



Ohio Legislative Service Commission

Bill Analysis

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Sens. LaRose, Thomas

BILL SUMMARY

- Modifies the licensing process for private investigators and security guards (PISG).
- Expands the type of individuals associated with a corporation, partnership, or association applying for a PISG license that must be listed on the application.
- Requires that rules addressing allowing unrelated experience to meet the PISG licensing experience requirement to specifically address college degrees and military experience.
- Lengthens the duration of a PISG license from one year to two.
- Decreases the PISG initial license fee cap, from \$375 annually (or \$750 biennially) to \$650 biennially.
- Specifies that all but \$100 of a license fee is to be refunded to an applicant if a license is denied, as opposed to the entire license fee.
- Requires only qualifying agents to submit to a background check in relation to license application, as opposed to qualifying agents and officers in a related corporation.
- Expands the grounds for PISG license denial.
- Authorizes the Department of Public Safety (DPS) to waive the examination requirement, but not the associated fee, for current PISG license holders and equivalent license holders in another state.
- Revises the list of persons exempt from PISG licensure requirements.
- Revises PISG license renewal procedures.

- Amends the law in relation to certain administrative actions that can be taken with regard to licenses, such as the transfer of a license from one business to another.
- Expands the grounds and sanctions for license disciplinary actions, and repeals several overlapping criminal prohibitions.
- Imposes a cap of \$25,000 on the total amount that DPS can impose in relation to a PISG license violation.
- Authorizes sanctions on registration examination violations.
- Authorizes DPS to summarily suspend a PISG license if clear evidence exists that the license holder presents a threat of serious harm to the public; creates an appeal process.
- Imposes a registration system, as opposed to an identification system, for employees of licensees, expands the registration criteria, and extends the duration of the registration from one to two years.
- Requires registrants to pass an examination.
- Amends the firearm certification and training requirements.
- Prohibits licensees from publishing documents that use certain misleading terms.
- Revises DPS investigation criteria.
- Permits nonresidents licensed in another state to temporarily work in Ohio.
- Changes the eligibility criteria for appointment to the Private Investigation and Security Services Commission.

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CONTENT AND OPERATION

Overview

The bill reworks the general licensing and registration requirements for individuals that provide private investigation and security guard (PISG) services. These requirements apply to private investigator services (class B licenses), security guard services (class C licenses), or both (class A licenses). These licensees are overseen by the Department of Public Safety (DPS) with input from the Private Investigation and

Security Services Commission. The bill's provisions take effect one year after its enactment.¹

Licensing

The bulk of the bill pertains to PISG licensing. The bill enacts a revised licensing process and makes changes to several related requirements. The new process adopted by the bill is largely similar to the existing process but is reorganized. The analysis omits provisions that have simply been moved to a new location.

PISG application for licensure

Required information

The bill specifies the information that is required to be included in an application for a class A, B, or C license, which largely tracks current law. All of the following information is required to be included in such a license application:

- The name, address, date and place of birth, and citizenship of each person having a legal or beneficial interest in the ownership of the business and of each person who will act as a qualifying agent for the business (similar to current law, but expanded to include more individuals than the applicant);
- If any such person is a corporation or limited liability company: (1) the names of each office of the person and the names of the managing members of the person or, if the management of the person is not reserved to its managing members, the managers of the person, and (2) the names of each person owning or controlling 5% or more of the capital stock (corporation) or either the voting interests or membership interests (limited liability company) (similar to current law, but expanded to include more individuals than the applicant).
- If the person is a partnership or association, the names of each partner or member of the association (new requirement);
- The address of each of the applicant's places of business (similar to current law);
- A brief physical description of each individual named in the application as a qualifying agent (similar to current law);

¹ Section 3.

- Any other information DPS may require as established in rules adopted by the Director (similar to current law).²

The bill eliminates current law requirements that the application include the applicant's residences for the preceding ten years, current employment, employment for the preceding seven years, and experience qualifications.

The bill also eliminates the following required information from corporate applications:

- The state in which the corporation is incorporated and the date of incorporation;
- The states in which the corporation is authorized to transact business;
- The birth date, citizenship, physical description, current residence, residences for the preceding ten years, current employment, employment for the preceding seven years, and experience qualifications of the officer or qualifying agent filing the application for the corporation.³

Application: supplemental materials and eligibility requirements

Under the bill, a person submitting an application must also submit all of the following along with the application:

- One recent full-face photograph of each individual specified in the application as a qualifying agent (similar to current law);
- References from at least five reputable citizens for each individual named in the application as a qualifying agent, each of whom is to have known the named individual for at least five years preceding the application, and none of whom are connected with any of the named individuals by blood or marriage (similar to current law);
- Verification that, depending on the class of license applied for, each individual named in the application as a qualifying agent has, for a continuous two-year period, been engaged in any of the following: (1) the business of private investigation, the business of security services, or both, (2) investigatory or security services work for a law enforcement or other public agency, or (3) the practice of law (similar to current law).

² R.C. 4749.03(A).

³ R.C. 4749.03(B).

- A license fee in the amount DPS determines, not to exceed \$650 (for two years, decreased from \$375 per year (\$750 for two years) under current law);
- An examination fee of \$25 for each individual named in the application as a qualifying agent (similar to current law).
- Evidence of comprehensive, general liability insurance coverage, or other equivalent guarantee approved by DPS in such form and in principal amounts satisfactory to DPS. The general liability coverage or another equivalent guarantee must be at least \$100,000 for each person and \$300,000 for each occurrence for bodily injury liability, and for property damage liability, at least \$100,000. (Similar to current law.)

