



# TEXAS PRIVATE SECURITY STATUTES & RULES



**2019 – 2020**

Issued by  
**Texas Department of Public Safety**  
Austin, Texas

March 27, 2020

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## CHAPTER 1702 OCCUPATIONS CODE

### TITLE 10. OCCUPATIONS RELATED TO LAW ENFORCEMENT AND SECURITY CHAPTER 1702. PRIVATE SECURITY SUBCHAPTER A. GENERAL PROVISIONS

#### **Sec. 1702.001. SHORT TITLE.**

This chapter may be cited as the Private Security Act.

#### **Sec. 1702.002. DEFINITIONS.**

In this chapter:

(1) "Alarm system" means:

(A) electronic equipment and devices designed to detect or signal:

(i) an unauthorized entry or attempted entry of a person or object into a residence, business, or area monitored by the system; or

(ii) the occurrence of a robbery or other emergency;

(B) electronic equipment and devices using a computer or data processor designed to control the access of a person, vehicle, or object through a door, gate, or entrance into the controlled area of a residence or business; or

(C) a television camera or still camera system that:

(i) records or archives images of property or individuals in a public or private area of a residence or business; or

(ii) is monitored by security personnel or services.

(1-a) For purposes of Subdivision (1), the term "alarm system" does not include a telephone entry system, an operator for opening or closing a residential or commercial gate or door, or an accessory used only to activate a gate or door, if the system, operator, or accessory is not monitored by security personnel or a security service and does not send a signal to which law enforcement or emergency services respond.

(1-b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(1), eff. September 1, 2019.

(2) "Branch office" means an office that is:

(A) identified to the public as a place from which business is conducted, solicited, or advertised; and

(B) at a place other than the principal place of business as shown in department records.

(3) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(2), eff. September 1, 2019.

(4) "Commission" means the Public Safety Commission.

(5) "Commissioned security officer" means a security officer to whom a security officer commission has been issued by the department.

(5-a) "Committee" means the Texas Private Security Advisory Committee established under this chapter.

(5-b) "Company license" means a license issued by the department that entitles a person to operate as a security services contractor or investigations company.

(5-c) "Department" means the Department of Public Safety of the State of Texas.

(6) "Detection device" means an electronic device used as a part of an alarm system, including a control, communications device, motion detector, door or window switch, sound detector, vibration detector, light beam, pressure mat, wiring, or similar device.

(6-a) "Electronic access control device" means an electronic, electrical, or computer-based device, including a telephone entry system, that allows access to a controlled area of a business, but that is not monitored by security personnel or services and does not send a signal to which law enforcement or emergency services respond. The term does not include:

(A) a mechanical device, such as a deadbolt or lock; or

(B) an operator for opening or closing a commercial gate or door or an accessory, such as a fixed or portable transmitter, card-reader, or keypad, if the operator or accessory is used only to activate the gate or door and is not connected to an alarm system.

(6-b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(3), eff. September 1, 2019.

(7) "Extra job coordinator" means a peace officer who:

(A) is employed full-time by the state or a political subdivision of the state; and

(B) schedules other peace officers to provide guard, patrolman, or watchman services in a private capacity who are:

(i) employed full-time by the state or a political subdivision of the state;

and

(ii) not employed by the extra job coordinator.

(8) "Firearm" has the meaning assigned by Section 46.01, Penal Code.

(8-a) "Individual license" means a license issued by the department that entitles an individual to perform a service regulated by this chapter for a company license holder, including a personal protection officer license.

(9) "Insurance agent" means:

(A) a person licensed under Subchapter B, C, D, or E, Chapter 4051, or Chapter 981, Insurance Code;

(B) a salaried, state, or special agent; or

(C) a person authorized to represent an insurance fund or pool created by a local government under Chapter 791, Government Code.

(10) "Investigations company" means a person who performs the activities described by Section 1702.104.

(11) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(4), eff. September 1, 2019.

(12) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(5), eff. September 1, 2019.

(13) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(6), eff. September 1, 2019.

(14) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(7), eff. September 1, 2019.

(15) "Peace officer" means a person who is a peace officer under Article 2.12, Code of Criminal Procedure.

(16) "Person" includes an individual, firm, association, company, partnership, corporation, nonprofit organization, institution, or similar entity. Section 311.005(2), Government Code, does not apply to this subdivision.

(16-a) "Personal protection officer" means a person who performs the activities described by Section 1702.202.

(17) "Personal protection officer license" means a license issued by the department that entitles an individual to act as a personal protection officer.

(18) "Private investigator" means an individual who performs one or more services described by Section 1702.104.

(19) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(8), eff. September 1, 2019.

(20) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(9), eff. September 1, 2019.

(20-a) "Security officer" means a person who performs the activities described by Section 1702.222.

(21) "Security officer commission" means an authorization issued by the department that entitles a security officer to carry a firearm.

(22) "Security services contractor" means a person who performs the activities described by Section 1702.102.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.001, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(1), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(2), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(3), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(4), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(5), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(6), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(7), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(8), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(9), eff. September 1, 2019.

**Sec. 1702.004. GENERAL SCOPE OF REGULATION.**

- (a) The department:
- (1) licenses investigations companies and security services contractors;
  - (2) issues commissions to certain security officers;
  - (3) licenses certain security officers engaged in the personal protection of individuals;
  - (4) licenses:
    - (A) certain individuals connected with a company license holder; and
    - (B) certain individuals employed in a field connected to private investigation or private security; and
  - (5) regulates company license holders, security officers, and individual license holders under this chapter.
- (b) The commission shall adopt rules necessary to comply with Chapter 53. In its rules under this section, the commission shall list the specific offenses for each category of regulated persons for which a conviction would constitute grounds for the department to take action under Section 53.021.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.002, eff. September 1, 2019.

**Sec. 1702.005. DEPARTMENT OF PUBLIC SAFETY; REFERENCES.**

- (a) The department shall administer this chapter.
- (b) A reference in this chapter or another law to the Texas Commission on Private Security or the Texas Private Security Board means the department.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.003, eff. September 1, 2019.

**Sec. 1702.006. FOREIGN ENTITY REGISTRATION.**

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

**SUBCHAPTER B. TEXAS PRIVATE SECURITY ADVISORY COMMITTEE**

**Sec. 1702.021. COMMITTEE MEMBERSHIP; APPLICABILITY OF OTHER LAW.**

- (a) The Texas Private Security Advisory Committee consists of seven members appointed by the commission as follows:
- (1) three public members, each of whom is a citizen of the United States;
  - (2) one member who is licensed under this chapter as a private investigator;
  - (3) one member who is licensed under this chapter as an alarm systems company;
  - (4) one member who is licensed under this chapter as the owner or operator of a guard company; and
  - (5) one member who is licensed under this chapter as a locksmith.

(b) Appointments to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(c) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee or to the appointment of the committee's presiding officer.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.005, eff. September 1, 2019.

**Sec. 1702.023. ELIGIBILITY OF PUBLIC MEMBERS.**

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

(1) is registered, commissioned, certified, or licensed by a regulatory agency in the field of private investigations or private security;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the department;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the department; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the department other than compensation or reimbursement authorized by law for committee membership, attendance, or expenses.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.006, eff. September 1, 2019.

**Sec. 1702.024. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.**

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

(b) A person may not be a committee member, and may not be a department employee whose primary duties include private security regulation and who is employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of private investigation or private security; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of private investigation or private security.

(c) A person may not be a committee member or act as general counsel to the committee or department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the committee.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.007, eff. September 1, 2019.

**Sec. 1702.025. TERMS; VACANCIES.**

(a) The committee members serve staggered six-year terms, with the terms of two or three members expiring on January 31 of each odd-numbered year.

(b) If a vacancy occurs during the term of a committee member, the commission shall appoint a new member to fill the unexpired term.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.008, eff. September 1, 2019.

**Sec. 1702.026. OFFICERS.**

(a) The commission shall designate one committee member as presiding officer to serve in that capacity at the will of the commission. The commission shall designate the presiding officer without regard to race, creed, color, disability, sex, religion, age, or national origin.

(b) The committee shall elect from among its members an assistant presiding officer and a secretary to serve two-year terms beginning on September 1 of each odd-numbered year.

(c) The presiding officer of the committee or, in the absence of the presiding officer, the assistant presiding officer shall preside at each committee meeting and perform the other duties prescribed by this chapter.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.009, eff. September 1, 2019.

**Sec. 1702.027. GROUNDS FOR REMOVAL.**

(a) It is a ground for removal from the committee that a member:

(1) does not have the qualifications required by Section 1702.021 at the time of appointment;

(2) does not maintain the qualifications required by Section 1702.021 during service on the committee;

(3) is ineligible for membership under Section 1702.023 or 1702.024;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee.

(b) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(10), eff. September 1, 2019.



Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.010, eff. September 1, 2019.  
Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(10), eff. September 1, 2019.

