

CHAPTER 97-248

House Bill No. 1591

An act relating to private investigative, private security, and repossession services; amending s. 493.6101, F.S.; redefining the term “private investigation” and defining the term “felony”; amending s. 493.6102, F.S.; revising language with respect to inapplicability of ch. 493, F.S., to certain local, state, and federal officers; providing for inapplicability of the chapter to certain persons and firms conducting genealogical research; amending s. 493.6105, F.S.; revising firearms training requirements for applicants for a Class “G” license; amending s. 493.6108, F.S.; authorizing physicians licensed under similar law of other states to certify the physical fitness of Class “G” applicants; authorizing rather than requiring the department to deny a Class “G” license to certain persons; amending s. 493.6115, F.S.; revising a provision relating to the firearms certain licensees may carry; providing that certain licensees may carry a 9 millimeter semiautomatic pistol while performing security-related services; providing training criteria for Class “G” applicants; amending s. 493.6118, F.S.; revising language with respect to grounds for disciplinary action relating to criminal convictions; amending s. 493.6121, F.S.; providing for compliance with certain subpoenas; amending s. 493.6201, F.S.; providing that certain licensees may perform bodyguard services; amending s. 493.6301, F.S.; providing that certain licensees may be designated as managers of certain agencies or branch offices; amending s. 493.6305, F.S.; requiring return of uniforms and certain other equipment by licensees upon resignation or termination; amending s. 493.6404, F.S.; providing that United States Postal Service proof of mailing is sufficient for notification to debtors of the intent to dispose of their property; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (17) of section 493.6101, Florida Statutes, 1996 Supplement, is amended, and subsection (23) is added to said section, to read:

493.6101 Definitions.—

(17) “Private investigation” means ~~bodyguard services or~~ the investigation by a person or persons for the purpose of obtaining information with reference to any of the following matters:

(a) Crime or wrongs done or threatened against the United States or any state or territory of the United States, when operating under express written authority of the governmental official responsible for authorizing such investigation.

(b) The identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons.

- (c) The credibility of witnesses or other persons.
- (d) The whereabouts of missing persons, owners of abandoned property or escheated property, or heirs to estates.
- (e) The location or recovery of lost or stolen property.
- (f) The causes and origin of, or responsibility for, fires, libels, slanders, losses, accidents, damage, or injuries to real or personal property.
- (g) The business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the preparation therefor.

(23) "Felony" means a criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or imprisonment in the state penitentiary; a crime in any other state or a crime against the United States which is designated as a felony; or an offense in any other state, territory, or country punishable by imprisonment for a term exceeding 1 year.

Section 2. Subsection (1) of section 493.6102, Florida Statutes, 1996 Supplement, is amended, and subsection (14) is added to said section, to read:

493.6102 Inapplicability of parts I through IV of this chapter.—This chapter shall not apply to:

(1) Any individual who is an "officer" as defined in s. 943.10(14) or is a law enforcement officer of the United States Government, while such local, state, or federal officer is engaged in his official duties or when performing off-duty security activities, ~~not including repossession services~~, approved by his superiors.

(14) Any person or firm that solely and exclusively conducts genealogical research, or otherwise traces lineage or ancestry, by primarily utilizing public records and historical information and databases.

Section 3. Subsection (6) of section 493.6105, Florida Statutes, is amended to read:

493.6105 Initial application for license.—

(6) In addition to the requirements outlined in subsection (3), an applicant for a Class "G" license shall satisfy minimum training criteria for firearms established by rule of the department, which training criteria shall include, but is not limited to, ~~28~~ 24 hours of range and classroom training taught and administered by a Class "K" licensee firearms instructor who has been licensed by the department; however, no more than 8 hours of such training shall consist of range training. ~~The department shall, effective October 1, 1992, increase the minimum number of hours of firearms training required for Class "G" licensure by 4 hours, and shall subsequently increase the training requirement by 4 hours every 2 years, up to a maximum requirement of 48 hours.~~ If the applicant can show proof that he is an active law enforcement officer currently certified under the Criminal Justice

Standards and Training Commission or has completed the training required for that certification within the last 12 months, or if the applicant submits one of the certificates specified in paragraph (7)(a), the department may waive the foregoing firearms training requirement ~~referenced above~~.