Under the bill, instead of submitting evidence of relevant experience, an applicant may submit evidence of equivalent relevant experience for any individual named in the application as a qualifying agent, in accordance within rules adopted by DPS. These rules must address (1) the use of military programs of training, military primary specialties, and lengths of service to meet the experience requirements, and (2) the use of a college degree in lieu of one of the two years of required experience.

Under the bill, each person who has a legal or beneficial interest in the ownership of the business seeking licensure and each person who will act as a qualifying agent must also submit an affidavit, on a form prescribed by DPS, stating all of the following:

- Whether the applicant has previously applied for a class A, B, or C license or registration and the result of the application;
- Whether the applicant has ever been the holder of any such license or registration that was revoked or suspended;
- Whether the applicant has been convicted of or pleaded guilty to a crime;
- Whether the applicant is currently or has ever previously held a license or registration to engage in the business of private investigation, security services, or both in another state or foreign jurisdiction, and, if so, the name of the state or foreign jurisdiction and the status of the license or registration.⁴

⁴ R.C. 4749.03(B).

Criminal records check

Under the bill, each individual listed in the application as a qualifying agent must submit one complete set of fingerprints directly to the Superintendent of the Bureau of Criminal Identification and Investigation for the purpose of conducting a criminal records check.⁵ Under current law, the criminal records check provisions apply to each individual applying for a license and each individual specified by a corporation as an officer or qualifying agent in an application.

License denial

Under the bill, DPS is to deny a license to any person applying for a license if DPS finds any of the following with regard to the applicant:

- The applicant does not have a good reputation for integrity (similar to current law). In determining whether the applicant has a good reputation for integrity, DPS may consider whether any of the persons named in an application meet any of the following (under current law, several of these criteria are independent criteria):
 - Has ever been convicted of or pleaded guilty to any crime of moral turpitude (similar to current law);
 - Has been convicted of a disqualifying offense within three years of the date of submitting an application (similar to current law);
 - Has been subject to discipline within five years of applying for violations of PISG Law or its accompanying rules or a violation of any former or existing law of another state that is or was substantially equivalent to any of the violations set forth in PISG Law (new);
 - Has voluntarily surrendered a license issued in accordance with PISG Law within five years of applying or voluntarily surrendered a substantially equivalent license issued under former or existing law of another state (new);
 - Has had a license issued in accordance with PISG Law previously revoked or suspended or has had a substantially equivalent license issued under former or existing law of another state revoked or suspended (new).

⁵ R.C. 4749.03(C).

- Any person named as a qualifying agent on the application meets any of the following: (1) has been convicted of or pleaded guilty to any crime of moral turpitude, (2) has been convicted of or pleaded guilty to a disqualifying offense within three years of the date of submitting an application (similar to current law), (3) has been adjudicated incompetent for the purpose of holding the license without having been restored to legal capacity for that purpose, or (4) has failed to pass the PISG examination (similar to current law).
- The person has failed to submit all licensing documentation or fees (similar to current law).⁶

If DPS denies a person a license, DPS must refund all but \$100 of the license fee, as opposed to all of the license fee under current law.⁷

The bill continues to allow DPS some discretion when considering certain offenses or violations but nominally (not substantively) changes the cutoff date to which that discretion applies. This discretion only applies to offenses for which DPS, before September 1, 2012 (September 28, 2012, under current law, but this change appears to be without substantive effect) was required or authorized to deny an application. If a qualifying agent for an applicant has been convicted of or pleaded guilty to a misdemeanor that is not a crime of moral turpitude or a disqualifying offense less than one year prior to applying, DPS may use its discretion in granting or denying the applicant a license. If a qualifying agent for an applicant for a license has been convicted of or pleaded guilty to a felony that is not a crime of moral turpitude or a disqualifying offense less than three years before applying, DPS may use its discretion in granting or denying the applicant a license.⁸

Examination

Similar to current law, if DPS determines that an applicant meets the application requirements and will not be denied an application, DPS is to notify the applicant that the applicant's qualifying agents qualify to take the required PISG examination and of the time and place for the examination.

Under continuing law DPS may waive the examination requirement, but, under the bill, not the examination fee specified as permitted under current law, of any

⁶ R.C. 4749.031(A).

⁷ R.C. 4749.031(A).

⁸ R.C. 4749.031(C).

applicant who currently holds a class A, B, or C license in Ohio or an applicant who is licensed as a private investigator provider, security provider, or both, in another state. Under current law, an individually licensed person may qualify without reexamination in the same capacity as the license for a corporation.⁹

Exemption from licensure requirement

Both the bill and current law specify which individuals are exempt from PISG Law. These individuals, when acting in their official or professional capacity, are not required to be licensed under the PISG Law. The bill clarifies and expands this exemption.

The bill specifies that public officers and employees of the United States, Ohio, another state, or any political subdivision are exempt, while current law refers only to public officers and employees engaging in official duties. The bill also expressly exempts law enforcement officers.

The bill specifies that any person holding a professional license or certification under Ohio law is exempt, incorporating several specific references in current law.

Continuing law exempts an employee engaged in investigating matters pertinent to the employee's employer or protecting that employer's property. The bill also includes investigating matters pertinent to the employee's business invitees or tenants.

Persons engaged solely in the remote monitoring of audio, video, and other event or alarm signals (and then dispatching public safety or security personnel) are also excluded.¹⁰

Issuing of license

Under continuing law, if DPS finds that the applicant meets the PISG Law requirements, DPS is to issue the applicant a class A, B, or C license.

The license is to state all of the following:

- The licensee's name;
- The classification of the license;
- The location of the licensee's principal place of business;

⁹ R.C. 4749.032 and 4749.12 (repealed).

¹⁰ R.C. 4749.01(L).

- The license's expiration date;
- The names of the qualifying agents who have passed the examination or for whom the examination was waived.