**Sec. 1702.028. REIMBURSEMENT.**

A committee member may not receive compensation for service on the advisory committee but is entitled to reimbursement for actual and necessary expenses incurred in performing the functions as a member of the committee, subject to the General Appropriations Act.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.011, eff. September 1, 2019.

**Sec. 1702.029. MEETINGS.**

The committee shall meet at least quarterly.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.012, eff. September 1, 2019.

**Sec. 1702.031. DUTIES OF ADVISORY COMMITTEE.**

The committee shall provide advice and recommendations to the department and commission on technical matters relevant to the administration of this chapter and the regulation of private security industries.

Added by

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.013, eff. September 1, 2019.

**Sec. 1702.032. COMMISSION LIAISON.**

The commission shall designate a commission member to serve as a liaison to the committee.

Added by

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.013, eff. September 1, 2019.

**SUBCHAPTER C. CHIEF ADMINISTRATOR AND PERSONNEL**

**Sec. 1702.041. CHIEF ADMINISTRATOR.**

(a) The chief administrator is responsible for the administration of this chapter under the direction of the public safety director. The chief administrator shall perform duties as prescribed by the public safety director.

(b) The chief administrator is a full-time employee of the department. A committee member may not serve as chief administrator.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.014, eff. September 1, 2019.

**Sec. 1702.042. PERSONNEL; CONFLICT OF INTEREST.**

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

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

**Sec. 1702.044. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION.**

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.015, eff. September 1, 2019.

**SUBCHAPTER D. POWERS AND DUTIES**

**Sec. 1702.061. GENERAL POWERS AND DUTIES.**

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.017, eff. September 1, 2019.

**Sec. 1702.062. FEES.**

- (a) The commission by rule shall establish reasonable and necessary fees that produce sufficient revenue to administer this chapter. The fees may not produce unnecessary fund balances.
- (b) The department may charge a fee each time the department requires a person regulated under this chapter to resubmit a set of fingerprints for processing by the department during the application process for a company license, individual license,

or security officer commission. The commission shall set the fee in an amount that is reasonable and necessary to cover the administrative expenses related to processing the fingerprints.

(c) A person whose pocket card has not expired is not eligible to receive from the department another pocket card in the same classification in which the pocket card is held.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.018, eff. September 1, 2019.

**Sec. 1702.063. USE OF FINES.**

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.019, eff. September 1, 2019.

**Sec. 1702.0635. RESTRICTIONS ON CERTAIN RULES.**

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.020, eff. September 1, 2019.

**Sec. 1702.064. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING.**

(a) The commission may not adopt rules restricting advertising or competitive bidding by a person regulated under this chapter except to prohibit false, misleading, or deceptive practices by the person.

(b) The commission may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated under this chapter a rule that:

(1) restricts the person's use of any medium for advertising;

(2) restricts the person's personal appearance or use of the person's personal voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.021, eff. September 1, 2019.

**Sec. 1702.0645. PAYMENT OF FEES AND FINES.**

(a) The commission may adopt rules regarding the method of payment of a fee or a fine assessed under this chapter.

(b) Rules adopted under this section may:

(1) authorize the use of electronic funds transfer or a valid credit card issued by a financial institution chartered by a state or the federal government or by a nationally recognized credit organization approved by the department; and

(2) require the payment of a discount or a reasonable service charge for a credit card payment in addition to the fee or the fine.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.022, eff. September 1, 2019.

**Sec. 1702.067. RECORDS; EVIDENCE.**

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.023, eff. September 1, 2019.

**Sec. 1702.068. APPEAL BOND NOT REQUIRED.**

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.024, eff. September 1, 2019

**SUBCHAPTER E. PUBLIC INTEREST INFORMATION**

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

(a) The department shall make available to the public through a toll-free telephone number, Internet website, or other easily accessible medium determined by the department the following information relating to a disciplinary action taken during the preceding three years regarding a person regulated under this chapter:

(1) the identity of the person;

(2) the nature of the complaint that was the basis of the disciplinary action taken against the person; and

(3) the disciplinary action taken by the commission.

(b) In providing the information, the department shall present the information in an impartial manner, use language that is commonly understood, and, if possible, avoid jargon specific to the security industry.

(c) The department shall update the information on a monthly basis.

(d) The department shall maintain the confidentiality of information regarding the identification of a complainant.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.026, eff. September 1, 2019.

**Sec. 1702.085. CONFIDENTIALITY OF RECORDS.**

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.027, eff. September 1, 2019.

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

**Sec. 1702.101. INVESTIGATIONS COMPANY LICENSE REQUIRED.** Unless the person holds a license as an investigations company, a person may not:

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

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

(a) Unless the person holds a license as a security services contractor, a person may not:

- (1) act as an alarm systems company, armored car company, courier company, guard company, or locksmith company;
- (2) offer to perform the services of a company in Subdivision (1); or
- (3) engage in business activity for which a license is required under this chapter.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.028, eff. September 1, 2019.

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

(a) Unless the person holds a license as an electronic access control device company, a person may not:

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

(b) A person licensed as an electronic access control device company may not install alarm systems unless otherwise licensed to install alarm systems under this chapter.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.029, eff. September 1, 2019.

**Sec. 1702.103. CLASSIFICATION AND LIMITATION OF COMPANY LICENSES.**

(a) The company license classifications are:

- (1) Class A: investigations company license, covering operations of an investigations company;
- (2) Class B: security services contractor license, covering operations of a security services contractor;
- (3) Class C: covering the operations included within Class A and Class B;
- (4) Class F: level III training school license; and
- (5) Class O: alarm level I training school license.

(b) A company license described by this chapter does not authorize the company license holder to perform a service for which the company license holder has not qualified. A person may not engage in an operation outside the scope of that person's company license. The department shall indicate on the company license the services the company license holder is authorized to perform. The company license holder may not perform a service unless it is indicated on the company license.

(c) A company license is not assignable unless the assignment is approved in advance by the department.

(d) The commission shall prescribe by rule the procedure under which a company license may be terminated.

(e) The commission by rule may establish other company license classifications for activities expressly regulated by this chapter and may establish qualifications and practice requirements consistent with this chapter for those company license classifications.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.030, eff. September 1, 2019.

**Sec. 1702.104. INVESTIGATIONS COMPANY.**

(a) A person acts as an investigations company for the purposes of this chapter if the person:

(1) engages in the business of obtaining or furnishing, or accepts employment to obtain or furnish, information related to:

(A) crime or wrongs done or threatened against a person, state, or the United States;

(B) the identity, habits, business, occupation, knowledge, efficiency, loyalty, movement, location, affiliations, associations, transactions, acts, reputation, or character of a person;

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

(D) the cause or responsibility for a fire, libel, loss, accident, damage, or injury to a person or to property;

(2) engages in the business of securing, or accepts employment to secure, evidence for use before a court, board, officer, or investigating committee;

(3) engages in the business of securing, or accepts employment to secure, the electronic tracking of the location of an individual or motor vehicle other than for criminal justice purposes by or on behalf of a governmental entity; or

(4) engages in the business of protecting, or accepts employment to protect, an individual from bodily harm through the use of a personal protection officer.

(b) For purposes of Subsection (a)(1), obtaining or furnishing information includes information obtained or furnished through the review and analysis of, and the investigation into the content of, computer-based data not available to the public. The repair or maintenance of a computer does not constitute an investigation for purposes of this section and does not require licensing under this chapter if:

(1) the review or analysis of computer-based data is performed only to diagnose a computer or software problem;

(2) there is no intent to obtain or furnish information described by Subsection (a)(1); and

(3) the discovery of any information described by Subsection (a)(1) is inadvertent.

(c) The review and analysis of computer-based data for the purpose of preparing for or responding to a cybersecurity event does not constitute an investigation for purposes of this section and does not require licensing under this chapter.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 509 (S.B. 64), Sec. 20, eff. September 1, 2019.

#### **Sec. 1702.105. ALARM SYSTEMS COMPANY.**

(a) A person acts as an alarm systems company for the purposes of this chapter if the person sells, installs, services, monitors, or responds to an alarm system or detection device.

(b) An alarm systems company may sell, install, maintain, or service, or offer to sell, install, maintain, or service, an electronic access control device or a mechanical security device that is capable of activation through a wireless signal. An alarm systems company may not rekey an electronic access control device or mechanical security device that can be activated by a key. This subsection does not apply to a mechanical security device or electronic access control device installed in a motor vehicle.

#### **Sec. 1702.1055. ELECTRONIC ACCESS CONTROL DEVICE COMPANY.**

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

#### **Sec. 1702.1056. LOCKSMITH COMPANY.**

(a) A person acts as a locksmith company for the purposes of this chapter if the person:

(1) sells, installs, services, or maintains, or offers to sell, install, service, or maintain, mechanical security devices, including deadbolts and locks;

- (2) advertises services offered by the company using the term "locksmith"; or
  - (3) includes the term "locksmith" in the company's name.
- (b) This section does not apply to a hotel, as that term is defined by Section 156.001, Tax Code.

