for licenses to conduct private security agencies. (Decided under former 40‑17‑120) 1977 S.C. Op.Atty.Gen. 116, 1977 S.C. Op.Atty.Gen. No. 77‑139, (May 5, 1977) 1977 WL 24481.

A licensed security guard may not carry a firearm into an establishment that he has not been hired to guard. (Decided under former 40‑17‑120) 1976 S.C. Op.Atty.Gen. 175, 1976 S.C. Op.Atty.Gen. No. 4348, (May 13, 1976) 1976 WL 22967.

**SECTION 40‑18‑110.** Authority and arrest powers of those licensed or registered under chapter.

A person who is registered or licensed under this chapter and who is hired or employed to provide security services on specific property is granted the authority and arrest power given to sheriff’s deputies. The security officer may arrest a person violating or charged with violating a criminal statute of this State but possesses the powers of arrest only on the property on which he is employed.

HISTORY: 2000 Act No. 372, Section 1.

Library References

Detectives and Security Guards 4.

Westlaw Topic No. 125.

LAW REVIEW AND JOURNAL COMMENTARIES

Annual Survey of South Carolina: Vicarious Liability. Paul Berlin Nix, Jr., 31 S.C. L. Rev. 141.

Attorney General’s Opinions

Discussion of whether a school district could employ a security officer other than a School Resource Officer to provide protection at schools. S.C. Op.Atty.Gen. (February 24, 2016) 2016 WL 963708.

Private security guards operating on the property they are licensed to protect may sign an arrest warrant and by doing so, will not invalidate such a warrant. S.C. Op.Atty.Gen. (February 5, 2016) 2016 WL 963703.

When a properly licensed private security guard is protecting public property, he or she does not possess the additional powers of arrest discussed in this section, but instead has only the authority of a private citizen. S.C. Op.Atty.Gen. (July 13, 2015) 2015 WL 4497733.

Discussion of enforcement of beach regulations of gated community by private security force. S.C. Op.Atty.Gen. (October 19, 2012) 2012 WL 5376055.

Discussion of the power of private security guards with respect to arrest warrants and actions made off the property the security guard is hired to protect. S.C. Op.Atty.Gen. (September 25, 2012) 2012 WL 4711427.

A private security guard would not have jurisdiction to direct traffic on a public roadway regardless of the distance from the original location which they are hired to protect. SC Op.Atty.Gen. (Feb. 1, 2010) 2010 WL 928439.

A security guard has the right to sign an arrest warrant on a suspect that has committed an offense on the property the guard is contracted to protect. S.C. Op.Atty.Gen. (August 10, 2009) 2009 WL 2844878.

Inasmuch as a county courthouse is public property, security for a public courthouse could not be contracted to a private security company. S.C. Op.Atty.Gen. (May 8, 2009) 2009 WL 1649235.

Sections 22‑5‑115 and 22‑5‑110 would not be applicable to licensed security guards inasmuch as these guards are recognized as having the law enforcement authority of a deputy sheriff on the property they are hired to protect. Therefore, they would not be considered as an affiant “who is not a law enforcement officer” for purposes of requiring the issuance of a courtesy summons instead of an arrest warrant. S.C. Op.Atty.Gen. (Dec. 16, 2008) 2008 WL 5476548.

A private security guard has arrest powers consistent with section 40‑18‑110. S.C. Op.Atty.Gen. (August 3, 2006) 2006 WL 2593075.

As to any offense where the language of the statute fails to sets forth any requirement that the offense be committed on a public highway or street, termination of consent to the applicability of the Uniform Act Regulating Traffic would not prevent the enforcement of such offense on a private road by a private security guard. S.C. Op.Atty.Gen. (Feb. 22, 2005) 2005 WL 469069.

A registered or licensed private security guard has the same arrest authority as a deputy sheriff to make an arrest but such authority is restricted to the property on which he or she is employed. S.C. Op.Atty.Gen. (Oct. 15, 2004) 2004 WL 2451473.

A security guard would have the authority to enforce a private sanction if the homeowner’s association agreement provided for such. However, the authority for such would strictly arise from the homeowners’ agreement or covenants and would not in any manner arise from the statutory authority vested pursuant to Section 40‑18‑110. S.C. Op.Atty.Gen. (Sept. 28, 2004) 2004 WL 2247468.

Enforcement of a private traffic policy is not a legitimate law enforcement purpose and a private security company security officer should not utilize the law enforcement authority granted by Section 40‑18‑110 in enforcing such a private policy. This would include the prohibition to using a blue light in order to issue a private citation. S.C. Op.Atty.Gen. (Sept. 28, 2004) 2004 WL 2247468.