In addition to the license, under the bill DPS must also issue a registration card to each qualifying agent who has passed the PISG examination or for whom the examination was waived. Under current law, DPS must also issue an "identification card" to the officer or qualifying agent of a licensed corporation.

The registration card issued in accordance with these requirements is to be the same registration card issued for registered employees, described below under "**Employee registration**," except that the registration card is to specify that the individual is a qualifying agent.¹¹

All licenses issued on or after the bill's effective date expire on March 1 of the second year following the date issued, and on March 1 every two years thereafter. Renewals must be conducted in accordance with the procedure described below under "**License renewal**." Under current law, licenses expire annually on March 1.

Licenses issued before the bill's delayed effective date with a business name starting with A through L expire on March 1 of the year indicated on the license. Such a license may be renewed for one year if all other related requirements are met and with payment of a renewal fee determined by DPS, which is not to exceed \$275. After this initial renewal, renewals will occur every two years according to the process described below under "**License renewal**."

Licenses issued before the bill's delayed effective date with a business name starting with the letters M through Z expire on March 1 in the year indicated on the license. These licenses must be renewed as described below under "**License renewal**."¹²

License renewal

The bill

To renew a PISG license, a license holder must complete an application for renewal and pay a biennial renewal fee determined by DPS, which must not exceed

¹¹ R.C. 4749.033(A).

¹² R.C. 4749.03(C) and Section 3. The bill's provisions are delayed for one year after the bill's enactment date.

\$550 (twice the current law annual fee cap of \$275). Both the application and the fee must be submitted to DPS before March 1 of the year in which the license expires.

As under continuing law, a PISG licensee may renew a current license without reexamination but must continue to meet the applicable licensure requirements. The bill revises the renewal requirements to additionally require the licensee to provide all of the following:

- Evidence of comprehensive, general liability insurance coverage;
- Certificate of good standing from the Secretary of State;
- A full force and effect certificate from the Secretary of State, if applicable;
- The renewal fee;
- A \$5 fee for each qualifying agent listed on the license.

Applications for license renewal and the accompanying fee submitted on or after March 1, but before April 1, in the year the license expires must be accepted by DPS if accompanied by the payment of a late fee of \$150 that is in addition to the renewal fee.

If an application for renewal is not submitted or is submitted on or after April 1 in the year it expires, the licensee is required to submit an application for a new license.

A business that does not submit an application for renewal before April 1 in the year its license expires is prohibited from engaging in the business of private investigation, security officer services, or both, and is subject to sanctions for operating an unlicensed business if it continues to operate.¹³

Current law

Licenses expire on March 1 following the date of initial issue, and on March 1 of each year thereafter. Annual renewals are to be according to Standard License Renewal Procedure Law, upon payment of an annual renewal fee the DPS Director determines, not to exceed \$275. Under current law, no license is to be renewed unless the licensee provides evidence of workers' compensation risk coverage and unemployment compensation insurance coverage, other than for clerical employees and except for sole proprietors who are from the requirements of the Workers' Compensation Law and

¹³ R.C. 4749.033(D).

Unemployment Compensation Law, respectively, as well as the licensee's state tax identification number.¹⁴

Administrative acts related to licenses

Similar to current law, under the bill a qualifying agent may qualify more than one business (corporation under current law) for licensure, provided that the qualifying agent is actively engaged in each business.¹⁵

Similar to current law, a business may transfer the business's (corporation's under current law) class A, B, or C license to another business upon completion of all of the following:

- Submission of written notification to DPS;
- Completion of an application for licensure by the transferee;
- Surrender of the transferring business's current license;
- Payment of a \$25 fee.

Any officer or qualifying agent who qualified a business for licensure under PISG Law may obtain a similar license in the individual's own name without reexamination upon completion of all of the following:

- Written notification to DPS;
- Completion of an application similar to that of an individual seeking class A, B, or C licensure;
- Payment of a \$25 fee.

As under current law, a request by an officer or qualifying agent for an individual license does not affect a business's (corporation's) license unless the individual is the only individual that qualified the business for licensure or all the other individuals who qualified the business for licensure submit such requests.

Similar to current law, if a business is, for any reason, no longer associated with an individual who qualified it for licensure under PISG Law, a representative of the business is to notify DPS by certified mail, return receipt requested, within ten days

¹⁴ R.C. 4749.03(D) (repealed).

¹⁵ R.C. 4749.034(A).

after the association terminates. If notification is so given, and the individual was the only individual that qualified the business for licensure, and the business submits the name of another individual to qualify the business for the license within 30 days after the association terminates, the business may continue to operate in the business of private investigation, the business of security services, or both businesses in Ohio under that license for 90 days after the association terminates. If the individual whose name is submitted satisfies the application requirements, DPS must issue a new license to the business within 90 days after receiving the application (instead of within 90 days after the association terminates, as under current law). The names of more than one individual may be submitted.¹⁶

Disciplinary actions

Under continuing law, DPS may take action against a person who has applied for or holds a class A, B, or C license or registration card. The bill expands the possible sanctions and consolidates the grounds. Actions taken against a person must be taken in accordance with the Administrative Procedure Act. Under the bill, DPS is to adopt a rule in accordance with PISG Law to provide guidelines for proposed disciplinary sanctions on applicants, licensees, and registrants for violations of PISG Law.¹⁷

Grounds

Under the bill, DPS may impose sanctions against an applicant, licensee, or registrant for any of the following reasons:

- Any violation of PISG Law or the rules adopted pursuant to PISG Law or for allowing another to violate PISG Law or rules (current law);
- Conviction of or plea of guilty to any crime of moral turpitude in which the defendant is a registrant, licensee, qualifying agent, or any other person listed on the license application (current law);
- A conviction of or plea of guilty to a disqualifying offense within the last three years (current law), where the defendant is a registrant, licensee, qualifying agent, or any other person listed on the license application (new);

¹⁶ R.C. 4749.034(B), (C), and (D).