**Sec. 1702.106. ARMORED CAR COMPANY.**

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

**Sec. 1702.107. COURIER COMPANY.**

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

**Sec. 1702.108. GUARD COMPANY.**

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

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

**Sec. 1702.110. APPLICATION FOR COMPANY LICENSE.**

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

- (1) the full name and business address of the applicant;
- (2) the name under which the applicant intends to do business;
- (3) a statement as to the general nature of the business in which the applicant intends to engage;
- (4) a statement as to the classification for which the applicant requests qualification;
- (5) if the applicant is an entity other than an individual, the full name and residence address of each partner, officer who oversees the security-related aspects of the business, and director of the applicant;
- (6) if the applicant is an individual, the fingerprints of the applicant or, if the applicant is an entity other than an individual, of each officer who oversees the security-related aspects of the business and of each partner or shareholder who owns at least a



25 percent interest in the applicant, provided in the manner prescribed by the department;

(7) a verified statement of the applicant's experience qualifications in the particular classification in which the applicant is applying;

(8) a report from the department stating the applicant's record of any convictions for a Class B misdemeanor or equivalent offense or a greater offense;

(9) the social security number of the individual making the application; and

(10) other information, evidence, statements, or documents required by the department.

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

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.031, eff. September 1, 2019.

#### **Sec. 1702.112. FORM OF COMPANY LICENSE.**

The department shall prescribe the form of a company license. The company license must include:

(1) the name of the company license holder;

(2) the name under which the company license holder is to operate;

(3) the company license number and the date the company license was issued;

and

(4) a photograph of the company license holder, affixed to the company license at the time the company license is issued by the department.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.032, eff. September 1, 2019.

#### **Sec. 1702.113. GENERAL QUALIFICATIONS FOR COMPANY LICENSE OR SECURITY OFFICER COMMISSION.**

(a) An applicant for a company license or security officer commission must be at least 18 years of age and must not:

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

(2) have been found by a court to be incompetent by reason of a mental defect or disease and not have been restored to competency;

(3) have been dishonorably discharged from the United States armed services, discharged from the United States armed services under other conditions determined by

the commission to be prohibitive, or dismissed from the United States armed services if a commissioned officer in the United States armed services; or

(4) be required to register in this or any other state as a sex offender.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1084, Sec. 17, eff. June 14, 2013.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1084, Sec. 17, eff. June 14, 2013.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(23), eff. September 1, 2019.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1146, Sec. 4.102(7), eff. September 1, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.033, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.034, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(23), eff. September 1, 2019.

#### **Sec. 1702.114. ADDITIONAL QUALIFICATIONS FOR INVESTIGATIONS COMPANY LICENSE.**

(a) An applicant for a company license to engage in the business of an investigations company must have, before the date of the application, three consecutive years' experience in the investigative field as an employee or owner of an investigations company or satisfy other requirements set by the commission.

(b) The applicant's experience must be:

(1) reviewed by the department; and

(2) determined to be adequate to qualify the applicant to engage in the business of an investigations company.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.035, eff. September 1, 2019.

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

(a) An applicant for a company license to engage in the business of a security services contractor must have, before the date of the application, two consecutive years' experience in each security services field for which the person applies as an employee or owner of a security services contractor or satisfy other requirements set by the commission.

(b) The applicant's experience must have been obtained legally and must be:

(1) reviewed by the department; and

(2) determined to be adequate to qualify the applicant to engage in the business of a security services contractor.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.036, eff. September 1, 2019.

**Sec. 1702.117. EXAMINATION.**

(a) The department shall require an applicant for a company license under this chapter to demonstrate qualifications in the person's company license classification, including knowledge of applicable state laws and commission rules, by taking an examination to be determined by the commission.

(b) Payment of the application fee entitles the applicant to take one examination without additional charge. A person who fails the examination must pay a reexamination fee to take a subsequent examination.

(c) The commission shall set the reexamination fee in an amount not to exceed the amount of the renewal fee for the company license classification for which application was made.

(d) The department shall develop and provide to a person who applies to take the examination under Subsection (a) material containing all applicable state laws and commission rules.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.037, eff. September 1, 2019.

**Sec. 1702.118. EXAMINATION RESULTS.**

(a) Not later than the 30th day after the date a person takes a licensing examination under this chapter, the department shall notify the person of the examination results.

(b) If an examination is graded or reviewed by a testing service:

(1) the department shall notify the person of the examination results not later than the 14th day after the date the department receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify the person of the reason for the delay before the 90th day.

(c) The department may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails a licensing examination administered under this chapter, the department shall furnish the person with an analysis of the person's performance on the examination.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.038, eff. September 1, 2019.

**Sec. 1702.1183. RECIPROCAL COMPANY LICENSE FOR CERTAIN APPLICANTS.**

(a) The department may waive any prerequisite to obtaining a company license for an applicant who holds a company license issued by another jurisdiction with which this state has a reciprocity agreement.

(b) The commission may make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

(c) The commission shall adopt rules under which the commission may waive any prerequisite to obtaining a company license for, and credit experience for a company license requirement to, an individual who the commission determines has acceptable experience gained during service in a branch of the United States armed forces, including the United States Coast Guard.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.039, eff. September 1, 2019.

**Sec. 1702.1186. PROVISIONAL COMPANY LICENSE.**

(a) The department may issue a provisional company license to an applicant currently licensed in another jurisdiction who seeks an equivalent company license in this state and who:

(1) has been licensed in good standing as an investigations company or security services contractor for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the commission relating to the practice of private investigations or security services contracting; and

(3) is sponsored by a person licensed by the department under this chapter with whom the provisional company license holder will practice during the time the person holds a provisional company license.

(b) A provisional company license is valid until the date the department approves or denies the provisional company license holder's application for a company license. The department shall issue a company license under this chapter to the provisional company license holder if:

(1) the provisional company license holder is eligible to be licensed under Section 1702.1183; or

(2) the provisional company license holder:

(A) passes the part of the examination under Section 1702.117(a) that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of an investigations company or security services contractor in this state;

(B) is verified by the department as meeting the academic and experience requirements for a company license under this chapter; and

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

(c) The department must approve or deny a provisional company license holder's application for a company license not later than the 180th day after the date the provisional company license is issued. The department may extend the 180-day period if the results of an examination have not been received by the department before the end of that period.

(d) The commission may establish a fee for provisional company licenses in an amount reasonable and necessary to cover the cost of issuing the company license.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.040, eff. September 1, 2019.

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

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.041, eff. September 1, 2019.

**Sec. 1702.123. INSURANCE; BOND.**

(a) A company license holder shall maintain on file with the department at all times the surety bond and certificate of insurance required by this chapter.

(b) The commission shall immediately suspend the company license of a company license holder who violates Subsection (a).

(c) The commission may rescind the company license suspension if the company license holder provides proof to the commission that the bond or the insurance coverage is still in effect. The company license holder must provide the proof in a form satisfactory to the commission not later than the 10th day after the date the company license is suspended.

(d) After suspension of the company license, the commission may not reinstate the company license until an application, in the form prescribed by the commission, is filed accompanied by a proper bond, insurance certificate, or both. The commission may deny the application notwithstanding the applicant's compliance with this section:

(1) for a reason that would justify suspending, revoking, or denying a company license; or

(2) if, during the suspension, the applicant performs a practice for which a company license is required.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.042, eff. September 1, 2019.

**Sec. 1702.124. INSURANCE REQUIREMENT.**

(a) An applicant is not eligible for a company license unless the applicant provides as part of the application:

(1) a certificate of insurance or other documentary evidence of a general liability insurance policy countersigned by an insurance agent licensed in this state; or

(2) a certificate of insurance for surplus lines coverage obtained under Chapter 981, Insurance Code, through a licensed Texas surplus lines agent resident in this state.

(b) The general liability insurance policy must be conditioned to pay on behalf of the company license holder damages that the company license holder becomes legally obligated to pay because of bodily injury, property damage, or personal injury, caused by an event involving the principal, or an officer, agent, or employee of the principal, in the conduct of any activity or service for which the company license holder is licensed under this chapter.

- (c) The insurance policy must contain minimum limits of:
  - (1) \$100,000 for each occurrence for bodily injury and property damage;
  - (2) \$50,000 for each occurrence for personal injury; and
  - (3) a total aggregate amount of \$200,000 for all occurrences.

(d) A person who is licensed to install and service fire alarms under Article 5.43-2, Insurance Code, complies with the insurance requirements of this section by complying with the insurance requirement of that article if the insurance held by the applicant complies with the requirements of this section in amounts and types of coverage.

(e) An insurance certificate executed and filed with the department under this chapter remains in effect until the insurer terminates future liability by providing to the department at least 10 days' notice of the intent to terminate liability.

(f) In addition to the requirements of this section, an applicant or company license holder shall provide and maintain a certificate of insurance or other documentary evidence of insurance sufficient to cover all of the business activities of the applicant or company license holder related to private security.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.043, eff. September 1, 2019.

#### **Sec. 1702.125. BOND REQUIREMENT.**

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.044, eff. September 1, 2019.

