

# **PRIVATE SECURITY ADMINISTRATIVE RULES**

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# Texas Administrative Code

TITLE 37  
PART 1  
CHAPTER 35

PUBLIC SAFETY AND CORRECTIONS  
TEXAS DEPARTMENT OF PUBLIC SAFETY  
PRIVATE SECURITY

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## SUBCHAPTER A DEFINITIONS

### **RULE §35.1 Definitions**

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

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

### **RULE §35.2 Employment Requirements**

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

### **RULE §35.3 Registration Applicant Pre-employment Check**

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

received, the passage of 48 hours since submission of the application materials required by §35.21 of this title (relating to Registration Applications), and:

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

#### **RULE §35.4 Guidelines for Disqualifying Criminal Offenses**

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

- (C) Being an accessory (before or after the fact) to a crime listed in this subsection.
- (d) A felony conviction for an offense listed in subsection (c) of this section is disqualifying for ten (10) years from the date of the completion of the sentence, unless subject to this subsection.
- (e) A Class A misdemeanor conviction for an offense listed in subsection (c) of this section is disqualifying for five (5) years from the date of completion of the sentence.
- (f) Conviction for a felony or Class A offense that does not relate to the occupation for which license is sought is disqualifying for five (5) years from the date of commission, pursuant to Texas Occupations Code, §53.021(a)(2).
- (g) Independently of whether the offense is otherwise described or listed in subsection (c) of this section, a conviction for an offense listed in Texas Code of Criminal Procedure, Article 42.12 §3g, or Article 42A.054, or that is a sexually violent offense as defined by Texas Code of Criminal Procedure, Article 62.001, or a conviction for burglary of a habitation, is permanently disqualifying subject to the requirements of Texas Occupations Code, Chapter 53.
- (h) A Class B misdemeanor conviction for an offense listed in subsection (c) of this section is disqualifying for five (5) years from the date of conviction.
- (i) Any unlisted offense that is substantially similar in elements to an offense listed in subsection (c) of this section is disqualifying in the same manner as the corresponding listed offense.
- (j) A pending Class B misdemeanor charged by information for an offense listed in subsection (c) of this section is grounds for summary suspension.
- (k) Any pending Class A misdemeanor charged by information or pending felony charged by indictment is grounds for summary suspension.
- (l) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person against whom disqualifying charges have been filed or who has been convicted of a disqualifying offense, the board shall consider:
  - (1) The extent and nature of the person's past criminal activity;
  - (2) The age of the person when the crime was committed;
  - (3) The amount of time that has elapsed since the person's last criminal activity;
  - (4) The conduct and work activity of the person before and after the criminal activity;
  - (5) Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;
  - (6) The date the person will be eligible; and
  - (7) Any other evidence of the person's fitness, including letters of recommendation from:
    - (A) Prosecutors or law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; or
    - (B) The sheriff or chief of police in the community where the person resides.
- (m) In addition to the documentation listed in subsection (l) of this section, the applicant or licensee or registrant shall furnish proof in the form required by the department that the person has:
  - (1) Maintained a record of steady employment;
  - (2) Supported the applicant's dependents;
  - (3) Maintained a record of good conduct; and
  - (4) Paid all outstanding court costs, supervision fees, fines and restitution ordered in any criminal case in which the applicant has been charged or convicted.
- (n) The failure to timely provide the information listed in subsection (l) and subsection (m) of this section may result in the proposed action being taken against the application or license.
- (o) The provisions of this section are authorized by the Act, §1702.004(b), and are intended to comply with the requirements of Texas Occupations Code, Chapter 53.

### **RULE §35.5 Standards of Conduct**

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

- (d) Any registrant who has been issued a pocket card shall carry the pocket card on or about his person while on duty and shall present same upon request from a peace officer or to a representative of the department.

#### **RULE §35.6 Contract and Notification Requirements**

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

#### **RULE §35.7 Firearm Standards**

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

- (3) The location of the incident;
- (4) A brief description of the incident;
- (5) A statement reflecting whether death, personal injury, or property damage resulted; and
- (6) The name of the investigating or arresting law enforcement agency, if applicable.

#### **RULE §35.8 Consumer Information and Signage**

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

#### **RULE §35.9 Advertisements**

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

#### **RULE §35.10 Residential Solicitation**

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

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

#### **RULE §35.11 Guard Dog Welfare Requirements**

Each guard dog company and any licensed company using guard dogs shall comply with the requirements

detailed in this section:

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

#### **RULE §35.12 Classification of Electronic Access Control Device Company License**

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

#### **RULE §35.13 Drug-Free Workplace Policy**

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

#### **RULE §35.14 SECURITY OFFICER UNIFORMS**

- (a) All commissioned and noncommissioned private security officers shall, at a minimum, display on their outermost garment the name of the company by which the security officer is employed, the word "Security," and the last name of the security officer. These items shall each be of a size, style, shape, design, and type that are clearly visible by a reasonable person under normal conditions.
- (b) Subsection (a) of this section does not apply to a personal protection officer while performing personal protection services in plain clothes.

## **SUBCHAPTER B REGISTRATION AND LICENSING**

#### **RULE §35.21 Registration Applications**

- (a) It is the responsibility of the licensed company to ensure an application that meets the requirements of this section has been submitted to the department by or on behalf of any employee who is required to register under the Act. An application must include all items

required under subsection (b) of this section in order to comply with the requirements of §1702.230(c) of the Act.

- (b) The items detailed in this subsection must be submitted in the manner prescribed by the department, prior to employment in a regulated capacity:
  - (1) The required fee;
  - (2) A copy of the applicant's Level II certificate of completion when applicable;
  - (3) Fingerprints in the form and manner approved by the department; and
  - (4) The criminal history check fee as provided in this chapter.
- (c) As part of the department's criminal history check, additional court documents or related materials may be requested of the applicant. Failure to comply with such a request may result in the rejection of the application as incomplete.

#### **RULE §35.22 Renewal Applications for Registrations and Licenses**

- (a) An application for renewal must be submitted in the manner prescribed by the department.

The application must include:

- (1) The required fee;
  - (2) Fingerprints in the form and manner approved by the department; and
  - (3) The criminal history check fee as provided in this chapter.
- (b) A complete renewal application must be submitted prior to expiration for the current registration, endorsement or license to remain in effect pending the approval of the renewal application. If the completed application is not received by the department prior to the expiration date, no regulated services may be performed until a complete renewal application is submitted in compliance with this chapter.

#### **RULE §35.23 Termination of Incomplete Applications**

- (a) If an application is illegible or incomplete, the department will notify the applicant of the deficiency. The applicant will have ninety (90) days from the date of notice to address the deficiency. Upon request of the applicant, the department may extend the period to address the deficiency for one additional ninety (90) day period. If the applicant is unable to provide the required information the applicant may request a hearing before the department to determine whether the application may proceed without the requested information. If the applicant has neither provided the required information nor requested a hearing prior to the expiration of the time allowed for compliance, the application will be terminated. An application will not be terminated while a hearing requested under this subsection is pending.
- (b) If an applicant fails to provide all required application materials, or fails to respond to a request by the department for additional information necessary to process the application, the application will be terminated under the process set out in subsection (a) of this section.
- (c) Following the termination of an application, a new application must be submitted.