¹⁷ R.C. 4749.04(A) and (G).

- Knowingly making a false report with respect to any matter with which the licensee or registrant is employed (current law) or knowingly falsifying any business records (new);
- Testifying falsely under oath, or suborning perjury in any judicial proceeding (current law);
- Divulging any information acquired from or for a client to persons other than the client or the client's authorized agent without express authorization to do so or unless required by law (current law);
- Knowingly accepting employment that includes obtaining information intended for illegal purposes (current law).

Current law contains two grounds that appear to be included within the general grounds of "violating a PISG Law or rule": (1) conviction of an offense that occurred after the individual was initially licensed, or after the most recent renewal, and (2) failure to satisfy the PISG licensing requirements.¹⁸

Sanctions

The bill

Under the bill, DPS may take any of the following actions against an applicant, licensee, or registrant for a violation described above under "**Grounds**" (some of which are similar to current law):

- Refuse to issue, renew, restore, or reinstate a license or registration;
- Reprimand or censure a licensee or registrant in writing;
- Place limits, restrictions, or probationary conditions on a licensee's operations;
- Other than the conviction of a crime of moral turpitude or a disqualifying offense described above, impose on a licensee or registrant a civil penalty of not more than \$100 for each day of violation, up to \$25,000;
- Suspend a license or registration;
- Revoke a license or registration;

¹⁸ R.C. 4749.04(A).

- Permanently revoke a license or registration.

PISG Law, as enacted by the bill, does not require DPS to act on minor paperwork violations of PISG Law or the rules adopted under it, if the violations are committed by licensees and DPS determines that the public interest is adequately served by issuing a notice or warning to the alleged offender.¹⁹

The bill specifies that it is not to be construed as prohibiting DPS from taking action against both a licensee and registrant for actions taken by a registrant.²⁰

Current law

Possible sanctions under current law are more limited: DPS may revoke, suspend, or refuse to renew, when a renewal form has been submitted, the license of any private investigator or security guard provider, or the registration of any employee of a private investigator or security guard provider, for the grounds specified under current law. In addition, in lieu of suspending, revoking, or refusing to renew the license, or of suspending, revoking, or refusing to renew the registration of an employee of a licensee, DPS may impose a civil penalty of not more than \$100 for each calendar day of a violation or of a violation of any DPS rule governing private investigators, the business of private investigation, security guard providers, or the business of security services.

Repealed related criminal prohibitions

The bill repeals several criminal prohibitions and penalties that overlap some of the grounds for discipline under current law and the bill.

Current law prohibits a licensee or registrant from:

- Knowingly violating any provision of the PISG Law or rules;
- Knowingly making a false report with respect to any matter with which the licensee or registrant is employed;
- Divulging any information acquired from or for a client to persons other than the client or the client's authorized agent without express authorization to do so or unless required by law;

¹⁹ R.C. 4749.04(D).

²⁰ R.C. 4749.04(E).

- Knowingly accepting employment which includes obtaining information intended for illegal purposes.

Current law also prohibits a person from knowingly authorizing or permitting another person to violate any provision of the PISG Law or rules.

A person who violates any of these prohibitions is subject to a fine of not less than \$100 and not more than \$1,000, imprisoned for not more than one year, or both.

The bill repeals these prohibitions and associated penalties.²¹

Grounds for discipline – registration

The bill also authorizes DPS to impose any of the sanctions listed above against a licensee or a person proctoring the PISG examination required for a registrant for the following reasons:

- Providing examination answers to the registration applicant;
- Allowing another person to sit in place of the registrant applicant for the examination;
- Undermining the integrity of the prescribed examination through the proctor's act or failure to act.²²

Summary license suspension

Under the bill, if DPS determines that there is clear and convincing evidence that a licensee or a registrant presents a danger of immediate and serious harm to the public, DPS may summarily suspend the person's license or registration without a prior hearing.

If DPS summarily suspends a license or a registration, or both, DPS is to issue a written order of suspension and cause it to be delivered in accordance with the Administrative Procedure Act. The order is to inform the person subject to the suspension of the reason for suspension and of the person's right to request an adjudication hearing within 15 days after the date of mailing the notice. If the person does not timely request an adjudication hearing, the summary suspension becomes a final adjudication order.

²¹ R.C. 4749.13(B) and (C) and 4749.99(B).

²² R.C. 4749.04(F).

If the person requests an adjudication hearing, a hearing must be held in compliance with the Administrative Procedure Act. DPS must immediately set the date, time, and place for the hearing and promptly notify the person of those details. The hearing must be scheduled for a day within 15 days, but not earlier than seven days, after the person has requested a hearing, unless otherwise agreed to by DPS and the person.

The summary suspension remains in effect, unless reversed by DPS, until a final adjudication order issued by DPS. The order is not subject to suspension by any court while an appeal filed under Administrative Procedure Act is pending.

DPS must issue a final adjudication order not later than 60 days after completion of the adjudication. If DPS does not issue a final order within a 60-day period, the summary suspension becomes void, but any final adjudication order issued subsequent to the 60-day period is not to be affected.²³

Employee registration

PISG Law also governs employees of a licensee. The bill amends the process by which these employees are registered with DPS.

The bill shifts the duty to register from the employer-licensee to the employee. Under current law, an employer-licensee must file an application to register the licensee's investigator or security guard employee with DPS three to seven calendar days after the employee is hired. Under the bill, the employer-licensee must report an employee to DPS within seven days after the employee is hired but does not need to apply for the employee's registration. Instead, the employee must apply for the employee's own registration.