#### **Sec. 1702.127. COMPANY LICENSE HOLDER EMPLOYEES; RECORDS.**

(a) A company license holder may be legally responsible for the conduct in the company license holder's business of each employee of the company license holder while the employee is performing assigned duties for the company license holder.

(b) A company license holder shall maintain a record containing information related to the company license holder's employees as required by the commission.

(c) A company license holder shall maintain for inspection by the department at the company license holder's principal place of business or branch office two recent color photographs, of a type required by the commission, of each applicant, individual license holder, commissioned security officer, and employee of the company license holder.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.045, eff. September 1, 2019.

**Sec. 1702.128. POSTING OF COMPANY LICENSE REQUIRED.**

A company license holder shall at all times post the person's license in a conspicuous place in:

- (1) the principal place of business of the company license holder; and
- (2) each branch office of the company license holder.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.046, eff. September 1, 2019.

**Sec. 1702.129. NOTICE OF CERTAIN CHANGES; BRANCH OFFICES. (a)**

A company license holder shall notify the department not later than the 14th day after the date of:

- (1) a change of address for the company license holder's principal place of business;
- (2) a change of a name under which the company license holder does business; or
- (3) a change in the company license holder's officers or partners.

(b) A company license holder shall notify the department in writing not later than the 14th day after the date a branch office:

- (1) is established;
- (2) is closed; or
- (3) changes address or location.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.047, eff. September 1, 2019.

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

(a) A company license holder, or an officer, director, partner, or employee of a company license holder, may not:

- (1) use a title, an insignia, or an identification card, wear a uniform, or make a statement with the intent to give an impression that the person is connected with the federal government, a state government, or a political subdivision of a state government; or
- (2) use a title, an insignia, or an identification card or wear a uniform containing the designation "police."

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.048, eff. September 1, 2019.

**Sec. 1702.131. ADVERTISING.**

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.049, eff. September 1, 2019.

**Sec. 1702.132. REPORTS TO EMPLOYER OR CLIENT.**

(a) A written report submitted to a company license holder's employer or client may only be submitted by the company license holder or a person authorized by a company license holder. The person submitting the report shall exercise diligence in determining whether the information in the report is correct.

(b) A company license holder or an officer, director, partner, or employee of a company license holder may not knowingly make a false report to the employer or client for whom information is obtained.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.050, eff. September 1, 2019.

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

(a) A company license holder or an officer, director, or partner of a company license holder may not disclose to another information obtained by the person for an employer or client except:

- (1) at the direction of the employer or client; or
- (2) as required by state law or court order.

(b) A company license holder or an officer, director, or partner of a company license holder shall disclose to a law enforcement officer or a district attorney, or that individual's representative, information the person obtains that relates to a criminal offense. A private investigator who is working under the direct supervision of a licensed attorney satisfies this requirement by disclosing the information to the supervising attorney.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.051, eff. September 1, 2019.

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

(a) A company license holder or an employee of a company license holder is not required to obtain an authorization, permit, franchise, or license from, pay another fee or franchise tax to, or post a bond in a municipality, county, or other political subdivision of this state to engage in business or perform a service authorized under this chapter.

(b) A municipality, county, or other political subdivision of this state may not require a payment for the use of municipal, county, or other public facilities in



connection with a business or service provided by a company license holder, except that a municipality may impose and collect:

(1) a reasonable charge for the use of a central alarm installation located in a police office that is owned, operated, or monitored by the municipality; and

(2) reasonable inspection and reinspection fees in connection with a device that causes at least five false alarms in a 12-month period.

(c) A municipality may require, until the device is repaired to the satisfaction of the appropriate municipal official, discontinuation of service of an alarm signal device that, because of mechanical malfunction or faulty equipment, causes at least five false alarms in a 12-month period.

(d) For the purposes of Subsection (c), a false alarm caused by human error or an act of God is not considered a mechanical malfunction or faulty equipment.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.052, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.053, eff. September 1, 2019.

## **SUBCHAPTER G. SECURITY OFFICER COMMISSION REQUIREMENTS**

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

(a) An individual may not accept employment as a security officer to carry a firearm in the course and scope of the individual's duties unless the individual holds a security officer commission.

(b) An individual employed as a security officer may not knowingly carry a firearm during the course of performing duties as a security officer unless the department has issued a security officer commission to the individual.

(c) A person may not hire or employ an individual as a security officer to carry a firearm in the course and scope of the individual's duties unless the individual holds a security officer commission.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.054, eff. September 1, 2019.

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

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.055, eff. September 1, 2019.

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

(a) An applicant employed by a company license holder is not eligible for a security officer commission unless the applicant submits as part of the application satisfactory evidence that the applicant has:

(1) completed the basic training course at a school or under an instructor approved by the department;

(2) met each qualification established by this chapter and administrative rule;

(3) achieved the score required by the department on the examination under Section 1702.1685; and

(4) demonstrated to the satisfaction of the firearm training instructor that the applicant has complied with other department standards for minimum marksmanship competency with a handgun.

(b) An individual is not eligible for a security officer commission if the individual:

(1) is disqualified by state or federal law from owning or possessing a firearm;

(2) is incapable of exercising sound judgment in the proper use and storage of a handgun;

(3) is a fugitive from justice for a felony or a Class A or Class B misdemeanor;

(4) is a chemically dependent person; or

(5) is currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests.

(c) An individual who has been convicted twice in the 10-year period preceding the date on which the person applies for a security officer commission of an offense of the grade of Class B misdemeanor or greater that involves the use of alcohol or a controlled substance as a statutory element of the offense is a chemically dependent person for purposes of this section and is not qualified to receive a security officer commission under this subchapter. This subsection does not preclude the disqualification of an individual for being a chemically dependent person if other evidence exists to demonstrate that the person is a chemically dependent person.

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

(1) has been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability;

(2) suffers from a psychiatric disorder or condition described by Subdivision (1) that:

(A) is in remission but is reasonably likely to redevelop at a future time; or

(B) requires continuous medical treatment to avoid redevelopment;

(3) has been diagnosed by a licensed physician or declared by a court as incompetent to manage the person's own affairs; or

(4) has entered a plea of not guilty by reason of insanity in a criminal proceeding.

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

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

(1) involuntary psychiatric hospitalization in the five years preceding the date of the application;

- (2) psychiatric hospitalization in the two years preceding the date of the application;
- (3) inpatient or residential substance abuse treatment in the five years preceding the date of the application;
- (4) diagnosis in the five years preceding the date of the application by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or
- (5) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:
  - (A) schizophrenia or delusional disorder;
  - (B) bipolar disorder;
  - (C) chronic dementia, whether caused by illness, brain defect, or brain injury;
  - (D) dissociative identity disorder;
  - (E) intermittent explosive disorder; or
  - (F) antisocial personality disorder.
- (f) Notwithstanding Subsection (d), a person who has previously been diagnosed as suffering from a psychiatric disorder or condition described by Subsection (d) or listed in Subsection (e) is not because of that disorder or condition incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person provides the department with a certificate from a licensed physician whose primary practice is in the field of psychiatry stating that the psychiatric disorder or condition is in remission and is not reasonably likely to develop at a future time.
- (g) An individual's eligibility under this section is not affected by a relationship or lack of relationship between the nature of a criminal charge or conviction and the regulated occupation.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.056, eff. September 1, 2019.

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

- (a) The department:
  - (1) may issue a security officer commission to an individual employed as a uniformed security officer; and
  - (2) shall issue a security officer commission to a qualified employee of an armored car company that is a carrier conducting the armored car business under a federal or state permit or certificate.
- (b) A security officer commission issued under this section must be in the form of a pocket card designed by the department that identifies the security officer.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.057, eff. September 1, 2019.

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

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.058, eff. September 1, 2019.

**Sec. 1702.1675. TRAINING PROGRAMS.**

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

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

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

(c) The basic training course established under this section must consist of a minimum of 30 hours.

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

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

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

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

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

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

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

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.059, eff. September 1, 2019.

**Sec. 1702.168. FIREARM REQUIREMENTS.**

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

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

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.060, eff. September 1, 2019.

**Sec. 1702.1685. HANDGUN PROFICIENCY EXAMINATION.**

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

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

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

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

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.061, eff. September 1, 2019.

**Sec. 1702.169. FIREARM RESTRICTIONS.**

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

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

**Sec. 1702.170. NONAPPLICABILITY OF FIREARM RESTRICTIONS.**

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

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

**Sec. 1702.171. SECURITY OFFICER COMMISSION RECORDS.**

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.062, eff. September 1, 2019.

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

**Sec. 1702.181. NOTICE AND REGISTRATION REQUIRED; REGISTRY.**

(a) The security department of a private business or a political subdivision may not employ a commissioned security officer unless the security department provides notice to the department in the form prescribed by the commission of:

- (1) the security department's intent to employ a commissioned security officer and register with the department under this section;
- (2) the name, title, and contact information of the person serving in the security department as the contact for the department; and
- (3) any change in the information provided in Subdivision (1) or (2).