#### **RULE §35.24 Photographs**

If the applicant does not have a digital photograph on file with the department or the department is unable to access the photograph on file, the laminated pocket card will be issued without a photograph. When presenting such a pocket card to a peace officer or to a representative of the department, the registrant shall also present a valid government issued identification card or drivers license.

#### **RULE §35.25 Assumed Names; Corporations**

- (a) All individual applicants doing business under an assumed name shall submit an assumed name certificate from the county clerk of the county in which the applicant either:
  - (1) Has or will maintain business or professional premises; or
  - (2) Conducts business or renders a professional service, if the person does not or will not maintain business or professional premises in any county.
- (a) Corporations and other entities permitted and governed by the Texas Business Organizations Code using an assumed name shall submit an assumed name certificate from the Texas Secretary of State and the county clerk of the county in which the entity either:
  - (1) Has or will maintain business or professional premises; or
  - (2) Conducts business or renders a professional service, if the entity does not or will not maintain business or professional premises in any county.
- (b) Corporate applicants shall submit a current certificate of existence or a certificate of authority from the Texas Secretary of State.
- (c) Licensees may not operate under any name not reflected in current department records as the

name under which the licensee will be doing business.

#### **RULE §35.26 Reclassification and Assignment**

- (b) When a Class A or B license is reclassified as a Class C license, a fee in the amount of the difference in the cost of the licenses shall be paid. There shall be no refund when a Class C license is reclassified as a Class A or Class B license.
- (c) The department may approve the assignment of a company license to the spouse or heir(s) of a deceased owner provided:
  - (1) A copy of the owner's death certificate is filed with the department;
  - (2) A copy of the Will, Order Admitting Will to Probate, Letters of Testament, Affidavit of Heirship with two affiants' signatures, or Order of Heirship is filed with the department; and
  - (3) In the case of the death of a qualified manager, that a replacement manager is qualified within ninety (90) days.
- (d) Other assignments will be permitted only where the majority owners of the original licensee maintain majority ownership of the proposed assignee. The assignor must provide the department written documentation establishing the intended date of assignment, and must ensure any new owners required to register have been approved by the department. The assignee may not perform regulated services prior to the proposed date of assignment or the date of the department's approval of all required registration applications for new owners, whichever is later.
- (e) An additional assignment fee will be assessed as provided by this chapter upon assignment of a license under subsection (b) or (c) of this section.

#### **RULE §35.27 Insurance**

- (a) To comply with the Act's requirements relating to documentary evidence of insurance coverage, the documents submitted to the department must specifically show:
  - (1) That the insurance is applicable to the conduct for which the licensee is licensed;
  - (2) The exclusions or endorsements specific to the activity for which the licensee is licensed, or that there are no such exclusions or endorsements; and
  - (3) The statutory minimum coverage limits, specifically distinguishing the limits for:
    - (A) Each occurrence of bodily injury and property damage;
    - (B) Each occurrence of personal injury; and
    - (C) The total aggregate amount of coverage for all occurrences.
- (b) The applicant or licensee must also provide the department with the insurance agent's current contact information and Texas license number.
- (c) Proof of insurance must be submitted in a form and manner prescribed by the department.
- (d) Pursuant to the Act, failure to maintain on file with the department evidence of current insurance coverage as required under this chapter will result in immediate suspension of the license. The suspension will become effective upon receipt of the notice.
- (e) The suspension may be rescinded upon receipt by the department of proof that there was no lapse in coverage. Such proof must be submitted within ten (10) business days following the effective date of the suspension.
- (f) In the event of a lapse in coverage, or the failure to provide evidence of continuous coverage within ten (10) business days, the license will not be reinstated until a complete application for reinstatement is submitted and approved. The application may be denied on grounds that the licensee has violated the Act or this chapter, including having provided regulated services while suspended pursuant to the Act.

#### **RULE §35.28 Registrant Name Change**

A change of name must be reported to the department within thirty (30) days of the effective date of change. The notice of the change shall be in writing, and shall include a certified copy of the legal document ordering the name change.

#### **RULE §35.29 Registrant Termination**

When a registered employee of a licensee is terminated for any conduct in violation of the Act or this chapter, the licensee shall notify the department of such conduct within fourteen (14) days of termination. The notification shall be submitted in the manner prescribed by the department and must include any and all available documentation or evidence concerning the alleged offense.

## **SUBCHAPTER C MANAGER STANDARDS**

### **RULE §35.41 Manager Standards**

- (a) A qualified manager shall not knowingly allow or direct any person under their control to violate a provision of the Act, this chapter, or any criminal statute.
- (b) For purposes of the supervision required under the Act, a manager must have continuous oversight of no more than three (3) companies and two (2) schools, the supervised individuals, or their intermediate level supervisors, in a manner sufficient to ensure that all supervised individuals are in compliance with the Act and this chapter.

**RULE §35.42 Manager Examination**

- (a) All applicants for registration as qualified manager of a licensee must pass the written examination administered by the department. All applicants must pass the examination with a minimum score of 70%.
- (b) Good order and discipline will be maintained during the examination. Conduct which is disruptive is grounds for immediate removal.
- (c) An oral examination may be given upon receipt of proof of dyslexia as defined by Texas Education Code, §51.970. Proof must be submitted in writing in a manner prescribed by the department.
- (d) Any examination other than the single examination authorized by payment of the original license fee shall be considered a reexamination for which the reexamination fee shall be required.

**RULE §35.43 Operation Without Manager**

- (a) When a qualified manager of a licensee has been terminated or is no longer employed as manager, and the department has been notified of the action in writing within fourteen (14) days, the business may be temporarily operated by an owner, officer, partner, or shareholder for a period not to exceed sixty (60) days following the date of the manager's termination or cessation of managerial duties.
- (b) In the event summary action has been taken against the manager, the manager must immediately cease all regulated functions as qualified manager. Any applicable period of temporary operation pursuant to subsection (a) of this section shall run from the effective date of the summary action.

**SUBCHAPTER D DISCIPLINARY ACTIONS**

**RULE §35.51 COMPLAINTS**

Complaints relating to alleged violations of the Act or this chapter should be submitted in writing to department headquarters through the Private Security Program's website or mail to the department's Regulatory Services Division. The complaint should provide:

- (1) Name and contact information of complainant;
- (2) Name and type of business of licensee;
- (3) Specific dates and times of described events; and
- (4) Detailed description of the violation.

**RULE §35.52 Administrative Penalties**

The administrative penalties in this section are guidelines to be used in enforcement proceedings under the Act. The fines are to be construed as maximum penalties only, and are subject to application of the factors provided in §1702.402 of the Act.