The bill's reporting requirement applies even if the employee is exempt from the employee registration requirements because the employee is a commissioned peace officer.²⁴

Application

Under the bill, any person, who is 18 or older on the date of applying, may apply to DPS for a class A, class B, or class C registration on a form prescribed by DPS. The bill adds the following required items to that application:

²³ R.C. 4749.041.

²⁴ R.C. 4749.062(A) to (C).

- The applicant's name, address, date and place of birth, and citizenship;
- Documentation that the applicant has successfully passed the private investigator and security officer examination;
- The registration fee DPS determines, not to exceed \$80 for a two-year registration (as opposed to current law's \$40 for a one-year registration).

Under continuing law, the application must include a recent photograph of the applicant, a brief physical description of the applicant, and any other information that DPS may require.

Registration criteria

The bill also adds new criteria that a registration applicant must meet. To register under the bill, an applicant must (1) have submitted a completed application, registration fee, and all required materials, (2) not have been convicted of any crime of moral turpitude, and (3) have a good reputation of integrity. Under continuing law, the applicant also must not have been convicted of a disqualifying offense within the last three years (see "**Definitions and terms**," below).

The bill requires DPS to adopt a rule in accordance with Administrative Procedure Act setting forth the factors DPS may consider when determining whether an applicant has a good reputation for integrity. The rule must include whether or not the applicant has:

- Been subject to discipline for a violation of a PISG Law or rule or a violation of any substantially equivalent former or existing law of another state, within five years of applying;
- Voluntarily surrendered a license or registration issued in accordance with PISG Law within five years of applying or voluntarily surrendered a substantially equivalent license or registration issued by another state;
- Had a license or registration issued in accordance with PISG Law previously revoked or suspended or has had a substantially equivalent license or registration issued by another state revoked or suspended.²⁵

²⁵ R.C. 4749.06(C).

Registration, registration card

Under the bill, DPS must issue a registration card (identification card under current law) to an applicant who meets the bill's registration criteria (see "**Registration Criteria**" and "**Application**," above). The registration card expires two years (extended from one year under current law) from the date of issuance and may be renewed as described below under "**Renewal of registration cards; transition provisions.**" The registration card authorizes the registrant to provide private investigator services, security services, or both anywhere in Ohio, only if the registrant is employed by a licensed private investigator, security services provider, or both. The registration card must be carried by the registrant at all times while on duty.

The bill revises the content of the registration card. Under the bill, a registration card must bear the registrant's name, a recent photograph of the registrant, the registrant's signature, and any other identifying mark DPS prescribes. A current law identification card must include all of that information as well as the license number and signature of the licensee and the employee's address, age, physical description, and right thumb print.

The bill allows a registrant who holds a valid registration card to change the registrant's registration class by submitting a change of classification request on a form prescribed by DPS, a \$5 fee, and evidence of having passed the PISG examination required for that class. Upon receiving a change of classification request and the accompanying fee, DPS must issue a new registration card.²⁶

Current law prohibits employees of a licensee who are not qualifying agents from providing private investigation or security services until the employee has received an identification card from DPS. An exception to this prohibition is situations where employee obtains a waiver from the person hiring the employee for the services. The bill enables registration applicants to engage in the business of private investigation or security services for up to 90 days after the applicant submits an application for registration to DPS. During that time, the person must have the receipt of application issued by DPS in the applicant's possession at all times while engaged in the provision of services for the applicant's employing licensee.

Under the bill, no person whose application for a firearm-bearer notation on the person's registration card is pending approval by DPS may carry a firearm while engaged in the business of private investigation, the business of security services, or both, whether or not the person has the person's receipt of application.

²⁶ R.C. 4749.06(D), (E), and (F).

While engaged in the duties of a registrant, upon the demand of any law enforcement officer or a DPS employee who identifies him or herself as such, or the client of the licensee, the registrant or registration applicant must display his or her registration card or receipt of application to that officer, employee, or client.²⁷

Firearm-bearer notation

Similar to existing law, the bill prohibits a registrant from carrying a firearm until the registrant has obtained a firearm-bearer notation on the registrant's registration card. The bill removes the current law firearm training requirements for employees in favor of the requirements for all licensees and qualifying agents, which are discussed below under "**Firearm-bearer authorization.**"²⁸

Peace officer exemption from registration requirement

The bill specifies that these registration requirements do not apply to commissioned peace officers working within their jurisdiction for a licensee. Current law more generally exempts all peace officers working for a licensee.²⁹

Renewal of registration cards; transition provisions

Registration cards issued before the bill's delayed effective date expire on the date listed on the card.³⁰ If all other requirements for renewal are met, DPS must renew those registration cards by issuing new registration cards as follows:

- To a registrant with a last name starting with A through L: a registration card valid for one year with payment of a renewal fee that DPS determines, not to exceed \$40 (an increase from the current law renewal cap of \$35).
- To a registrant with a last name starting with M through Z: a registration card valid for two years with payment of a renewal fee that DPS determines, not to exceed \$80 (an increase from the current annual cap of \$35, which is \$70 every two years).

²⁷ R.C. 4749.06(G).

²⁸ R.C. 4749.06(H).

²⁹ R.C. 4749.06(I).

³⁰ R.C. 4749.061(A)(1) and Section 3. The bill delays the bill's operative provisions until one year after the bill's enactment date.

Except as provided above, renewals will occur every two years (increased from one year under current law) for registrants who meet the related PISG licensing requirements in accordance with all of the following:

- The registrant must submit an application for renewal on a form prescribed by DPS, on or before the registration's expiration date.
- The application must be accompanied by a renewal fee determined by DPS, not to exceed \$80.
- An application submitted within 30 days after an applicant's registration expires must be accompanied by the payment of a late fee of \$20, which is in addition to the renewal fee.