(b) The department shall maintain a registry of security departments that provide notice under Subsection (a) and the name, title, and contact information of the person serving as contact for each security department.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.064, eff. September 1, 2019.

**Sec. 1702.182. SECURITY DEPARTMENT OF PRIVATE BUSINESS.**

(a) A security department acts as the security department of a private business if it:

- (1) has as its general purpose the protection and security of its own property and grounds; and
- (2) does not offer or provide security services to another person.

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

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

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

(a) Except as provided by Subsection (b), a political subdivision of this state may not require a private business to contract with or employ a peace officer to provide security services for the business.

(b) This section does not apply to:

(1) a requirement that a private business contract with or employ a peace officer to:

(A) provide security services for a public event;

(B) provide security services for a private event held at a public facility that is owned or leased by a political subdivision of this state;

(C) conduct a public escort; or

(D) direct traffic on a public roadway; or

(2) an order or determination made by a court under Chapter 125, Civil Practice and Remedies Code.

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

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

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.066, eff. September 1, 2019.

**Sec. 1702.202. PERSONAL PROTECTION OFFICER.**

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

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

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.067, eff. September 1, 2019.

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

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

(1) a certificate of completion of the basic security officer training course;

(2) proof that the applicant:

(A) has been issued a security officer commission;

(B) is employed at the time of application by an investigations company or guard company licensed by the department; and

(C) has completed the required training in nonlethal self-defense or defense of a third person; and

(3) proof of completion and the results of the Minnesota Multiphasic Personality Inventory psychological testing.

(b) The commission by rule shall require an applicant for a personal protection officer license to complete the Minnesota Multiphasic Personality Inventory test. The department may use the results of the test to evaluate the applicant's psychological fitness.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.068, eff. September 1, 2019.

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

(a) The commission shall establish a 15-hour course for a personal protection officer consisting of training in nonlethal self-defense or defense of a third person.

(b) The training required by this section is in addition to the basic training course for security officers.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.069, eff. September 1, 2019.

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

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

(1) is either:

(A) engaged in the exclusive performance of the officer's duties as a personal protection officer for the employer under whom the officer's personal protection officer license is issued; or

(B) traveling to or from the officer's place of assignment; and

(2) carries the officer's security officer commission and personal protection officer license on the officer's person while performing the officer's duties or traveling as described by Subdivision (1) and presents the commission and license on request.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.070, eff. September 1, 2019.

**SUBCHAPTER J. LICENSING AND DUTIES OF INDIVIDUALS**

**Sec. 1702.221. INDIVIDUAL LICENSE REQUIRED.**

(a) To perform any activity regulated by this chapter, the individual must:

(1) obtain the proper individual license under Subsection (b); and



(2) be employed by a company license holder.  
(b) An individual must obtain the appropriate individual license in accordance with the requirements of this chapter and related administrative rules if the individual:

(1) is employed as:

- (A) an alarm instructor;
- (B) an alarm systems installer;
- (C) an alarm systems monitor;
- (D) an electronic access control device installer;
- (E) a level 3 classroom or firearm instructor;
- (F) a locksmith;
- (G) a noncommissioned security officer;
- (H) a level 4 personal protection instructor;
- (I) a private investigator; or
- (J) an individual whose duties include performing another activity for

which an individual license is required under Subsection (e); or

(2) is an owner who owns at least a 51 percent interest in a company license holder.

(c) Licensure under this chapter does not preclude an individual from performing additional duties or services authorized by the individual's employer that are not regulated by this chapter. An individual who performs more than one of the services that require an individual license under this section must obtain an individual license for each service.

(d) In addition to the services listed in Subsection (b), a person holding a security officer commission must also obtain an individual license for personal protection if the individual performs the services described by Section 1702.202.

(e) The commission by rule may require a person to hold an individual license for performing any other activity expressly regulated by this chapter.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.072, eff. September 1, 2019.

#### **Sec. 1702.222. SECURITY OFFICER.**

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

(1) employed by a security services contractor or the security department of a private business; and

(2) employed to perform the duties of an alarm systems response runner who responds to the first signal of entry, a security guard, security watchman, security patrolman, armored car guard, or courier guard.

#### **Sec. 1702.2226. ELECTRONIC ACCESS CONTROL DEVICE INSTALLER.**

(a) An individual acts as an electronic access control device installer for purposes of this chapter if the individual installs, maintains, or repairs an electronic access control device.

(b) A person licensed as an electronic access control device installer may not install alarm systems unless the person holds an individual license under this chapter as an alarm systems installer.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.073, eff. September 1, 2019.

**Sec. 1702.2227. LOCKSMITH.**

(a) An individual acts as a locksmith for the purposes of this chapter if the person:

- (1) sells, installs, services, or maintains mechanical security devices, including deadbolts and locks; or
- (2) advertises or offers services to the public or represents to the public that the person is a locksmith.

(b) This section does not apply to a hotel, as that term is defined by Section 156.001, Tax Code.

**Sec. 1702.223. ALARM SYSTEMS INSTALLER.**

(a) An individual acts as an alarm systems installer for purposes of this chapter if the individual installs, maintains, or repairs an alarm system or detection device.

(b) An alarm systems installer may sell, install, maintain, repair, or service an electronic access control device or a mechanical security device that is capable of activation through a wireless signal. An alarm systems installer may not rekey an electronic access control device or mechanical security device that can be activated by a key. This subsection does not apply to a mechanical security device or electronic access control device installed in a motor vehicle.

**Sec. 1702.224. ALARM SYSTEMS MONITOR.**

(a) An individual acts as an alarm systems monitor for purposes of this chapter if the individual monitors an alarm system or detection device.

(b) This section does not apply to an individual employed exclusively and regularly by an employer, other than a license holder, in connection with the affairs of that employer and with whom the individual has an employee-employer relationship.

**Sec. 1702.229. QUALIFICATIONS FOR INDIVIDUAL LICENSE.**

(a) An applicant for an individual license must meet the qualifications required under Section 1702.113 for a company license applicant.

(b) The commission by rule may adopt additional qualifications for an individual to obtain an individual license under this subchapter.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.074, eff. September 1, 2019.

**Sec. 1702.230. APPLICATION FOR INDIVIDUAL LICENSE.**

(a) An application for an individual license must be verified and include:

(1) the applicant's full name, residence address, residence telephone number, date and place of birth, and social security number;

(2) a statement that:

(A) lists each name used by the applicant, other than the name by which the applicant is known at the time of application, and an explanation stating each place where each name was used, the date of each use, and a full explanation of the reasons the name was used; or

(B) states that the applicant has never used a name other than the name by which the applicant is known at the time of application;

(3) the name and address of the applicant's employer;

(4) the date the employment described by Subdivision (3) commenced;

(5) a letter from the company license holder requesting that the applicant be issued an individual license;

(6) the title of the position occupied by the applicant and a description of the applicant's duties;

(7) the required fees, including the criminal history check fee established under Section 1702.282;

(8) fingerprints of the applicant provided in the manner prescribed by the department; and

(9) any other information, evidence, statement, or document required by the department.

(b) The employer of the applicant shall make a reasonable attempt to verify the information required under Subsection (a)(1) before the earlier of:

(1) the date the application is submitted; or

(2) the date the applicant begins to perform the duties of employment that require an individual license.

(c) An applicant must submit an application that substantially meets the requirements of this section before employment in a capacity for which an individual license is required.

(d) For purposes of Subsection (a), an application is not considered to be verified until the department has received electronic verification from the department or the Federal Bureau of Investigation, as applicable, that the applicant has submitted the applicant's fingerprints.

(e) The department shall make information available to the public concerning whether an applicant for an individual license has met the requirements under this chapter for performing a service for which the individual license is required.

(f) If information concerning an applicant is not made available under Subsection (e) before the 48th hour after the time the applicant's fingerprints are submitted in accordance with Subsection (a), the applicant may begin performing the duties of employment for which the individual license is required, other than duties as a commissioned security officer, if the employer or its agent:

(1) verifies through the department's publicly accessible website that the applicant is:

(A) not disqualified for the individual license based on the applicant's criminal history; and

(B) not required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) maintains in the applicant's employee file a copy of the search results obtained under Subdivision (1).

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.075, eff. September 1, 2019.

**Sec. 1702.2305. PROVISIONAL INDIVIDUAL LICENSE.**

(a) The department may issue a provisional individual license to an applicant currently licensed in another jurisdiction who seeks an equivalent license in this state and who:

(1) has been licensed in good standing in the field in which the individual license is sought for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the commission relating to practice in the field in which the individual license is sought; and

(3) is employed by a company license holder with whom the provisional individual license holder will practice during the time the person holds a provisional individual license.

(b) A provisional individual license is valid until the date the department approves or denies the provisional individual license holder's application for an individual license. The department shall issue an individual license under this chapter to the provisional individual license holder if the provisional individual license holder is eligible to be licensed under this chapter.

(c) The department must approve or deny a provisional individual license holder's application for an individual license not later than the 180th day after the date the provisional individual license is issued. The department may extend the 180-day period if the results of an examination have not been received by the department before the end of that period.