<u><b>VIOLATION</b></u>	<u><b>VIOLATION DESCRIPTION</b></u>	<u><b>FINE AMOUNT</b></u>
UNI – Uniform Violation	Failure to display last name identification on outermost garment	\$ 25.00
UNI – Uniform Violation	Failure to display the word “Security” on outermost garment	\$ 50.00
UNI – Uniform Violation	Failure to display company name on outermost garment	\$ 50.00
FPPC – Failure to present pocket card	Failure to present pocket card upon request; failure to present valid government issued photo I.D. if no photo on card	\$100.00

RECV – Employee records violation	Full name of employee	\$ 25.00
RECV – Employee records violation	Position of employee	\$ 25.00
RECV – Employee records violation	Current residence of the security officer as reported by security officer	\$ 25.00
RECV – Employee records violation	Date of employment when performing a regulated service	\$ 25.00
RECV – Employee records violation	Address of employee as reported by employee	\$ 25.00
RECV – Employee records violation	Social security number	\$ 25.00
RECV – Employee records violation	Last date of employment	\$ 25.00
RECV – Employee records violation	Date of birth	\$ 25.00
RECV – Employee records violation	Place of birth	\$ 25.00
RECV – Employee records violation	One color photograph	\$ 25.00
RECV – Employee records violation	Failure to keep employee records two (2) years from termination	\$100.00
RECV – Employee records violation	Commission only – Current duty assignment and location	\$ 50.00
RECV – Employee records violation	Signed copy of drug-free workplace policy	\$ 25.00
DNP-No drug policy	Failure to establish drug-free workplace policy	\$100.00 per quarter
OPSL – Operating while license suspended	Operating with a suspended license	\$500.00 every fourteen (14) days
OPEL – Operating while license expired	Operating with an expired license	\$500.00 every fourteen (14) days
REG – Registration violation	Failure to comply with registration application requirements prior to regulated employment	\$200.00 every fourteen (14) days
REGN – Registration violation, ineligible	Enhancement to above violation (REG) for employing ineligible individual	\$200.00 (additional)

ADDR – Address change violation	Failure to notify the department within fourteen (14) days of change of address	\$350.00
CON – Other Contract Violation	Licensee failure to provide written report within seven (7) days	\$500.00
DISP – Consumer Sign Violation	Failure to display the consumer sign in a prominent place	\$100.00
POST – Failure to post license	Failure to post the license	\$100.00
ADV – Advertising Violation	Failure to have company name as stated in department records	\$100.00
ADV – Advertising Violation	Failure to have company address as stated in department records	\$100.00
ADV – Advertising Violation	Failure to display license number as issued by the department	\$100.00
ADV – Advertising Violation	Misrepresentation; deceptive or fraudulent advertisement	\$500.00
BRNC – Failure to notify establishment of branch office	Failure to notify department within fourteen (14) days of opening branch office	\$500.00
BRNT – Failure to notify closing of branch office	Failure to notify department within fourteen (14) days of closing of branch office	\$350.00
CHNG – Failure to notify Department of change of license name	Failure to notify department of a change in business name	\$500.00
MGRQ – Failure to Qualify a Manager	Failure to qualify a manager within sixty (60) days	\$500.00 every fourteen (14) days
MGRS- Manager failing to control business	Manager failing to maintain adequate supervision	\$3,000.00
MGRT – Failure to notify Department of manager termination within 14 days	Failure to notify department of manager termination within fourteen (14) days	\$500.00
OPS – Failure to notify Department of a change of ownership	Failure to notify change of ownership within fourteen (14) days	\$500.00 every fourteen (14) days
SEAL – Using State Seal or DPS Seal	Improper use of State Seal of Texas or Insignia of The Department of Public Safety	\$500.00
OPINS – Operational Insurance Violation	Operating without insurance, or outside scope of coverage	\$500.00 every fourteen (14) days

INSD – Insurance Documentation Violation	Failure to comply with requirements relating to proof of insurance	\$500.00
RECV – Employee records violation	Failure to conduct pre-employment check	\$ 500.00
TSREC– Training / CE School records violation	Failure to maintain required records	\$ 50.00
FAV– Firearm violations	Commission only – violations of firearm related rules on conduct	\$ 500.00
OPOS– Operating Outside Scope of License	Performing regulated service beyond scope of current license	\$ 5000.00
FD	Failure to maintain required records	\$ 50.00
RSOL- Residential Solicitation Violation	Violation of Rule §35.10 by company	\$500.00 per violation
RSOL- Residential Solicitation Violation	Violation of Rule §35.10 by individual	\$100.00 per violation

## SUBCHAPTER E ADMINISTRATIVE HEARINGS

### **RULE §35.61 Service of Notice**

- (a) Licensees shall maintain on file with the department their current mailing and principal place of business address. Notification shall be submitted in writing and received by the department within fourteen (14) days of the date of the change of address.
- (b) The department is entitled to rely on the address currently on file for all purposes relating to notification. The failure to maintain a current address with the department is not a defense to any action based on the licensee's failure to respond.
- (c) Service by mail is complete upon deposit of the document enclosed in a postage paid, properly addressed envelope in a U.S. Post Office or official depository under the care and control of the U.S. Postal Service.

### **RULE §35.62 Default Judgments**

Following adequate notice of a hearing on a contested case before SOAH, failure of the respondent to appear at the time of hearing shall entitle the department to request from the administrative law judge an order dismissing the case from the SOAH docket and to informally dispose of the case on a default basis.

### **RULE §35.63 Hearing Costs**

- (a) In cases brought before SOAH, in the event the respondent is adjudicated as being in violation of the Act or this chapter after a trial on the merits, the department has authority to assess the actual costs of the administrative hearing in addition to the penalty imposed. Such costs include, but are not limited to, investigative costs, witness fees, deposition expenses, travel expenses of witnesses, transcription expenses, or any other costs that are necessary for the preparation of the department's case.
- (b) The costs of transcribing the testimony and preparing the record for an appeal by judicial review shall be paid by the respondent.

### **RULE §35.64 Preliminary Hearings**

- (a) Preliminary hearings must be requested in writing within thirty (30) calendar days of receipt of the summary action notice letter.

- (b) The appeal of the preliminary hearing determination to SOAH must be submitted no later than fifteen (15) calendar days following the date of the determination letter.
- (c) Requests for continuance must be submitted in writing at least three (3) business days prior to the scheduled hearing. Requests must be based on good cause. Multiple requests may be presumed to lack good cause and may be denied on that basis.

**RULE §35.65 Contested Cases Based on Sex Offender Registration Requirements**

- (a) Pursuant to §1702.3615 of the Act, in cases in which the department seeks to deny an application or revoke a license or registration solely on the basis the individual is required to register as a sex offender, the applicant or licensee may waive the right to a hearing before SOAH and appeal directly to the board. This hearing before the board is an evidentiary hearing, conducted at one of the board's quarterly public meetings. Such a hearing may be requested by submitting a written request to the department, at the address provided on the notice.
- (b) The factors detailed in this subsection may be employed by the department, the SOAH Administrative Law Judge, or by the board in cases of direct appeal under §1702.3615 of the Act:
  - (1) The age of the applicant or licensee at the time of the offense giving rise to the sex offender registration requirement;
  - (2) The classification of the offense;
  - (3) Evidence of rehabilitation or recidivism;
  - (4) The amount of time that has passed since the commission of the offense;
  - (5) The relationship between the offense and the occupation for which the individual seeks a license, including whether licensure will facilitate the commission of a similar offense; and
  - (6) Any other factors determined to be significant to a particular case..

**SUBCHAPTER F COMMISSIONED SECURITY OFFICERS**

**RULE §35.81 Application for a Security Officer Commission**

- (a) A complete security officer commission application must be submitted on the most current version of the form provided by the department. The application must include:
  - (1) The required application fee;
  - (2) Fingerprints in form and manner approved by the department;
  - (3) The required criminal history check fee;
  - (4) A copy of the applicant's Level II certificate of completion;
  - (5) A copy of the applicant's Level III certificate of completion;
  - (6) Non Texas residents must provide a copy of an identification card issued by the state of the applicant's residence, or other government issued identification card; and
  - (7) Non United States citizens must submit a copy of their current alien registration card. Non-resident aliens must also submit documents establishing the right to possess firearms under federal law.
- (b) Incomplete applications will not be processed and will be returned for clarification or missing information.