If a registrant does not submit a renewal application more than 30 days after the registration expires, the registrant must submit an application for a new registration. An individual with an expired registration is prohibited from providing private investigation, security officer services, or both and is subject to sanctions if the individual provides those services.

As under current law, DPS may not renew the registration of a person who no longer meets the related PISG requirements or fails to pay the renewal fee.

The bill also requires a registrant who is convicted of or pleads guilty to a disqualifying offense or offense of moral turpitude that is a felony to report that conviction or plea of guilty in writing to the registrant's employer and DPS as a condition of continued registration. Under current law, the registrant must report a conviction or plea of guilty, but need not report crimes of moral turpitude or report in writing.³¹

Licensee duties

In addition to the duties described above, the bill requires each licensee to:

- Notify DPS not later than seven calendar days after an employee's employment is terminated for any reason.
- Allow a registrant in the licensee's employ to work only within the registrant's class.

³¹ R.C. 4749.061.

The bill's provisions are not to be construed as limiting registrants from being employed by more than one licensee at the same time.³²

Registration examination

Beginning on the bill's delayed effective date, all persons submitting an application for a new registration as a private investigator, security officer, or both, must submit documentation showing that the applicant has within the one-year period immediately before applying successfully passed a written private investigator examination, security officer examination, or both.³³

DPS must adopt rules in accordance with the Administrative Procedure Act governing the examination and any training curriculum required before the examination.

Examination

With regard to the examination, all of the following must be addressed or included in the rules:

- Authorization for a qualifying agent of a licensee licensed pursuant to PISG Law, or designee of a qualifying agent made in writing to DPS to proctor the examination;
- A requirement that applicants who fail the examination on the first attempt attend the eight-hour training course;
- The option for the examination to be administered electronically;
- The option to create either one private investigator and security officer examination or separate examinations for private investigators, security officers, or both private investigators and security officers.
- The content of the examination;
- The examination fee, which is to not exceed \$50.³⁴

³² R.C. 4749.062(D) to (F).

³³ R.C. 4749.063(A) and Section 3. The bill's operative provisions are delayed for one year after the bill's enactment date.

³⁴ R.C. 4749.063(B)(1).

Training

The rules also must include the option for a private investigator or security officer registration or both on or after the bill's delayed effective date to take eight hours of training before examination. The rules must also contain the training curriculum, which must, at a minimum, contain content pertaining to all of the following:

- The role of private investigators and security officers;
- The laws and rules governing the business of private investigation and security services in Ohio;
- The legal powers and limitation on private investigators and security officers, including civil liability;
- Emergency procedures;
- Communications and human and public relations;
- Access control;
- Ethics and professional conduct.³⁵

Exemption

All registrants who are registered on the bill's delayed effective date are exempt from the training and examination requirements described above.³⁶

Prohibition – identifying materials

The bill prohibits licensees from publishing or causing to be published any document (including advertisements and electronic sites), or using, either of the following in relation to the services it provides:

- The words "law enforcement," "police," "sheriff," "deputy," "peace officer," "trooper," "constable," or "patrol" in conjunction with the terms "Ohio" or "State";
- Any other phrase or statement of any sort that suggests that the licensee is an official law enforcement or governmental, investigative agency or that

³⁵ R.C. 4749.063(B)(2).

³⁶ R.C. 4749.063(C).

a registrant in the licensee's employ is an official law enforcement officer or peace officer.

This prohibition does not apply to a licensee who has been commissioned as a peace officer, a special police officer, or a private policeman, or as a commissioned or appointed police officer pursuant to the Revised Code and is acting pursuant to his or her authority as a commissioned officer.

The bill also prohibits a licensee or registrant, in the performance of the business of private investigation or security services, from using a vehicle marked with the words "law enforcement," "police," "sheriff," "deputy," "peace officer," "trooper," "constable," or "patrol" in conjunction with "Ohio" or "State."³⁷

Firearm-bearer authorization

Requirements

The bill prohibits registrants from carrying a firearm in the course of the registrant's duties as a private investigator, security officer, or both unless the registrant is authorized to do so by DPS in accordance with the following requirements and guidelines. This prohibition is largely carried over from current law, with certain expansions and alterations, detailed below. Also, the bill retains the current law qualification (relocated by the bill), that the bill's provisions are not to be construed as authorizing a registrant to carry a concealed firearm unless the registrant has complied with the Concealed-carry Law.³⁸

Under the bill, a registrant must meet the following requirements to be permitted to carry a firearm:

- Complete a private security firearm basic training program of 40 hours that addresses all of the following:
 - The legal aspects of firearms use;
 - Handgun marksmanship;
 - Handgun handling and tactics;
 - Shotgun marksmanship;

³⁷ R.C. 4749.08(C) and (D).

³⁸ R.C. 4749.10(A) by reference to R.C. 2923.124 to 2923.1213.

- Shotgun handling and tactics.
- Qualify with each firearm type to be carried in the course of providing PISG services.

Current law requires 20 hours in a basic firearm training program and, if a firearm other than a handgun is to be used, five hours of training in the use of other firearms. The bill also removes a current law exemption that allows a registrant to qualify to carry a handgun if the registrant is a former peace officer who previously had successfully completed a firearms training course.

As an alternative to completing the training described above, a registrant may provide documentation that establishes both of the following:

- That the registrant is an active or reserve member of the U.S. armed forces, was honorably discharged within the last three years from that military service, is a qualified law enforcement officer or is a qualified retired law enforcement officer, as those terms are defined under federal law;
- That, through participation in the military service or through employment described above, the registrant acquired experience with handling handguns and shotguns, and the experience so acquired is equivalent to training that the applicant could have acquired in the program described above.