(d) The commission may establish a fee for a provisional individual license in an amount reasonable and necessary to cover the cost of issuing the individual license.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.076, eff. September 1, 2019.

**Sec. 1702.232. POCKET CARDS.**

(a) The department shall issue a pocket card for each individual license holder under this chapter. A pocket card for an owner of a company license holder shall be issued to the company license holder.

(b) The department shall determine the size, design, and content of the pocket card.

(c) The pocket card must:

(1) state the name of the individual license holder;

- (2) contain a photograph, affixed to the pocket card by the department at the time the card is issued, and the signature of the individual license holder; and
- (3) state the date the card was issued and the card's expiration date.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.077, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 918 (H.B. 4195), Sec. 2, eff. September 1, 2019.

**Sec. 1702.233. DURATION OF POCKET CARDS.**

A pocket card issued for an individual license holder expires on the date the individual license expires under Section 1702.301(b).

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.078, eff. September 1, 2019.

**Sec. 1702.234. TRANSFER OF INDIVIDUAL LICENSE.**

An individual license holder may transfer the holder's license from one employer to another employer if, not later than the 14th day after the date the individual license holder begins the new employment, the new employer notifies the department of the transfer of employment on a form prescribed by the commission accompanied by payment of the employee information update fee.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.079, eff. September 1, 2019.

**Sec. 1702.235. PREEMPLOYMENT CHECK FOR NONCOMMISSIONED SECURITY OFFICERS.**

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.080, eff. September 1, 2019.

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

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

(b) The commission by rule may allow an electronic access control device installer to obtain or renew an individual license by fulfilling the requirements of a commission-approved, industry-based educational training program.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.081, eff. September 1, 2019.

**Sec. 1702.239. TRAINING REQUIREMENTS FOR ALARM SYSTEMS INSTALLER; EXAMINATION.**

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

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

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.082, eff. September 1, 2019.

**Sec. 1702.240. EXEMPTIONS FOR UNDERCOVER AGENT.**

(a) For the purposes of this section, "undercover agent" means an individual hired by a person to perform a job in or for that person, and while performing that job, to act as an undercover agent, an employee, or an independent contractor of a company license holder, but supervised by a company license holder.

(b) An employee of a company license holder who is employed exclusively as an undercover agent is not required to obtain an individual license.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.083, eff. September 1, 2019.

**Sec. 1702.241. JURISPRUDENCE EXAMINATION.**

(a) The commission may develop and the department may administer at least twice each calendar year a jurisprudence examination to determine the knowledge that an applicant for an individual license has of this chapter, commission rules, and any other applicable laws of this state affecting the applicant's activities regulated under this chapter.

(b) Before the department may administer a jurisprudence examination under this section, the commission shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results. The department may design different examinations for different types of individual licenses.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.084, eff. September 1, 2019.

## **SUBCHAPTER L. GENERAL PROVISIONS APPLICABLE TO REGULATED PERSONS**

### **Sec. 1702.282. CRIMINAL HISTORY CHECK.**

(a) The department shall conduct a criminal history check, including a check of any criminal history record information maintained by the Federal Bureau of Investigation, in the manner provided by Subchapter F, Chapter 411, Government Code, on each applicant for a license or security officer commission issued under this chapter. As part of its criminal history check, the department may request that the applicant provide certified copies of relevant court documents or other records. The failure to provide the requested records within a reasonable time as determined by the department may result in the application being considered incomplete. An applicant is not eligible for a license or security officer commission issued under this chapter if the check reveals that the applicant has committed an act that constitutes grounds for the denial of the license or commission. Except as provided by Subsection (d), each applicant shall submit at the time of application, including an application for the renewal of a license or security officer commission issued under this chapter, fingerprints in the manner prescribed by the department accompanied by the fee set by the commission.

(b) Before beginning employment as a commissioned security officer, the applicant must be approved by the department based on the results of the check under Subsection (a). To continue employment in a capacity regulated under this chapter other than as a commissioned security officer, the applicant must be approved by the department based on the results of the check under Subsection (a) not later than the 120th day after the date the applicant begins employment in that capacity.

(c) A license or security officer commission issued by the department is conditional on the department's review of criminal history record information.

(d) An applicant who is a peace officer is not required to submit fingerprints with the applicant's application. On request, the law enforcement agency or other entity that employs the peace officer or the entity that maintains the peace officer's fingerprints shall provide the fingerprints for the peace officer to the department. The applicant shall provide sufficient information to the department to enable the department to obtain the fingerprints under this subsection.

(e) On receipt of notice that a check of the applicant's criminal record has uncovered an unresolved and potentially disqualifying arrest that occurred before the 10th anniversary of the date the application is filed, the applicant must provide a letter of reference from the county sheriff, prosecuting attorney, or judge of the county in which the applicant was arrested stating that a record of a disposition related to the arrest

does not exist, and to the best of the county sheriff's, prosecuting attorney's, or judge's knowledge the applicant is free of any disqualifying convictions. If the applicant fails to provide either the letter of reference or documentary proof of the final disposition of the arrest, the application is considered incomplete and the applicant may not be issued a license or security officer commission under this chapter.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.085, eff. September 1, 2019.

**Sec. 1702.283. CRUELTY TO ANIMALS.**

A person who has been convicted of cruelty to animals under Section 42.09 or 42.092, Penal Code, may not be employed to work with dogs as a security officer by a security services contractor or security department of a private business that uses dogs to protect individuals or property or to conduct investigations.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.086, eff. September 1, 2019.

**Sec. 1702.284. ALARM SYSTEMS RECORDS CONFIDENTIAL.**

(a) Information contained in alarm systems records maintained by a governmental body that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the department, to the alarm company to which the confidential records relate, or as otherwise required by state law or court order.

(b) Information described by Subsection (a) may be used by the governmental body to inform the occupant of:

(1) the governmental body's alarm system response policy and any proposed change to that policy; and

(2) the option of the occupant to contract with a security services provider to respond to the occupant's alarm.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.087, eff. September 1, 2019.

**Sec. 1702.285. FALSE REPRESENTATION.**

A person may not represent falsely that the person:

(1) is employed by a company license holder; or

(2) has a license or security officer commission under this chapter.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.088, eff. September 1, 2019.

**Sec. 1702.286. DUTIES OF ALARM SYSTEMS COMPANY.**

(a) On the installation or activation of an alarm system, an alarm systems company shall distribute to the occupant of the alarm system location information summarizing:



(1) the applicable law relating to false alarms, including the potential for penalties and revocation or suspension of a permit;

(2) how to prevent false alarms; and

(3) how to operate the alarm system.

(b) An alarm systems company shall notify the municipality in which the alarm system is located of an installation or activation of an alarm system not later than the 30th day after the date of the installation or activation. The alarm systems company shall provide to the municipality:

(1) the alarm systems company name;

(2) the alarm systems company license number;

(3) the name of the occupant of the alarm system location;

(4) the address of the alarm system location; and

(5) the date of installation or activation.

(c) Information provided to a governmental body under this section is confidential and subject to disclosure only as provided under Section 1702.284.

(d) An alarm systems company commits an offense if the company violates Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

(e) The duties imposed by this section on an alarm systems company do not apply to the installation or activation of a personal emergency response system, as defined under Section 1702.331.

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

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

(1) shows the locksmith company or locksmith a government-issued identification; and

(2) provides a signed authorization stating that the customer owns or is otherwise entitled to legal access to the structure, motor vehicle, or other property.

(b) A locksmith company or locksmith is exempt from Subsection (a) if the locksmith is requested to perform services in a case of imminent threat to a person or property.

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

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

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

(a) The commission shall adopt rules in accordance with this section that require a company license holder acting as an alarm systems company under this chapter to

inform each of the license holder's clients that the client is entitled to receive a written contract for alarm system services that contains the client's fee arrangement and other relevant information about services to be rendered.

(b) The rules shall require that a written contract for alarm system services shall be furnished to a client in accordance with Subsection (a) not later than the seventh day after the date the client requests the written contract.

(c) The rules shall require that the written contract for services shall be dated and signed by the owner or manager of an alarm systems company or a person expressly authorized by the owner or manager to sign written contracts on behalf of the company.

(d) The rules shall require that, not later than the seventh day after the date of entering into a contract for services regulated by the department with another alarm systems company or alarm systems monitor, an alarm systems company shall:

(1) notify the recipient of those services of the name, address, and telephone number and individual to contact at the company that purchased the contract;

(2) notify the recipient of services at the time the contract is negotiated that another licensed company may provide any of the services requested by subcontracting or outsourcing those services; and

(3) if any of the services are subcontracted or outsourced to a licensed third party, notify the recipient of services, by mail, of the name, address, phone number, and license number of the company providing those services.

(e) The rules shall require that notice provided to a recipient of services under Subsection (d) shall:

(1) be mailed to the recipient in a written form that emphasizes the required information; and

(2) include stickers or other materials to be affixed to an alarm system indicating the alarm systems company's or alarm systems monitor's new telephone number.