**RULE §35.82 Commissioned Security Officer Standards**

- (a) Commissioned security officers shall carry their pocket cards while on duty and when traveling to and from the place of assignment, and shall present the cards upon request by a peace officer or to a representative of the department.
- (b) A commissioned security officer shall not:
  - (1) Perform the duties of a commissioned security officer for any person(s) other than the licensed employer reflected in department records;
  - (2) Possess or use any security officer commission pocket card that has been altered; or
  - (3) Deface or allow improper use of his security officer commission pocket card.
- (c) Commissioned private security officers shall comply with §35.14 of this title (relating to Security Officer Uniforms).
- (d) Subsection (c) of this section does not apply to a personal protection officer while performing personal protection services in plain clothes.

### **RULE §35.83 Renewal of Security Officer Commission**

- (a) An application for renewal of a security officer commission may not be submitted more than ninety (90) days prior to expiration. A completed renewal application must be submitted on the most current version of the form provided by the department. The application must include:
  - (1) The required renewal application fee;
  - (2) Non Texas residents must provide a copy of an identification card issued by the state of the applicant's residence, or other government issued identification card;
  - (3) Non United States citizens must submit a copy of their current alien registration card. Non resident aliens must also submit a copy of a current work authorization card and documents establishing the right to possess firearms under federal law;
  - (4) A valid firearms proficiency certificate issued no more than ninety (90) days prior to date of the renewal application;
  - (5) Unless usable prints are on file with the department, fingerprints in a manner approved by the department; and
  - (6) The required criminal history check fee.
- (b) Incomplete applications will not be processed and will be returned for clarification or missing information.

## **SUBCHAPTER G PERSONAL PROTECTION OFFICERS**

### **RULE §35.91 Requirements for Personal Protection Endorsement**

- (a) An applicant for personal protection endorsement shall:
  - (1) Submit a written application for a personal protection endorsement on a form prescribed by the department;
  - (2) Be at least twenty-one (21) years of age;
  - (3) Either possess a valid security officer commission issued prior to applying for a personal protection endorsement, or submit an application for security officer commission in conjunction with the application for a personal protection endorsement;
  - (4) Submit proof that the applicant has successfully completed the personal protection officer course taught by an approved personal protection officer instructor; and
  - (5) Submit proof of completion of the Minnesota Multiphasic Personality Inventory test or equivalent (proof of completion of the Minnesota Multiphasic Personality Inventory test shall be on the prescribed form Declaration of Psychological and Emotional Health and shall be signed by a licensed psychologist).
- (b) A personal protection officer may transfer his endorsement to another employer if the personal protection officer:
  - (1) Has transferred his security officer commission to the new employer; and
  - (2) Submits the appropriate form and transfer fee to the department within fourteen (14) days of the transfer of employment to the new employer.

### **RULE §35.92 Employer Requirements**

Personal protection officer employers shall:

- (1) Issue the personal protection officer endorsement pocket card issued by the department to the personal protection officer;
- (2) Maintain on file for inspection all contracts for personal protection officer services; and
- (3) Maintain on file for inspection all current records on all persons issued a personal protection endorsement including the personal protection officer's name, current residential address, and telephone number.

### **RULE §35.93 Personal Protection Officer Standards**

- (a) Personal protection officers must comply with all standards and requirements applicable to commissioned security officers, as provided in this chapter and the Act.
- (b) In addition, a personal protection officer shall not:
  - (1) Perform personal protection officer duties for any person(s) other than the person(s) employer indicated in the department records;
  - (2) Fail to timely surrender the personal protection officer pocket card upon written notice

- served by the department or his employer;
- (3) While in the course and scope of employment as a personal protection officer, provide or engage in any other service regulated by the Act or this chapter other than providing personal protection from bodily harm to one (1) or more individuals;
  - (4) Fail to conceal a firearm if providing the services as a commissioned personal protection officer in plain clothes;
  - (5) Fail to carry on his or her person, the pocket card issued while performing the officer's duties as a personal protection officer; or
  - (6) Fail to present the pocket card for security officer commission and personal protection endorsement upon request made by a peace officer or representative of the department.

## **SUBCHAPTER H LETTERS OF AUTHORITY**

### **RULE §35.101 Private Business Letter of Authority**

- (a) The security department of a private business, as defined in the Act, must obtain a letter of authority in order to employ a commissioned security officer.
- (b) A security department of a private business that employs in a non commissioned capacity an individual meeting the conditions of §1702.323(d) of the Act must obtain a guard company license.
- (c) A security department of a private business shall not provide guard company services to a third party.
- (d) The holder of a private business letter of authority must qualify a manager who meets the requirements of the Act as they pertain to the manager of a security services contractor and maintain on file with the department the name of the individual responsible to ensure the commissioned security officer's compliance and ensure records are maintained in accordance with applicable laws and rules.
- (e) A private business letter of authority is valid for one year and may be renewed by submitting the department approved renewal application and the required renewal fee no earlier than ninety (90) days prior to expiration.

### **RULE §35.102 Governmental Letter of Authority**

- (a) A political subdivision that employs a commissioned private security officer must obtain a governmental letter of authority.
- (b) The governmental letter of authority is valid for one (1) year and may be renewed by submitting the department approved renewal application and required renewal fee no earlier than ninety (90) days prior to expiration.
- (c) The holder of the governmental letter of authority must designate and maintain on file with the department the name of the individual responsible for ensuring the commissioned security officer's compliance with the Act and this chapter and for ensuring records are maintained in accordance with this chapter.

## **SUBCHAPTER I COMPANY RECORDS**

### **RULE §35.111 Employee Records**

Licensees shall keep records of all employees registered or commissioned under the Act. The employee records, detailed in this section, shall be maintained for a period of two (2) years from the last date of employment:

- (1) Full name, date of employment, position, and address;
- (2) Social security number;
- (3) Last date of employment;
- (4) Date and place of birth;
- (5) One color photograph;

- (6) The results of any drug tests;
- (7) Documentation of the pre-employment check required under §35.3 of this chapter (relating to Registration Applicant Pre-employment Check); and
- (8) All training certificates earned by the employee while employed by the licensee.

#### **RULE §35.112 Business Records**

- (a) Licensees shall maintain copies of the records detailed in this section, or otherwise required under this chapter, for two (2) years from the later of the date the related service was provided or the date the contract was completed:
  - (1) All contracts for regulated service and related documentation reflecting the actual provision of the regulated service; and
  - (2) Copies of any timesheets, invoices, or scheduling records reflecting the employment dates of any registered employees.
- (b) If the company has no physical place of business within the State of Texas, the records shall be maintained:
  - (1) At the office of the registered agent within the State of Texas; or
  - (2) At any physical location within the State of Texas of an agent or employee of the company.

#### **RULE §35.113 Records Required on Commissioned Security Officers**

In addition to any other records required under this chapter, the employer of a commissioned security officer shall maintain and make available for inspection the records detailed in this section:

- (1) The current residential address of the officer as reported by the officer;
- (2) The current duty assignment and location of assignment;
- (3) The results of all drug tests administered; and
- (4) Documented information on all required training obtained by the officer while employed by the licensee.