As under current law, the registrant must submit evidence of satisfactory completion of the above training or experience to DPS, along with a fee. The bill clarifies that the registrant is seeking authority to carry the type of firearm for which the registrant has received training. The bill removes a fee cap of \$15 and also eliminates a requirement that the licensee submit a statement indicating the duties that will be performed by the registrant or licensee.³⁹

Firearm authorization renewal

New procedures

The bill makes changes to the way that firearm authorization renewals are conducted. The bill adopts the following policies and procedures.

The basic firearms training described above is valid until the end of the following calendar year in which it is successfully completed.

³⁹ R.C. 4749.10(A) and (B).

A registrant who carries a firearm must requalify annually and in accordance with rules adopted by the Attorney General.

Each firearms requalification is valid until December 31 of the year following the requalification.

A registrant who has not requalified within the prior three calendar years must complete the initial training before carrying a firearm.

DPS must receive the registrant's evidence of requalification signed by the instructor on a form prescribed by DPS.

Upon receipt of that evidence and the payment of a fee prescribed by DPS, DPS must renew the firearm bearer notation on the registrant's registration card.

Private security firearms instructors and firearms requalification instructors with active certification by the Ohio Peace Officer Training Commission in the appropriate firearm type may requalify registrants pursuant to the relevant requirements.

Registrants desiring to carry firearms other than handguns or shotguns in the course of engaging in the business of private investigation or security services, or both, must comply with all related requirements and then subsequently complete a training course conducted by an instructor with active certification from the commission for the other firearm type and requalify annually with that other firearm type.

DPS may immediately revoke firearm-bearer privileges without a prior hearing upon receiving notice that a registrant is prohibited from carrying a firearm under any state or federal law that disqualifies a person from carrying a firearm.

Upon revoking firearm-bearer privileges, DPS must provide the registrant with notice of opportunity of hearing.⁴⁰

Current law

Current law contains the following additional requirements in relation to firearm certification, which are eliminated by the bill:

- A requirement that the DPS Director must register each successful firearms applicant, and place a notation on the applicant's identification card indicating that the applicant is a firearm-bearer and the date on which the applicant completed the training program.

⁴⁰ R.C. 4749.10(C), (D), and (E).

- A requirement that a firearms requalification training program or instructor certified by the Ohio Peace Officer Training Commission for the annual requalification of licensees or employees who are authorized to carry a firearm must award a certificate of satisfactory requalification to each licensee or registered employee of a licensee who satisfactorily requalifies in firearms training. The certificate must identify the licensee or employee and indicate the date of the requalification.
- A requirement that a licensee or employee who receives such a certificate must submit a copy of it to DPS at the same time that the licensee makes application for renewal of the licensee's class A, B, or C license. DPS must keep a record of all copies of requalification certificates DPS receives and must establish a procedure for the updating of identification cards to provide evidence of compliance with the annual requalification requirement.
- A requirement that each person who is issued a requalification certificate promptly must pay to the Ohio Peace Officer Training Commission a fee DPS determines, not to exceed \$15, which fee must be transmitted to the Treasurer of State for deposit in the Peace Officer Private Security Fund.

DPS investigations

Current law authorizes DPS to investigate licensees and their personnel. This authorization is largely unchanged by the bill. Under continuing law, DPS may on its own initiative commence an investigation.

However, under the bill, DPS is not required to initiate an investigation if it receives a complaint. Such an investigation is mandatory under current law if DPS receives a verified, written complaint that is supported by evidence and DPS determines that a prima facie case exists that a violation has been or will be committed.

The bill revises exactly who may be investigated under this authority. It eliminates reference to investigation of registrants and specifies that DPS may investigate all of the following individuals:

- A licensee;
- A person having a legal or beneficial interest in the ownership of a business that falls under the jurisdiction of PISG Law;
- A qualifying agent.

If a person listed on a license issued under PISG Law is a corporation or limited liability company, the bill allows DPS to investigate any of the following: (1) each officer of the person, (2) each managing member of the person, (3) if the management of the company is not reserved to its members, the managers of the company, (4) any person owning or controlling 5% or more of the capital stock of such a person that is a corporation, and (5) each person owning or controlling 5% or more of either the voting interests or membership interests of such a person that is a limited liability company.

If a person listed on a license issued under PISG Law is a partnership or association, the bill allows DPS to investigate each partner or member of the association.⁴¹

The bill also allows DPS discretion in choosing whether to investigate individuals who are not appropriately licensed or registered, but who appear to be offering private investigation or security services. Those investigations are mandatory under current law.⁴²

Additionally, in any proceeding or action brought pursuant to an investigation, current law places the burden of proving an exemption from the licensure requirements of PISG Law on the person claiming the benefit of the exemption. The bill sets that burden at a *preponderance of the evidence*.⁴³

Designation as a licensee

Both current law and the bill make a distinction between licensees and individuals with a relationship to the licensee, such as registrants, specifying that those other individuals are not required to obtain a license. The bill specifies that a registrant is not required to obtain a license, provided that the registrant is engaging in the business of private investigation or security services as an employee of a licensee.

The bill removes a qualification that nothing in PISG Law is to be construed as requiring a partner to be a licensee, excepting the requirement that one partner in a PISG business be a licensee. The bill also removes a qualification that nothing in PISG Law be construed to require a director, officer, or qualifying agent of a corporation to individually be a licensee if the corporation is licensed pursuant to PISG Law.⁴⁴

⁴¹ R.C. 4749.11(B).

⁴² R.C. 4749.11(C).

⁴³ R.C. 4749.11(G).

⁴⁴ R.C. 4749.13.