A sheriff and his deputies have full law enforcement authority in any area of their county, including an area which is under the protection of a property licensed private security guard. (Decided under former 40‑17‑130) 1988 S.C. Op.Atty.Gen. 249, 1988 S.C. Op.Atty.Gen. No. 88‑90, (Dec. 21, 1988) 1988 WL 383573.

Absent express statutory authorization, private security guards, licensed by the State Law Enforcement Division, probably do not have the power to engage in hot pursuit of an offender away from the private property they are assigned to patrol or guard. (Decided under former 40‑17‑130) 1987 S.C. Op.Atty.Gen. 187, 1987 S.C. Op.Atty.Gen. No. 87‑73, (August 4, 1987) 1987 WL 245481.

Corporate security guards may not do private security work on privately owned residential premises, away from corporate office or industrial site. (Decided under former 40‑17‑40) 1984 S.C. Op.Atty.Gen. 216, 1984 S.C. Op.Atty.Gen. No. 84‑92, (July 30, 1984) 1984 WL 159899.

“Bounty hunters” must be licensed by SLED since they engage in private detective business. Individual who is hired as body guard on private contractual basis and not as employee would be considered engaging in private security business and would be required to be licensed by SLED. (Decided under former 40‑17‑20) 1984 S.C. Op.Atty.Gen. 214, 1984 S.C. Op.Atty.Gen. No. 84‑91, (July 27, 1984) 1984 WL 159898.

There appears to be no authority for individual licensed as private security guard to provide security for moving individual. Licensed private security guard is only authorized to provide security for property he is hired to protect or guard; away from such property he only has power of arrest of private citizen. (Decided under former 40‑17‑20) 1984 S.C. Op.Atty.Gen. 199, 1984 S.C. Op.Atty.Gen. No. 84‑80, (July 23, 1984) 1984 WL 159887.

In most circumstances, a private security guard must defer to a duly sworn deputy or police officer who, on official business, seeks admission to a housing complex and, in any event, must defer to that deputy or police officer in the face of legal process. A security guard who stops an officer who legally has grounds for admittance may, in certain circumstances, be subject to arrest for interference; a security guard with a contract for law enforcement services on certain property does not have the authority to investigate a crime on that private property, but may only affect arrests thereon; a private security guard, properly licensed may carry firearms in an open, fully disclosed manner while on duty and in uniform and while going to and from work; a private security guard may not operate a vehicle equipped with a siren and flashing blue or red lights. (Decided under former 40‑17‑130) 1980 S.C. Op.Atty.Gen. 47, 1980 S.C. Op.Atty.Gen. No. 80‑20, (Feb. 7, 1980) 1980 WL 81904.

Inasmuch as private security guards have the same power of arrest as Sheriffs, they would also be permitted to make arrests for traffic violations. It should be noted that of course they have this power of arrest only on property they are hired to patrol, guard or render such similar service. (Decided under former 40‑17‑130) 1977 S.C. Op.Atty.Gen. 175, 1977 S.C. Op.Atty.Gen. No. 77‑234, (July 25, 1977) 1977 WL 24576.

Under the South Carolina Private Detective and Private Security Agencies Act, the chief of the State Law Enforcement Division has the power and duty to promulgate all rules and regulations necessary to qualify corporations for licenses to conduct private security agencies. (Decided under former 40‑17‑110) 1977 S.C. Op.Atty.Gen. 116, 1977 S.C. Op.Atty.Gen. No. 77‑139, (May 5, 1977) 1977 WL 24481.

NOTES OF DECISIONS

In general 1

1. In general

Security guard who merely investigated and reported alleged criminal behavior was not acting pursuant to Section 40‑17‑130, and therefore could not be said to be acting under color of state law for purposes of maintaining action under 42 USCA Section 1983 (Decided under former Section 40‑17‑130). Chiles v. Crooks, 1989, 708 F.Supp. 127.