## **SUBCHAPTER J SPECIAL COMPANY LICENSE QUALIFICATIONS**

#### **RULE §35.121 Investigations Company License**

- (a) Pursuant to the Act, the department has determined that an applicant for licensure as a private investigations company or the prospective manager of the applicant company must meet one of the qualifications detailed in this section:
  - (1) Three (3) consecutive years of investigation related experience;
  - (2) A bachelor's degree in criminal justice or related course of study;
  - (3) A bachelor's degree with twelve (12) months of investigation related experience;
  - (4) An associate degree in criminal justice or related course of study, with twenty-four (24) months of investigation related experience;
  - (5) A specialized course of study directly designed for and related to the private investigation profession, taught and presented through affiliation with a four (4) year college or university accredited and recognized by the State of Texas. This course of study must be endorsed by the four (4) year college or university's department of criminal justice program and include a departmental faculty member(s) on its instructional faculty. This course of study must consist of a minimum of two hundred (200) instructional hours including coverage of ethics, the Act, and this chapter; or
  - (6) Other combinations of education and investigation related experience may be substituted for the above at the discretion of the department or its designated representative.
- (b) The degrees referenced in subsection (a) of this section must be affiliated with a college or university recognized by the Texas Higher Education Coordinating Board, Southern Association of Colleges and Schools, or other accreditation organization recognized by the State of Texas.

#### **RULE §35.122 Guard Company License**

Pursuant to the Act, the department has determined that an applicant for licensure as a guard company or the prospective manager of the applicant company must meet the qualifications detailed in this section:

- (1) Must be at least twenty one (21) years of age at the time of application;
- (2) Must have at least three (3) years accumulated employment experience in the field in which the company is licensed; and
- (3) Must have at least one (1) year of experience in a managerial or supervisory position.

**RULE §35.123 Locksmith Company License**

Pursuant to the Act, the department has determined that an applicant for licensure as a locksmith company (as owner) or the prospective manager of the applicant company must meet one of the qualifications detailed in this section:

- (1) Qualification option one. Two (2) consecutive years of full-time locksmith-related experience; or
- (2) Qualification option two.
  - (A) Successful completion of a department approved forty-eight (48) hour basic locksmith course and a six hundred (600) hour fundamentals of locksmith course, with the curriculum content detailed in this subparagraph:
    - (i) Introduction to locksmithing.
    - (ii) The Act and this chapter.
    - (iii) State of Texas and United States Government business requirements.
    - (iv) Key blank identification.
    - (v) Key machine and key duplication.
    - (vi) Codes and code cutting.
    - (vii) Basic lock types.
    - (viii) Basic picking.
    - (ix) Rim and mortise cylinders.
    - (x) Key in knob/key in lever locks.
    - (xi) Deadbolts and mortise locks.
    - (xii) Installations.
    - (xiii) Impressioning.
    - (xiv) Basic master-keying.
    - (xv) Basic safe servicing.
    - (xvi) Small format interchangeable core.
    - (xvii) High security and key control cylinders.
    - (xviii) Automotive opening.
    - (xix) Automotive key generation and programming.
    - (xx) Exit/panic device servicing, replacement, and installation.
    - (xxi) Door closer servicing, replacement, and installation.
    - (xxii) Cabinet and drawer lock servicing, replacement, and installation.
    - (xxiii) Safe installation, moving, and anchoring.
    - (xxiv) Single door access control service and installation.
  - (B) Successful completion of a basic locksmith proficiency exam that covers a minimum of twelve (12) locksmith subjects and is approved by the department; and
  - (C) One (1) year of full-time locksmith related experience.

**SUBCHAPTER K FEES**

**RULE §35.131 Licensing and Examination Fees**

(a) Pursuant to the Act, below is the fee schedule:

Class A license (original and renewal)	\$350.00
Class B license (original and renewal)	\$400.00
Class C license (original and renewal)	\$540.00
Class T license (original and renewal)	\$2,500.00
Assignment of license	\$150.00

Branch office certificate and renewal	\$300.00
Change name of license	\$75.00
Delinquency fee (post-expiration renewal penalty)	\$30.00
Duplicate pocket card	\$10.00
Employee information update fee	\$15.00
Criminal history check fee	\$31.50
Letter of authority fee for private business	\$400.00
Letter of authority renewal fee for private business and political subdivision	\$225.00
Manager reexamination	\$100.00
Personal protection officer endorsement	\$50.00
Preliminary criminal history check and evaluation letter	\$100.00
Pocket card endorsement (add or delete)	\$20.00
Reinstate suspended company license	\$150.00
Registration fee for alarm systems monitor	\$30.00
Registration fee for dog trainer	\$30.00
Registration fee for employee of license holder	\$30.00
Registration fee for noncommissioned security officer (original and renewal)	\$30.00
Registration fee for owner, officer, partner, or shareholder of a license holder	\$50.00
Registration fee for private investigator, manager, branch office manager, locksmith, electronic access control device installer, and alarm systems installer (original and renewal)	\$30.00
Registration fee for security consultant	\$30.00
Registration fee for security salesperson	\$30.00
School instructor fee (original and renewal)	\$100.00
Security officer commission fee (original and renewal)	\$50.00
Training school and Continuing Education (CE) school approval fee (original and renewal)	\$350.00

- (b) Upon completion of development and production of the department's new laminated pocket card, an additional fee of \$5.00 will be charged for any new application or renewal requiring the new card.
- (c) Fees collected are non-refundable and non-transferable.
- (d) Payment of fees shall be made in a manner approved by the department.
- (e) If payment is dishonored or reversed prior to issuance, the application will be abandoned as

incomplete. If the registration, endorsement, commission, or license has been issued prior to being dishonored or reversed, revocation proceedings will be initiated pursuant to the Act, §1702.361. The department may dismiss a pending revocation proceeding upon receipt of payment of the full amount due, including any additional processing fees.

(f) Original fees shall not be prorated. The full fee shall accompany all original applications.

### **RULE §35.132 Subscription Fees**

The fees detailed in this section are authorized under Texas Government Code, §2054.252.

- (1) Each individual licensee, registrant, or commissioned security officer shall pay the following fee for occupational license renewal: \$3.00 for a \$30.00 renewal and \$5.00 for renewals from \$50.00 to \$100.00. This fee is in addition to the renewal fee.
- (2) Each company licensee shall pay the following fee for occupational license renewal: \$7.00 for a \$225.00 renewal; \$11.00 for a \$300.00 to \$350.00 renewal; \$12.00 for a \$400.00 renewal; and \$16.00 for a \$540.00 renewal. This fee is in addition to the renewal fee.
- (3) Each individual applicant for a license, registration or security officer commission shall pay the following fee upon application: \$3.00 for a \$30.00 application; and \$5.00 for a \$50.00 to \$100.00 application. This fee is in addition to the application fee.
- (4) Each company license applicant shall pay the following fee upon application: \$11.00 for a \$300.00 to \$350.00 application; \$12.00 for a \$400.00 application; and \$16.00 for a \$540.00 application. This fee is in addition to the application fee.
- (5) Each individual registrant or commissioned security officer shall pay a \$2.00 fee for an employee information update. This fee is in addition to the employee information update fee.