(f) A company license holder acting as an alarm systems company does not have to provide the notice required under Subsection (d) if the contact information, including the address and the telephone numbers for the alarm systems company, has not changed.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.089, eff. September 1, 2019.

#### **Sec. 1702.289. INSPECTIONS.**

(a) An employee or agent of the department who enters the place of business of a person regulated under this chapter for the purpose of conducting an inspection or audit must:

(1) notify the manager or owner of the business of the presence of the person conducting the inspection or audit; and

(2) present the manager or owner of the business with credentials that identify the person conducting the inspection or audit as an employee or agent of the department.

(b) This section does not prohibit the department from conducting an undercover investigation or covert audit in order to determine compliance with this chapter or a rule adopted under this chapter.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.090, eff. September 1, 2019.

### **SUBCHAPTER M. EXPIRATION; RENEWAL**

#### **Sec. 1702.301. EXPIRATION.**

(a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(32), eff. September 1, 2019.

(b) A company license, individual license, and security officer commission expire on the dates determined by the commission under Section 411.511, Government Code, but not later than the second anniversary of the date the license or commission is issued.

(c) A personal protection officer license expires on the date determined by the commission under Section 411.511, Government Code, but not later than the expiration date of the security officer commission under which the license is issued.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(32), eff. September 1, 2019.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(32), eff. September 1, 2019.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(32), eff. September 1, 2019.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(32), eff. September 1, 2019.

(h) A license issued under this chapter, other than one specified in this section, expires on the date determined by the commission under Section 411.511, Government Code, but not later than the second anniversary of the date the license is issued.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.091, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(32), eff. September 1, 2019.

#### **Sec. 1702.302. LICENSE RENEWAL.**

(a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the department before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the department a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose license has been expired for longer than 90 days but less than one year may renew the license by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose license has been expired for one year or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

(e) Not later than the 30th day before the date a person's license is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person's last known address according to the department's records.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.092, eff. September 1, 2019.

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

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.093, eff. September 1, 2019.

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

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

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

A suspended license expires on the license's expiration date and may be renewed as provided by this chapter, but the renewal does not entitle the license holder, while the license remains suspended and until the license is reinstated, to engage in the licensed activity or in conduct in violation of the order or judgment by which the license was suspended.

**Sec. 1702.308. CONTINUING EDUCATION.**

(a) This section does not apply to a noncommissioned security officer.

(b) The department shall recognize, prepare, or administer continuing education programs for company license holders, commissioned security officers, and individual license holders. The commission shall set the minimum number of hours that must be completed and the types of programs that may be offered.

(c) A company license holder, commissioned security officer, or individual license holder must participate in the programs to the extent required by the commission to keep the person's license or commission. A company license holder, commissioned security officer, or individual license holder shall submit evidence of

compliance with the commission's continuing education requirements in a manner prescribed by the department.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.094, eff. September 1, 2019.

**Sec. 1702.309. SECURITY OFFICER COMMISSION RENEWAL.**

(a) The commission by rule shall develop a continuing education course required for renewal of a security officer commission. Only a department-approved instructor may administer the continuing education course. The course must include at least six hours of instruction determined by the department.

(b) A commissioned security officer must demonstrate the proficiency required under Section 1702.1685 within the 90-day period before the date the commission is renewed.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.095, eff. September 1, 2019.

**SUBCHAPTER N. EXCEPTIONS**

**Sec. 1702.321. GOVERNMENT EMPLOYEES.**

(a) Except as provided by this section, this chapter does not apply to an officer or employee of the United States, this state, or a political subdivision of this state while the employee or officer is performing official duties.

(b) The provisions of this chapter relating to security officer commissions apply to a person employed by a political subdivision whose duties include serving as a security guard, security watchman, or security patrolman on property owned or operated by the political subdivision if the governing body of the political subdivision files a written request with the department for the department to issue a commission to the political subdivision's employees with those duties.

(c) The department may not charge a fee for issuing a commission to an officer under Subsection (b). The department shall issue to the officer a pocket card designating the political subdivision that employs the officer.

(d) The commission expires at the time the officer's employment as a security officer by the political subdivision is terminated.

(e) The department may approve a security officer training program conducted by the political subdivision in accordance with Sections 1702.1675 and 1702.168.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.096, eff. September 1, 2019.

**Sec. 1702.322. LAW ENFORCEMENT PERSONNEL.**

This chapter does not apply to:

(1) a person who has full-time employment as a peace officer and who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, extra job coordinator, or watchman if the officer:

(A) is employed in an employee-employer relationship or employed on an individual contractual basis:

- (i) directly by the recipient of the services; or
- (ii) by a company licensed under this chapter;

(B) is not in the employ of another peace officer;

(C) is not a reserve peace officer; and

(D) works as a peace officer on the average of at least 32 hours a week, is compensated by the state or a political subdivision of the state at least at the minimum wage, and is entitled to all employee benefits offered to a peace officer by the state or political subdivision;

(2) a reserve peace officer while the reserve officer is performing guard, patrolman, or watchman duties for a county and is being compensated solely by that county;

(3) a peace officer acting in an official capacity in responding to a burglar alarm or detection device; or

(4) a person engaged in the business of electronic monitoring of an individual as a condition of that individual's community supervision, parole, mandatory supervision, or release on bail, if the person does not perform any other service that requires a license under this chapter.

**Sec. 1702.323. SECURITY DEPARTMENT OF PRIVATE BUSINESS.**

(a) Except as provided by Subsections (b) and (d), this chapter does not apply to an individual employed in an employee-employer relationship exclusively and regularly by one employer in connection with the affairs of the employer.

(b) An individual described by Subsection (a) who carries a firearm in the course of employment must obtain a private security officer commission under this chapter.

(c) The security department of a private business may not hire or employ an individual to perform a duty described by Section 1702.222 if the individual has been convicted of a crime that would otherwise preclude the individual from being licensed under this chapter. The private business shall maintain the individual's criminal history record on file at the business and shall make the record available for inspection by the department.

(c-1) Although the security department of a private business that hires or employs an individual as a private security officer to possess a firearm in the course and scope of the individual's duties is required to apply for a security officer commission for the individual under this chapter, the security department of a private business is not required to apply for any license under this chapter.

(d) This chapter applies to an individual described by Subsection (a) who in the course of employment:

(1) comes into contact with the public;

(2) wears:

(A) a uniform commonly associated with security personnel or law enforcement;

(B) any type of badge commonly associated with security personnel or law enforcement; or

(C) a patch or apparel containing the word "security" or a substantially similar word that is intended to or is likely to create the impression that the individual is performing security services; and

(3) performs a duty described by Section 1702.108 or 1702.222.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.097, eff. September 1, 2019.

**Sec. 1702.324. CERTAIN OCCUPATIONS.**

(a) For the purposes of this section, "landman" means an individual who, in the course and scope of the individual's business:

(1) acquires or manages petroleum or mineral interests; or

(2) performs title or contract functions related to the exploration, exploitation, or disposition of petroleum or mineral interests.

(b) This chapter does not apply to:

(1) a manufacturer or a manufacturer's authorized distributor while selling equipment intended for resale;

(2) a person engaged exclusively in the business of obtaining and providing information to:

(A) determine creditworthiness;

(B) collect debts; or

(C) ascertain the reliability of information provided by an applicant for property, life, or disability insurance or an indemnity or surety bond;

(3) a person engaged exclusively in the business of repossessing property that is secured by a mortgage or other security interest;

(4) a person who is engaged in the business of psychological testing or other testing and interviewing services, including services to determine attitudes, honesty, intelligence, personality, and skills, for preemployment purposes;

(5) a person who:

(A) is engaged in obtaining information that is a public record under Chapter 552, Government Code, regardless of whether the person receives compensation;

(B) is not a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this chapter; and

(C) does not perform any other act that requires a license under this chapter;

(6) a licensed engineer practicing engineering or directly supervising engineering practice under Chapter 1001, including forensic analysis, burglar alarm system engineering, and necessary data collection;

(7) an employee of a cattle association who inspects livestock brands under the authority granted to the cattle association by the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture;

(8) a landman performing activities in the course and scope of the landman's business;

(9) an attorney while engaged in the practice of law;

- (10) a person who obtains a document for use in litigation under an authorization or subpoena issued for a written or oral deposition;
- (11) an admitted insurer, insurance adjuster, agent, or insurance broker licensed by the state, performing duties in connection with insurance transacted by that person;
- (12) a person who on the person's own property or on property owned or managed by the person's employer:
  - (A) installs, changes, or repairs a mechanical security device;
  - (B) repairs an electronic security device; or
  - (C) cuts or makes a key for a security device;
- (13) security personnel, including security contract personnel, working at a commercial nuclear power plant licensed by the United States Nuclear Regulatory Commission;
- (14) a person or firm licensed as an accountant or accounting firm under Chapter 901, an owner of an accounting firm, or an employee of an accountant or accounting firm while performing services regulated under Chapter 901;
- (15) a retailer, wholesaler, or other person who sells mechanical security devices, including locks and deadbolts, but who does not:
  - (A) service mechanical security devices for the public outside of the person's premises; or
  - (B) claim to act as a locksmith;
- (16) an employee while performing investigative services that would otherwise be subject to this chapter for an entity regulated by the:
  - (A) Texas Department of Insurance;
  - (B) Office of Thrift Supervision;
  - (C) Securities and Exchange Commission;
  - (D) Federal Deposit Insurance Corporation; or
  - (E) Financial Industry Regulatory Authority;
- (17) a social worker who holds a license issued under Chapter 505 who is engaged in the practice of social work;
- (18) persons licensed under Chapter 1101, an association thereof, their authorized agents, or a multiple listing service, engaged in the business of selling, maintaining, repairing, programming, or placing lockboxes used for accessing real property; or
- (19) an automobile club that holds a certificate of authority under Chapter 722, Transportation Code, its subcontractor, or a business that provides similar services, that unlocks a vehicle at the request of the owner or operator of the vehicle and that does not otherwise perform a locksmith service.