Section 4. Subsections (2) and (3) of section 493.6108, Florida Statutes, 1996 Supplement, are amended to read:

493.6108 Investigation of applicants by Department of State.—

(2) In addition to subsection (1), the department shall make an investigation of the general physical fitness of the Class “G” applicant to bear a weapon or firearm. Determination of physical fitness shall be certified by a physician currently licensed pursuant to chapter 458, ~~or chapter 459, or any similar law of another state~~ or authorized to act as a licensed physician by a federal agency or department. Such certification shall be submitted on a form provided by the department.

(3) The department shall also investigate the mental history and current mental and emotional fitness of any Class “G” applicant, and may ~~shall~~ deny a Class “G” license to anyone who has a history of mental illness or drug or alcohol abuse.

Section 5. Subsections (6) and (8) of section 493.6115, Florida Statutes, are amended to read:

493.6115 Weapons and firearms.—

(6) Unless otherwise approved by the department, the only firearm a Class “CC,” Class “D,” Class “M,” or Class “MB” licensee who has been issued a Class “G” license may carry is a .38 or .357 caliber revolver with factory .38 caliber ammunition only. In addition to any other firearm approved by the department, a Class “C” ~~or and~~ Class “MA” licensee who has been issued a Class “G” license may carry a .38 caliber revolver; or a .380 caliber or 9 millimeter semiautomatic pistol; or a .357 caliber revolver with .38 caliber ammunition only. A Class “C” licensee who also holds a Class “D” license, and who has been issued a Class “G” license, may carry a 9 millimeter semiautomatic pistol while performing security-related services. No licensee may carry more than two firearms upon his person when performing his duties. A licensee may only carry a firearm of the specific type and caliber with which he is qualified pursuant to the firearms training referenced in subsection (8) or s. 493.6113(3)(b).

(8) A Class “G” applicant licensee must satisfy the minimum training criteria as set forth in s. 493.6105(6) and as established by rule of the department, ~~which criteria must include, but need not be limited to, 28 hours of range and classroom training taught and administered by a Class “K” licensee; however, no more than 8 hours of such training shall consist of range training. If the applicant can show proof that he is an active law enforcement officer currently certified under the Criminal Justice Standards and Training Commission, or if the applicant submits one of the certifications specified under s. 493.6105(7)(a), the department may waive the foregoing firearms training requirements.~~

Section 6. Paragraph (c) of subsection (1) and subsection (4) of section 493.6118, Florida Statutes, are amended to read:

493.6118 Grounds for disciplinary action.—

(1) The following constitute grounds for which disciplinary action specified in subsection (2) may be taken by the department against any licensee, agency, or applicant regulated by this chapter, or any unlicensed person engaged in activities regulated under this chapter.

(c) Being found guilty of or entering a plea of guilty or nolo contendere to, regardless of adjudication, or being convicted ~~Conviction~~ of a crime that directly relates to the business for which the license is held or sought, ~~regardless of whether imposition of sentence was suspended. A conviction based on a plea of nolo contendere shall create~~ creates a rebuttable presumption of guilt to the underlying criminal charges, and the department shall allow the individual being disciplined or denied an application for a license to present any mitigating evidence relevant to the reason for, and the circumstances surrounding, his plea.

(4) Notwithstanding the provisions of paragraph (1)(c) and subsection (2);

(a) ~~If the applicant or licensee has been convicted of a felony in any state or of a crime against the United States which is designated as a felony, or convicted of an offense in any other state, territory, or country punishable by imprisonment for a term exceeding 1 year, the department shall deny the application or revoke the license unless and until civil rights have been restored by the State of Florida or by a state acceptable to Florida and a period of 10 years has expired since final release from supervision.~~

(b) ~~Additionally,~~ A Class “G” applicant who has been ~~so~~ convicted of a felony shall also have had the specific right to possess, carry, or use a firearm restored by the State of Florida.