## **SUBCHAPTER L TRAINING**

### **RULE §35.141 Training Requirements**

(a) Security and Personal Protection Officer Training.

- (1) The Level II training course shall be completed by all applicants for a security officer commission or for registration as a noncommissioned security officer. The course material shall be prepared or approved by the department. A certificate indicating completion of Level II training shall be submitted to the department with the required application. Level II training may be taught by the licensee's manager, the manager's designee, or a board approved school and board approved instructor using the most current version of the respective Board Level II training course manuals.
- (2) The Level III training course shall be completed by all applicants for a security officer commission and a personal protection officer endorsement. The course material shall be prepared by and obtained from the department. A certificate indicating completion of Level III training shall be submitted to the department along with the application to register the individual. Level III training must be taught by a department approved school and a department approved instructor.
- (3) The Level IV training course shall be completed by all applicants for a personal protection officer endorsement. The course material shall consist of a minimum of fifteen (15) classroom hours and shall be offered by department approved personal protection officer training schools and taught by department approved personal protection training instructors. All training shall be conducted with a department approved instructor present during all instruction. All students of a personal protection officer training course shall be tested with an examination prepared by and obtained from the department.

(b) Peace Officer Exemption.

- (1) Applicants for either a security officer commission or a personal protection officer endorsement who are full-time peace officers, certified by the Texas Commission on Law Enforcement (TCOLE), may be exempted from the Level III training requirements upon submission to the department a sworn affidavit attesting to the applicant's review of and familiarity with the Act and the related administrative rules.
- (2) Applicants for either a security officer commission or a personal protection officer endorsement who have honorably retired as Texas peace officers within the preceding

two (2) years may be exempted from the Level III training requirements upon submission to the department of proof of their honorably retired status (in the form of documentation from the employing agency or TCOLE), and of a sworn affidavit attesting to the applicant's review of and familiarity with the Act and this chapter. For purposes of the above exemption, "honorably retired" means that the applicant:

- (A) Did not retire in lieu of a disciplinary action;
  - (B) Was eligible to retire from the law enforcement agency or was ineligible to retire only as a result of an injury received in the course of the applicant's employment with the agency; and
  - (C) Is entitled to receive a pension or annuity for service as a law enforcement officer or is not entitled to receive a pension or annuity only because the law enforcement agency that employed the applicant does not offer a pension or annuity to its employees.
- (c) Alarm Systems Training.
- (1) The Level I alarm systems training course shall be successfully completed, and the certification submitted to the department, by any registrant employed as an alarm systems installer or a security alarm salesperson, in order to renew an original registration.
  - (2) Alarm systems Level I training must be taught by a department approved alarm systems training school and a department approved alarm instructor.
- (d) An inactive or expired registrant who has not been employed in the investigation or security services industry in the past three (3) years or more must submit current training certificate(s) to the department.

#### **RULE §35.142 Training School Approval**

- (a) An application for training school approval shall be submitted in the manner prescribed by the department.
- (b) To be approved, the school must:
  - (1) Use the department's most current training manual;
  - (2) Register and obtain approval of all instructors as provided under §35.133 of this chapter (relating to Training Instructor Approval);
  - (3) Register a qualified manager;
  - (4) Register all owners, officers, partners, or shareholders, as provided in the Act, §1702.110.
- (c) The letter of approval or license certificate shall be valid for one (1) year and may be renewed by submitting an application for renewal thirty (30) days prior to the expiration date.
- (d) An entity having a private business letter of authority or a governmental letter of authority may seek approval as a training school by meeting requirements of this chapter where applicable. A training school approved under this section may only train employees of the entity.
- (e) The department may deny an application for approval for any reason relating to the failure to satisfy the requirements of this section, or for prior violations of the Act or this chapter on the part of the owners or instructors associated with the applicant.
- (f) The department may withdraw or suspend approval of a training school upon evidence the school has operated in violation of the Act or this chapter. Certificates of completion or proficiency submitted for courses taught subsequent to notification of withdrawal or suspension of the school's approval will be rejected.

#### **RULE §35.143 Training Instructor Approval**

- (a) An application for approval as a training instructor shall contain evidence of qualification as required by the department. Instructors may be approved for classroom or firearm training, or both. An individual may apply for approval for one or both of these categories. To qualify for classroom or firearm instructor approval, the applicant must submit acceptable certificates of training for each category. The classroom instructor and firearm certificates shall represent a combined minimum of forty (40) hours of department approved instruction.
- (b) The items detailed in this subsection may constitute proof of qualification as a classroom instructor for security officers:
  - (1) An instructor's certificate issued by Texas Commission on Law Enforcement (TCOLE);
  - (2) An instructor's certificate issued by federal, state, or political subdivision law enforcement agency approved by the department;

- (3) An instructor's certificate issued by the Texas Education Agency (TEA);
  - (4) An instructor's certificate relating to law enforcement, private security, or industrial security issued by a junior college, college, or university; or
  - (5) A concealed handgun instructor certificate issued by the department.
- (c) The items listed in this subsection may constitute proof of qualification as a firearm training instructor, if reflecting training completed within two (2) years of the date of the application:
- (1) A handgun instructor's certificate issued by the National Rifle Association;
  - (2) A firearm instructor's certificate issued by TCOLE; or
  - (3) A firearm instructor's certificate issued by a federal, state, or political subdivision law enforcement agency approved by the department.
- (d) Proof of qualification as an alarm systems training instructor shall include proof of completion of an approved training course on alarm installation.
- (e) Proof of qualification as a personal protection officer instructor shall include, but not be limited to:
- (1) A firearm instructor's certificate issued by TCOLE along with proof that the individual has instructed nonlethal self-defense or nonlethal defense of a third party for three (3) or more years. Evidence may include:
    - (A) Affidavit from employer; or
    - (B) A copy of curriculum taught.
  - (2) An instructor's certificate issued by federal, state, or political subdivision law enforcement academy along with proof that the individual has instructed nonlethal self defense or nonlethal defense of a third party for three (3) or more years. Evidence may include:
    - (A) Affidavit from employer; or
    - (B) A copy of curriculum taught.
  - (3) An instructor's certificate issued by TEA along with proof that the individual has instructed nonlethal self defense or nonlethal defense of a third party for three (3) or more years. Evidence may include:
    - (A) Affidavit from employer; or
    - (B) A copy of curriculum taught.
  - (4) An instructor's certificate relating to law enforcement, private security or industrial security issued by a junior college, college or university along with proof that the individual has instructed nonlethal self defense or nonlethal defense of a third party for three (3) or more years. Evidence may include:
    - (A) An affidavit from an employer; or
    - (B) A copy of curriculum taught.
  - (5) Evidence of successful completion of a department approved training course for personal protection officer instructors.
- (f) A letter of approval from the department shall be issued to each approved instructor and shall be valid for a period of one (1) year. The instructor's approval may be renewed for a period of one (1) year, upon application to the department and payment of the renewal fee.
- (g) Notice shall be given in writing to the department within fourteen (14) days after a change in address of the approved instructor.
- (h) A letter of approval from the department shall be issued to each approved instructor and shall be valid for a period of one (1) year. The instructor's approval may be renewed at any time up to one (1) year after expiration, upon application to the department and payment of the renewal fee.
- (i) In addition to summary actions under the Act, based on criminal history disqualifiers, the department may revoke or suspend an instructor's approval or deny the application or renewal thereof upon evidence that:
- (1) The instructor or applicant has violated any provisions of the Act or this chapter;
  - (2) The qualifying instructor's certificate has been revoked or suspended by the issuing agency;
  - (3) A material false statement was made in the application; or
  - (4) The instructor does not meet the qualifications set forth in the provisions of the Act and this chapter.