Reporting to local law enforcement

The bill removes the requirement that licensees report the location of their branch offices and certain information regarding their presence to local law enforcement officers. Under the bill, licensees must report the location of branch offices to DPS.⁴⁵

Reciprocity

The bill permits nonresidents to work temporarily in Ohio. Under the bill, a person who is a resident of another state and is validly licensed and in good standing in that state as a private investigator, security provider, or both, may conduct temporary assignments in Ohio for up to 30 days annually if the business or contract originated outside Ohio. But, a person conducting a temporary assignment in Ohio may not solicit business in Ohio.⁴⁶ Under current law, a person who is licensed in another state and wishes to engage in the business of private investigation or security services, or both in Ohio must be licensed under the PISG law.⁴⁷

Independent contractors

Under the bill, any person (see **Comment**) providing private investigator services, security services, or both and holding the person's self out as an independent contractor must meet one of the following requirements:

- The person holds a class A, B, or C license;
- The person holds a class A, B, or C registration and is providing services on behalf of a licensee;
- The person is exempt from PISG Law.⁴⁸

Private Investigation and Security Services Commission

The bill makes changes to the eligibility criteria for appointment to the Private Investigation and Security Services Commission (PISSC). Under the bill, an individual is ineligible for appointment as a representative of the general public if that person has been an employee of a PISG license holder or a commissioned peace officer during the

⁴⁵ R.C. 4749.05.

⁴⁶ R.C. 4749.12.

⁴⁷ R.C. 4749.12 (repealed).

⁴⁸ R.C. 4749.151.

previous five years. Individuals appointed to the Commission are prohibited from becoming an employee of a PISG license holder or a peace officer. Current law requires instead that individuals seeking appointment are prohibited from having a direct employment relationship with licensees.⁴⁹

The bill also makes other miscellaneous changes to the law related to the PISSC. The bill removes the time limit of 60 days imposed on members serving on the Commission after the member's term has expired until a new commissioner takes office.⁵⁰ The bill allows interested parties other than the Ohio Association of Security and Investigation Services to submit names to the governor for consideration of appointment to the Commission.⁵¹ And the bill changes the quorum needed to convene an official meeting of the Commission, from seven of the appointed members to one more than half of the currently serving members.⁵²

Repeal of outdated provisions

The bill also repeals the following outdated provisions:

- A requirement that DPS implement electronic licensing and registration procedures not later than December 31, 2006;
- The initial appointment provisions relating to PISSC.

Definitions and terms

The bill changes the term "security guard" to "security officer" throughout the Revised Code.⁵³

As used in the bill:

"Business" means a person that is not an individual.

"Business of security services" is expanded to include protecting persons or property from injury or harm, or for any other purpose, including deterring, observing, detecting, or reporting incidents or activities for the purpose of preventing theft, or the unlawful taking, conversion, concealment or misappropriation of goods, wares,

⁴⁹ R.C. 4749.021(A)(8).

⁵⁰ R.C. 4749.021(B)(1).

⁵¹ R.C. 4749.021(B)(2).

⁵² R.C. 4749.021(G).

⁵³ R.C. 9.07, 109.78, 2921.51, 2925.01, 3743.06, 3743.19, and 5502.011 and R.C. Ch. 4749.

merchandise, or any valuable instrument. Under the bill, the term also includes acts to deter, observe, detect, or report incidents and activities for the purpose of preventing any unauthorized access or entry, violation of organizational rules, or unlawful activity and includes the furnishing of guard dogs and armored motor vehicle security services for those purposes.

"Crime of moral turpitude" means any of the following:

- Aggravated murder or murder;
- A sexually oriented offense;
- A first or second degree felony offense of violence;
- Complicity in committing aggravated murder or murder;
- An attempt to commit, conspiracy to commit, or complicity in committing any of these, if the violation is a first or second degree felony;
- A violation of a former law that is substantially equivalent to any of these.

"Disqualifying offense" means an offense that is a felony and that has a direct nexus to an individual's proposed or current field of licensure, certification, or employment.

"Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.

"Licensee" means the holder of a class A, B, or C license.

"Peace officer" includes, generally, a sheriff; deputy sheriff; marshal; deputy marshal; member of the organized police department of any municipal corporation; member of a police force employed by a metropolitan housing authority or a regional transit authority; state university law enforcement officer; DPS enforcement agent; certain investigatory employees of the Department of Taxation; natural resources law enforcement staff officer, forest officer, preserve officer, wildlife officer, park officer, or state watercraft officer; veterans' home police officer; special police officer employed by a port authority; township police constable; police officer of a township or joint police district; certain special police officers employed by a municipal corporation at a municipal airport or other municipal air navigation facility; General Assembly sergeant at arms and an assistant sergeant at arms; certain BCI officers and employees; state fire

marshal law enforcement officer; and the Superintendent and troopers of the State Highway Patrol.

"**Person**" includes an individual, firm, partnership, association, joint stock company, corporation, and any combination of individuals.

"**Qualifying agent**" means an individual designated in writing as meeting certain minimum requirements for licensure on behalf of the person applying for a license and who is responsible for ensuring the licensee's compliance with the PISG Law and rules.

"**Registrant**" means a qualifying agent or any individual registered as a private investigator, security officer, or both.

"**Security provider**," "**security officer provider**," "**private investigator provider**," and "**private investigator**" mean any business licensed under PISG Law to engage in the business of private investigation, security services, or both.⁵⁴

COMMENT

In an apparent drafting error, the bill excludes from the licensure requirement for independent contractors a provision that allows for a registrant to change the registrant's class. This may have been intended to exclude commissioned peace officers who are otherwise excluded from the bill's requirements when working within their jurisdiction for a licensee – either as an independent contractor or an employee.

HISTORY

ACTION	DATE
Introduced	06-11-15

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⁵⁴ R.C. 4749.01 and, by reference, R.C. 2923.11, 2935.01, and 4776.10, not in the bill.