(c) If the applicant or licensee has been found guilty of, entered a plea of guilty to, or entered a plea of nolo contendere to a felony and adjudication of guilt is withheld, the department shall deny the application or revoke the license until a period of 3 years has expired since final release from supervision.

(d) ~~A conviction based on a plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges, and the department shall allow the person being disciplined or denied an application for a license to present any mitigating evidence relevant to the reason for, and the circumstances surrounding, his plea. The department shall deny the application of any applicant who is currently serving a suspended sentence on a felony charge, or is on probation on a felony charge.~~

(e) The grounds for discipline or denial cited in this subsection shall be applied to any disqualifying criminal history regardless of the date of commission of the underlying criminal charge. Such provisions ~~provision~~ shall be applied retroactively and prospectively.

Section 7. Subsection (4) of section 493.6121, Florida Statutes, 1996 Supplement, is amended to read:

493.6121 Enforcement; investigation.—

(4) In the exercise of its enforcement responsibility and in the conduct of any investigation authorized by this chapter, the department shall have the power to subpoena and bring before it any person in the state, require the production of any papers it deems necessary, administer oaths, and take depositions of any persons so subpoenaed. If any person fails or refuses to comply with a proper subpoena Failure or refusal of any person properly subpoenaed to be examined or fails or refuses to answer any question about his qualifications or the business methods or business practices under investigation or refuses to refuse access to agency records in accordance with s. 493.6119, the circuit court of Leon County or of the county wherein such person resides may issue an order on the application of the department requiring such person to comply with the subpoena and to testify. Such failure or refusal shall also be grounds for revocation, suspension, or other disciplinary action. The testimony of witnesses in any such proceeding shall be under oath before the department or its agents.

Section 8. Subsection (8) is added to section 493.6201, Florida Statutes, to read:

493.6201 Classes of licenses.—

(8) A Class “C” or Class “CC” licensee may perform bodyguard services without obtaining a Class “D” license.

Section 9. Paragraph (a) of subsection (3) and subsection (5) of section 493.6301, Florida Statutes, 1996 Supplement, are amended to read:

493.6301 Classes of licenses.—

(3) Any individual who performs the services of a manager for a:

(a) Class “B” security agency or Class “BB” branch office shall have a Class “MB” license. A Class “M” licensee, or a Class “D” licensee who has been so licensed for a minimum of 2 years, may be designated as the manager, in which case the Class “MB” license is not required.

(5) Any individual who performs the services of a security officer shall have a Class “D” license. However, a Class “C” licensee or a Class “CC” licensee may perform bodyguard services without a Class “D” license.

Section 10. Subsection (1) of section 493.6305, Florida Statutes, is amended to read:

493.6305 Uniforms, required wear; exceptions.—

(1) Class “D” licensees shall perform duties regulated under this chapter in a uniform which bears at least one patch or emblem visible at all times clearly identifying the employing agency. Upon resignation or termination

of employment, a Class "D" licensee shall immediately return to the employer any uniform and any other equipment issued to him by the employer.

Section 11. Subsection (2) of section 493.6404, Florida Statutes, is amended to read:

493.6404 Property inventory; vehicle license identification numbers.—

(2) Within 5 working days after the date of a repossession, the Class "E" or Class "EE" licensee shall give written notification to the debtor of the whereabouts of personal effects or other property inventoried pursuant to this section. At least 45 days prior to disposing of such personal effects or other property, the Class "E" or Class "EE" licensee shall, by United States Postal Service proof of mailing or certified mail, notify the debtor of the intent to dispose of said property. Should the debtor, or his lawful designee, appear to retrieve the personal property, prior to the date on which the Class "E" or Class "EE" licensee is allowed to dispose of the property, the licensee shall surrender the personal property to that individual upon payment of any reasonably incurred expenses for inventory and storage. If personal property is not claimed within 45 days of the notice of intent to dispose, the licensee may dispose of the personal property at his discretion, except that illegal items or contraband shall be surrendered to a law enforcement agency, and the licensee shall retain a receipt or other proof of surrender as part of the inventory and disposal records he maintains.

Section 12. This act shall take effect October 1, 1997.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.