**RULE §35.144 Training Manuals and Examinations for Commissioned Security Officer and Personal Protection Officer**

- (a) The most current version of department's training manuals shall be used by all department approved Level III and Level IV training schools.
- (b) All students of a Level III or Level IV training school shall be tested with the most current version examination prepared by and obtained from the department.
- (c) The passing grade of all examinations shall be a minimum of 75% correct answers.

**RULE §35.145 Handgun Courses**

- (a) In addition to the firearm qualification requirements as set forth in the Act, a department approved firearm training instructor may qualify a student by using:
  - (1) The Texas Department of Public Safety Primary Issued Handgun Qualification Course; or
  - (2) The Texas Department of Public Safety Approved Concealed Handgun License Course.
- (b) All individuals qualifying with a firearm to satisfy the requirements of the Act shall qualify with an actual demonstration by the individual of the ability to safely and proficiently use the category of firearm for which the individual seeks qualification.
- (c) The categories of handguns are:
  - (1) SA--Semi-automatic; and
  - (2) NSA--Non semi-automatic.
- (d) The SA qualification authorizes the carrying of either semi automatic or non semi-automatic handguns.

**RULE §35.146 Shotgun Course of Fire**

- (a) Any commissioned security officer licensed by the department who, in the performance of his/her duties, has a shotgun available to assist in the protection of life or property must demonstrate proficiency to a department approved firearms training instructor by successfully completing the course of fire for shotgun training. The course of fire shall consist of nine rounds of nine (9) pellet "00" buckshot (no slugs) fired as detailed in this section:
  - (1) From a standing position at a distance of fifteen (15) yards, three (3) rounds of "00" buckshot in twelve (12) seconds;
  - (2) From a standing position at a distance of ten (10) yards, three (3) rounds of "00" buckshot in ten (10) seconds;
  - (3) From a standing position at a distance of five (5) yards, three (3) rounds of "00" buckshot in ten (10) seconds; or
  - (4) An alternate course of fire may be approved by the director upon receipt of written application.
- (b) A biennial familiarization of six (6) rounds of "00" buckshot shall be required for renewal of a commissioned security officer. The course of fire shall be as outlined in subsection (a) of this section reducing the number of rounds from three (3) to two (2) with a commensurate halving of time in each category.
- (c) The category for any shotgun is STG.

**RULE §35.147 Certificates of Completion and Training Records**

- (a) A department approved training school shall:
  - (1) Issue an original certificate of completion to each qualifying student within seven (7) days after the student qualifies;
  - (2) Maintain adequate records to show attendance, progress and grades of students and maintain on file a copy of each certificate issued to students at the department approved training school;
  - (3) Make all required records available to investigators employed by the department for inspection during reasonable business hours; and
  - (4) Retain all training records for twenty-four (24) months from the date of completion of training.
- (b) The certificate of completion shall reflect the particular course or courses completed by a student during the training period.
  - (1) Certificates of completion for Level II shall contain the:
    - (A) Name and approval number of the school;
    - (B) Date of completion;

- (C) Name, signature, and approval number of training instructor; and
- (D) Full name and last six (6) digits of social security number of student.
- (2) Certificates of completion for Level III and IV shall contain the:
  - (A) Name and approval number of the school;
  - (B) Date of firearm training completion (Level III only);
  - (C) Name, signature, and approval number of classroom and/or firearm training instructor;
  - (D) Full name and last six (6) digits of the social security number of student; and
  - (E) The specific date of firearm qualification along with the name and approval number of the firearms instructor on those certificates designating completion of Level III.
- (3) Certificate of completion for firearms qualification (firearm proficiency) shall contain the:
  - (A) Name and approval number of the school;
  - (B) Name, signature, and approval number of firearms training instructor;
  - (C) Full name and last six (6) digits of the social security number of student;
  - (D) Firearms completion date;
  - (E) Note the category of firearm as defined in this chapter;
  - (F) Note the caliber of firearm; and
  - (G) Be on a certificate form designed or approved by the department.
- (4) Certificates of completion for alarm systems installation or sales training shall contain:
  - (A) The name and approval number of the school;
  - (B) The name, signature and approval number of training instructor;
  - (C) The full name and last six (6) digits of the social security number of student;
  - (D) The date of final completion of the entire course; and
  - (E) The words "Has successfully completed the alarm installers or alarm systems salespersons alarm training school approved by the Texas Department of Public Safety."

## **SUBCHAPTER M CONTINUING EDUCATION**

### **RULE §35.161 Continuing Education Requirements**

- (a) A license, registration, endorsement, or commission may not be renewed until the required minimum hours of department approved continuing education credits have been earned in accordance with the Act and this chapter. Proof of the required continuing education must be maintained by the employer and contained in the personnel file of the registrant's employing company. All registrants shall indicate they have completed the required minimum hours of department approved continuing education credits on their application for renewal. A renewal application shall also include the name of the school, school number, seminar number, seminar date, and credits earned.
- (b) Nonparticipating owners, partners, shareholders, noncommissioned security officers, and administrative support personnel are specifically exempted from the continuing education requirements.
- (c) All registrants not specifically addressed in this section shall complete a total of eight (8) hours of continuing education, seven (7) hours of which must be in subject matter that relates to the type of registration held, and one (1) hour of which must cover ethics. Following the initial registration period, qualified managers of Class B licensed companies may take a one (1) hour course devoted to changes in laws and rules applicable to the security industry, as a substitute for the above one (1) hour ethics requirement.
- (d) Private investigators and managers of Class A and Class C licenses with more than fifteen (15) years of continued registration as a private investigator or manager of a Class A or Class C license shall complete a total of twelve (12) hours of continuing education, eight (8) hours of which must be in subject matter that relates to the type of registration held, two (2) hours of which must cover ethics, and two (2) hours of which must involve the review of the Act and the rules of this chapter.
- (e) Private Investigators and managers of Class A and Class C licenses with less than fifteen (15) years of continued registration as a private investigator or manager of a Class A or Class C license shall complete a total of eighteen (18) hours of continuing education, fourteen (14) of which must be in subject matter that relates to the type of registration held, two (2) hours of

which must cover ethics, and two (2) hours of which must involve the review of the Act and the rules of this chapter.