Employer’s actions taken under intensive regulation of South Carolina Private Detective and Private Security Agencies Act, Code 1962 Sections 56‑646.1 et seq. [Code 1976 Sections 40‑17‑10 et seq.], together with grant of police authority to approved applicants pursuant to Code 1962 Section 56‑646.13 [Code 1976 Section 40‑17‑130] reached necessary degree of state control and cooperation to be characterized properly as action taken “under color of state law” for purposes of 42 USCA Section 1983 (Decided under former Section 40‑17‑130). Thompson v. McCoy (D.C.S.C. 1976) 425 F.Supp. 407. Civil Rights 1326(11)

In a prosecution for resisting arrest, pursuant to Section 16‑9‑320, the arresting security guard was a law enforcement officer under the statute and thus the charge and arrest were valid where, under Section 40‑17‑130, a security guard licensed by the State Law Enforcement Division stands in the shoes of the sheriff for purposes of arrest while he is on the property he is hired to protect and is, therefore, clearly a “law enforcement officer” (Decided under former Section 40‑17‑130). State v. Brant (S.C. 1982) 278 S.C. 188, 293 S.E.2d 703.

**SECTION 40‑18‑120.** Development of guidelines for reciprocal agreements with other states.

SLED may adopt guidelines which permit the Chief of SLED to enter into reciprocal agreements with other states for the recognition of registration certificates or licenses issued to security officers or private investigators in the reciprocal states.

HISTORY: 2000 Act No. 372, Section 1.

Library References

Detectives and Security Guards 3.

Westlaw Topic No. 125.

**SECTION 40‑18‑130.** Denial, suspension, revocation, or refusal to renew license or registration; grounds; appeals; civil penalties.

(A) SLED may deny, suspend, revoke, or refuse to renew a license or registration under this chapter upon finding that the applicant, licensee, or registered individual has:

(1) made a false statement or given false information in connection with an application for or renewal or reinstatement of a license or registration;

(2) made a false statement or given false information in connection with activities conducted pursuant to a license or registration issued under this chapter;

(3) violated any provision of this chapter;

(4) violated a regulation promulgated by SLED;

(5) violated a permit restriction;

(6) failed to cooperate with law enforcement agencies in the prosecution of a person arrested by a security officer on property where the security officer was working;

(7) been convicted of or plead guilty to a crime since becoming licensed or registered, or been charged with a crime which would, upon conviction, disqualify the person for licensing or registration;

(8) impersonated, permitted, or aided and abetted a person to impersonate a law enforcement officer or employee of the United States, this State or its political subdivision, or a municipal corporation since becoming licensed or registered;

(9) engaged in or permitted an employee to engage in the private investigation business or private security business in violation of the provisions of this chapter;

(10) willfully failed to render a client service as described in a written contract;

(11) knowingly violated or advised, encouraged, or assisted the violation of a court order or injunction in the course of business;

(12) committed an act which is a ground for denial of an application for license or registration under this chapter;

(13) given legal advice or falsely represented himself as an attorney or the agent of an attorney;

(14) issued, delivered, or uttered a simulation of process which might have led a person to believe that the simulation was a summons, warrant, writ, court process, or a pleading in a court proceeding;

(15) willfully obstructed an official investigation by a law enforcement officer; or

(16) harassed or threatened a client or witness to prevent him from providing evidence in a legal proceeding or investigation.

(B) For violations of this chapter or any regulation pertaining to this chapter, SLED may, in its discretion, impose a civil monetary penalty upon the holder of a license or registration certificate in lieu of suspension or revocation. Security company and private investigator company licensees are subject to a monetary penalty of not less than twenty‑five dollars nor more than one thousand dollars for each offense. Registered security officers and registered private investigators are subject to a penalty of not less than twenty‑five dollars nor more than five hundred dollars for each offense. SLED may, in its discretion, accept an offer in compromise or suspend payment of a fine or a monetary penalty imposed under this section.

(C) The decision to deny, suspend, revoke, or refuse to renew a license or registration must be in writing, signed by the Chief of SLED or his designee, and must state the grounds upon which the decision is based. The licensee or registered individual may, within thirty days after receipt of the decision, appeal the decision to the Administrative Law Court.

(D) If a monetary penalty imposed pursuant to this section is not paid or a hearing is not requested within thirty days of receipt of SLED’s decision, SLED must revoke the license or registration certificate.

(E) A person must promptly surrender a license or registration certificate suspended or revoked under the provisions of this chapter.

(F) Pending suspension or revocation, no partner or person with a financial interest in the business may be issued a license for the business. No partner or person with a financial interest may be issued a license for the business for a period of one year after the date of suspension or revocation.

(G) A person whose license or registration certificate has been suspended or revoked is not eligible to receive a new license or registration for another location or business during the period of suspension or revocation.

(H) Notwithstanding any other provision of law, penalties paid pursuant to this section must be retained, expended, and carried forward by SLED to be applied to costs associated with regulation of the private security and private investigator businesses in this State.

HISTORY: 2000 Act No. 372, Section 1.

Library References

Detectives and Security Guards 3.

Westlaw Topic No. 125.

Attorney General’s Opinions

There appears to be no constitutional or statutory prohibition against a private security guard being registered with more than one company concurrently. The act of registration does not create an additional office within the dual office holding prohibition of the State Constitution nor does it require an additional license from SLED. (Decided under former 40‑17‑140) 1986 S.C. Op.Atty.Gen. 167, 1986 S.C. Op.Atty.Gen. No. 86‑56, (May 14, 1986) 1986 WL 192016.

Corporate security guards may not do private security work on privately owned residential premises, away from corporate office or industrial site. (Decided under former 40‑17‑40) 1984 S.C. Op.Atty.Gen. 216, 1984 S.C. Op.Atty.Gen. No. 84‑92, (July 30, 1984) 1984 WL 159899.

Section 40‑17‑140(A)(12) South Carolina Code (1976) protects against fraudulent and deceitful acts by licensees under the Private Detectives and Private Security Agencies Act; Section 40‑17‑140(A)(12) South Carolina Code (1976) does not prohibit the licensee from serving valid legal process prepared in the office of an attorney‑at‑law. (Decided under former 40‑17‑140) 1978 S.C. Op.Atty.Gen. 173, 1978 S.C. Op.Atty.Gen.No. 78‑140, (July 20, 1978) 1978 WL 22608.

Under the South Carolina Private Detective and Private Security Agencies Act, the chief of the State Law Enforcement Division has the power and duty to promulgate all rules and regulations necessary to qualify corporations for licenses to conduct private security agencies. (Decided under former 40‑17‑110) 1977 S.C. Op.Atty.Gen. 116, 1977 S.C. Op.Atty.Gen. No. 77‑139, (May 5, 1977) 1977 WL 24481.

**SECTION 40‑18‑140.** Exceptions from application of chapter.

This chapter does not apply to:

(1) an officer or employee of the federal government, or of this State or a political subdivision of either, or of a municipal corporation while the employee or officer is engaged in the performance of official duties;

(2) a person or firm engaged as a consumer reporting agency, as defined by the Federal Fair Credit Reporting Act, when gathering, processing, or reporting information directly related to a credit rating or credit status;

(3) an attorney‑at‑law while in the performance of his duties; or

(4) a person, as defined by Section 38‑1‑20(29), licensed or authorized by the Director of Insurance to transact business within the State, when performing duties directly related to that license or authorization.

HISTORY: 2000 Act No. 372, Section 1.

CROSS REFERENCES

For provision regarding disposition of revenue received by State Law Enforcement Division from fees or licenses related to enforcement of this provision, see Section 23‑3‑50.

Federal Aspects

Fair Credit Reporting Act (FCRA), Pub.L. 90‑321, May 29, 1968, Title VI, as added Pub.L. 91‑508, Title VI, Section 601, Oct. 26, 1970, 84 Stat. 1128, see 15 U.S.C.A. Section 1681 et seq.

Library References

Detectives and Security Guards 3.

Westlaw Topic No. 125.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Private Detectives and Private Security Businesses Section 2, Overview.

Attorney General’s Opinions

Law enforcement officers may “moonlight” in association with their duties as law enforcement officers in their regular jurisdiction. However, officer working outside his regular jurisdiction should not identify himself as police officer or display his badge and would possess only that law enforcement authority given to private citizens. (Decided under former 40‑17‑150) 1993 S.C. Op.Atty.Gen. 83, 1993 S.C. Op.Atty.Gen. No. 93‑35, (June 2, 1993) 1993 WL 720123.

Under the South Carolina Private Detective and Private Security Agencies Act, the chief of the State Law Enforcement Division has the power and duty to promulgate all rules and regulations necessary to qualify corporations for licenses to conduct private security agencies. (Decided under former 40‑17‑110) 1977 S.C. Op.Atty.Gen. 116, 1977 S.C. Op.Atty.Gen. No. 77‑139, (May 5, 1977) 1977 WL 24481.

**SECTION 40‑18‑150.** Violation of chapter; penalty.

A person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than one year, or both.

HISTORY: 2000 Act No. 372, Section 1.

Library References

Detectives and Security Guards 6.

Westlaw Topic No. 125.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Private Detectives and Private Security Businesses Section 2, Overview.

S.C. Jur. Private Detectives and Private Security Businesses Section 17, Penalties.