- (f) Any person registered as a private investigator who fails to complete the required continuing education during the twenty-four (24) months of an initial registration is not eligible to make a new or renewal application until such time as the training requirement for the previous registration period has been satisfied.
- (g) Commissioned security officers and personal protection officers shall complete six (6) hours of continuing education. Continuing education for commissioned security officers and personal protection officers must be taught by schools and instructors approved by the department to instruct commissioned security officers as defined in the Act. Commissioned security officers shall submit a firearms proficiency certificate along with the renewal application.
- (h) During the first twelve (12) months of initial registration, each person employed as an alarm system installer or alarm systems salesperson must complete Alarm Level I training, consisting of sixteen (16) hours of classroom instruction or equivalent online course as approved by the department, with two (2) hours covering the National Electrical Code (NEC) as it applies to low voltage. Any person employed as an alarm systems installer or alarm systems salesperson must earned eight (8) hours of continuing education credits in an alarm related field, with one (1) hour covering the National Electrical Code (NEC) as it applies to low voltage, during each subsequent twenty-four (24) month period. This requirement must be satisfied prior to the expiration date of registration in order to renew the registration.
- (i) For the protection of the installer and the general public, the work of an alarm system installer who has not completed the required sixteen (16) hours of instruction must be overseen by an installer who has completed the required sixteen (16) hours of instruction. The oversight required under this section need not involve direct physical supervision, but the overseeing installer is responsible for ensuring the installation complies with all applicable requirements and regulations.
- (j) Any person registered as an alarm systems installer or salesperson who fails to complete sixteen (16) hours of training during the twenty-four (24) months of initial licensure, or who fails to complete eight (8) hours of continuing education during any subsequent licensing period is not eligible to make a new or renewal application until such time as all training requirements for the previous license period have been satisfied.
- (k) Alarm monitors shall complete four (4) hours of continuing education in subject matter that relates to the duties and responsibilities of an alarm monitor.
- (l) All persons registered or licensed as locksmiths must complete sixteen (16) hours of continuing education every two (2) years.
- (m) Attendees of continuing education courses shall maintain certificates of completion furnished by the school director in their files for a period of two (2) years. Attendees shall furnish the department with copies of all certificates of completion upon request.

#### **RULE §35.162 Continuing Education Schools**

- (a) Except as otherwise provided by this subchapter, all continuing education credits must be earned through department approved continuing education schools.
- (b) All department approved continuing education schools shall comply with:
  - (1) Each school must identify to the department a school director as its agent responsible for ensuring the school's compliance with this subchapter, including the maintenance of attendance records, the provision of such records to department personnel upon request, and the verification of curricula and instructors' qualifications. The failure of this individual to perform these duties or to otherwise comply with this subchapter may result in the cancellation of the school's certificate of approval and the rejection of claims for continuing education credit obtained from that school.
  - (2) School attendance records shall include:
    - (A) Subjects taught in each course of instruction;
    - (B) Total hours of each course of instruction and the hours instructed on each subject;
    - (C) Date of instruction;
    - (D) Name, license number, and date(s) of attendance for each individual that attended a course of instruction; and
    - (E) Name and qualifications of instructor.
  - (3) Schools shall issue certificates of attendance to registrants or licensees attending a course of instruction. The certificates of attendance shall contain the name and license number of the attendee, the date of attendance, the number of hours of

- attendance, and the course(s) of instruction attended. Each certificate shall be signed and dated by the school director.
- (4) Schools shall maintain all records required by this section for a period of two (2) years.
  - (5) The school shall provide copies of all records required under this subchapter to the department upon request.
  - (6) The school director shall verify that the curriculum of each continuing education course offered is in compliance with this chapter.
  - (7) The school director shall verify the qualifications of each instructor.
- (c) Attendees of courses of continuing education shall maintain certificates of completion furnished by the school director in their files for a period of two (2) years. Attendees shall furnish the department with copies of all certificates of completion upon request.
- (d) Licensed companies with ten (10) or more registered employees may make a written request for a letter of exemption allowing them to provide continuing education to those employees registered under the requesting company's license. Such requests shall be addressed to the department. A letter of exemption granted under this section shall be valid for two (2) years. To qualify for a letter of exemption, the company must appoint a training director, assure that all training is in compliance with all related administrative rules, maintain proof of all training, and provide each employee with a certificate of training as required by this section. There is no annual fee associated with a letter of exemption issued under this subsection.

## SUBCHAPTER N EXEMPTIONS

### **RULE §35.171 Unlicensed General Contractors or Other Intermediaries**

An unlicensed general contractor or other intermediary may not offer to provide and may not provide a regulated service unless the contract expressly includes:

- (1) The offer, bid, or proposal and any related advertisements must clearly and conspicuously state that the general contractor or broker is not licensed to perform the service in question and that the regulated service is to be provided exclusively by a licensed party;
- (2) The contract and any bid or offer to perform a regulated service must identify the licensee by name and license number;
- (3) The licensed subcontractor must be an express party to the contract; and
- (4) The contract must clearly and conspicuously provide that the licensee is fully responsible for the regulated service and that the unlicensed general contractor will have no involvement in the regulated service.

### **RULE §35.172 Certain Locksmith Services**

- (a) An owner or employee of a retail establishment open to the general public may perform work on a mechanical security device within the confines of the establishment, provided the work is limited to servicing products sold by the establishment, or duplicating keys.
- (b) The installation of a pre-keyed lockset may be performed by an unlicensed person, so long as the installer is hired directly by the recipient of the service, is not employed by or under contract with the retail establishment from which the lockset was purchased and the installation involves no rekeying or other internal manipulation of the locking mechanism or of any existing mechanical security devices.
- (c) Repossession agents who are exclusively engaged in the business of repossession are exempted from licensure under the Act while using their own equipment and employees to decode or make keys, or to install or repair locks for the property repossessed. Any third party contractor engaged to perform such services must be licensed as a locksmith.
- (d) The exemptions listed in subsection (a), (b), or (c) of this section apply only if the person does not use the term "locksmith" or any similar term, or otherwise create the impression to a reasonable consumer that the person is a licensed locksmith.

### **RULE §35.173 Electronic Access Control Device**

This chapter does not apply to manufacturers, manufacturers' distributors, or installers of electronic access control devices whose sole intended purpose is to provide the public with convenient and unrestricted access, such as automatic pedestrian doors

## **SUBCHAPTER O ACTIVE MILITARY AND SPOUSES- SPECIAL CONDITIONS**

### **RULE §35.181 Exemption from Penalty for Failure to Renew in Timely Manner**

An individual who holds a registration, commission, or license issued under the Act is exempt from any increased fee or other penalty for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the department the individual failed to renew the license in a timely manner because the individual was on active duty in the United States Armed Forces serving outside this state.

### **RULE §35.182 Extension of Certain Deadlines for Active Military Personnel**

A person who holds a registration, commission, or license issued under the Act, who is a member of the state military forces or a reserve component of the armed forces of the United States, and who is ordered to active duty by proper authority is entitled to an additional amount of time, equal to the total number of years or parts of years the person serves on active duty, to complete:

- (1) Any continuing education requirements; and
- (2) Any other requirement related to the renewal of the person's license.

### **RULE §35.183 Alternative License Procedure for Military Spouses**

(a) An individual who is the spouse of a person serving on active duty as a member of the armed forces of the United States may apply for a license under this section if the individual:

- (1) Holds a current license issued by another state with licensing requirements substantially equivalent to the Act's requirements for the license; or
- (2) Within the five (5) years preceding the application date held a license in this state that expired while the applicant lived in another state for at least six (6) months.

(b) The department may accept alternative demonstrations of professional competence in lieu of existing experience, training, or educational requirements.

### **RULE §35.184 Credit for Military Experience and Training**

(a) Verified military service, training, or education that relates to the registration, commission, or license for which a military service member or military veteran has applied will be credited toward the respective experience or training requirements.

(b) This section does not apply to an applicant who:

- (1) Holds a restricted license issued by another jurisdiction; or
- (2) Is ineligible for the registration, commission, or license under the Act or this chapter, based on a disqualifying criminal history.