(c) The exemptions provided by Subsection (b) apply only to a person described in that subsection while the person is performing services directly related to and dependent on the provision of the exempted service that does not otherwise require licensing under this chapter. The exemptions do not apply to activities or services that are independent of the service or profession that is the basis for the exemption.



**Sec. 1702.325. COMMON CARRIERS.**

This chapter does not apply to:

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

**Sec. 1702.326. MEDICAL ALERT SERVICES.**

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

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

**Sec. 1702.327. NONPROFIT AND CIVIC ORGANIZATIONS.**

This chapter does not apply to:

- (1) a nonprofit business or civic organization that:
  - (A) employs a peace officer who meets the qualifications of Section 1702.322(1) as a patrolman, guard, or watchman;
  - (B) provides the services of the peace officer only to:
    - (i) the organization's members; or
    - (ii) if the organization does not have members, the members of the communities served by the organization as described in the organization's articles of incorporation or other organizational documents;
  - (C) devotes the net receipts from all charges for the services exclusively to the cost of providing the services or to the costs of other services for the enhancement of the security or safety of:
    - (i) the organization's members; or
    - (ii) if the organization does not have members, the members of the communities served by the organization as described in the organization's articles of incorporation or other organizational documents; and
  - (D) does not perform any other service that requires a license under this chapter; or

- (2) a charitable, nonprofit organization that maintains a system of records to aid in the location of missing children and that:
- (A) is exempt from the payment of federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 and its subsequent amendments by being listed as an exempt entity under Section 501(c)(3) of that code;
  - (B) exclusively provides services related to locating missing children; and
  - (C) does not perform any other service that requires a license under this chapter.

**Sec. 1702.328. SECURITY SYSTEMS SALES AND INSTALLATION.**

This chapter does not apply to:

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

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

This chapter does not apply to:

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

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

This chapter does not apply to:

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

**Sec. 1702.331. PERSONAL EMERGENCY RESPONSE SYSTEMS.**

(a) In this section, "personal emergency response system" means an alarm system that is:

- (1) installed in the residence of a person;
- (2) monitored by an alarm systems company;
- (3) designed only to permit the person to signal the occurrence of a medical or personal emergency on the part of the person so that the company may dispatch appropriate aid; and
- (4) not part of a combination of alarm systems that includes a burglar alarm or fire alarm.

(b) This chapter does not apply to:

- (1) an alarm systems company that sells, installs, services, monitors, or responds to only personal emergency response systems;
- (2) an alarm systems installer who installs, maintains, or repairs only personal emergency response systems; and
- (3) an owner of an alarm systems company described by Subdivision (1).

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.098, eff. September 1, 2019.

**Sec. 1702.332. TELEMATICS SERVICE PROVIDERS.**

(a) In this section, "telematics service" means:

- (1) a service that:
  - (A) is provided to owners, operators, and occupants of consumer vehicles or commercial fleet vehicles through the remote access of in-vehicle data that may rely on global positioning system satellite data to fix the exact location of the vehicle, including:
    - (i) location-specific emergency and roadside vehicle breakdown assistance;
    - (ii) automatic collision notification;
    - (iii) real-time traffic and navigation information;
    - (iv) remote vehicle diagnostics; and
    - (v) stolen vehicle recovery;

(B) is enabled through the two-way communication of voice or data, often with an interactive voice response technology interface, between a service subscriber's vehicle and a telematics company's response center; and

(C) is provided to:

(i) enhance vehicle service, safety, and convenience while driving for vehicle owners;

(ii) enable automakers and automobile dealerships to achieve greater service and customer management efficiencies and to increase customer retention; and

(iii) enable fleet operators to remotely manage their vehicles and other mobile assets; and

(2) a related service provided to consumers, automakers, automobile dealerships, and commercial fleet operators by a telematics company as part of the emerging technology industry that delivers telematics services on a national basis to service subscribers.

(b) Except as otherwise provided by this section, this chapter does not apply to a person who provides a telematics service in this state.

(c) To qualify for the exemption provided by Subsection (b), a telematics service provider shall establish business practices and procedures that are at least as stringent as the guidelines established by the Association of Public Safety Communications Officials International regarding the communication of information from telematics service providers to public safety agencies.

(d) The commission may adopt rules necessary to carry out the purposes of this section, including rules to determine whether a telematics service provider is complying with Subsection (c).

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.099, eff. September 1, 2019.

**Sec. 1702.333. PLACE OF RELIGIOUS WORSHIP; CERTAIN VOLUNTEERS.**

(a) In this section, "volunteer security services" means services or activities that are:

(1) regulated under this chapter; and

(2) provided without compensation or remuneration.

(b) This chapter does not apply to a person who is providing volunteer security services on the premises of a church, synagogue, or other established place of religious worship.

(c) While providing volunteer security services under Subsection (b), a person may not wear a uniform or badge that:

(1) contains the word "security"; or

(2) gives the person the appearance of being a peace officer, personal protection officer, or security officer.

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

**Sec. 1702.361. DENIAL AND DISCIPLINARY ACTIONS; GROUNDS. (a)**

The commission, for conduct described by Subsection (b), may:

- (1) deny an application or revoke, suspend, or refuse to renew a license or security officer commission;
- (2) reprimand a license holder or commissioned security officer; or
- (3) place on probation a person whose license or security officer commission has been suspended.

(b) The commission shall take disciplinary action described by Subsection (a) on proof:

(1) that the applicant, license holder, majority owner of a license holder, or commissioned security officer has:

- (A) violated this chapter or a rule adopted under this chapter;
- (B) become ineligible for licensure or a security officer commission under Section 1702.163, if applicable, other than an action for which the department has taken summary action under Section 1702.364;
- (C) engaged in fraud, deceit, or misrepresentation;
- (D) made a material misstatement in an application for or renewal of a license or commission;
- (E) failed to pay in full an administrative penalty assessed under Subchapter R, Chapter 411, Government Code, for which the commission has issued a final order; or

(F) performed any service for which an individual license is required under this chapter and either:

- (i) was not employed with a company licensed under this chapter at the time the service was performed; or
- (ii) performed the service for a company licensed under this chapter that was not listed on the individual's individual license without informing the department of the individual's employment with the company within a reasonable period; or

(2) that the company license holder employing an individual license holder or commissioned security officer has submitted to the department sufficient evidence that the individual license holder or commissioned security officer:

- (A) engaged in fraud or deceit while employed by the company license holder; or
- (B) committed theft while performing work as an individual license holder or commissioned security officer.

(c) The commission may place on probation a person whose license is suspended. If a person's suspension of a license is probated, the commission may require the person:

- (1) to report regularly to the department on matters that are the basis of the suspension;
- (2) to limit practice to the areas prescribed by the commission; or

(3) to continue or review professional education until the person attains a degree of skill satisfactory to the commission in those areas that are the basis of the probation.

(d) The commission may revoke a license or security officer commission if the person holding that credential under this chapter submits payment of a fee or penalty that is returned for insufficient funds and the person has received notice and an opportunity to provide payment in full.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.100, eff. September 1, 2019.

**Sec. 1702.363. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.**

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.101, eff. September 1, 2019.

**Sec. 1702.364. SUMMARY ACTIONS.**

(a) On receiving written notice from a law enforcement agency that a person has been charged with or convicted of an offense that would make the person ineligible for a license or security officer commission under Section 1702.113 or 1702.163, or a rule adopted under Section 1702.004(b), the commission shall:

(1) summarily deny the person's application for a license or security officer commission;

(2) in the event of pending charges, summarily suspend the person's license or security officer commission; or

(3) in the event of a conviction, summarily revoke the person's license or security officer commission.

(b) To initiate a proceeding to take action under Subsection (a), the department must serve notice to the person. The notice must:

(1) inform the person of the person's right to a hearing before the department or the department's designee;

(2) state the basis for the summary action; and

(3) be personally served on the person or the person's authorized representative, or sent to the person by certified or registered mail, return receipt requested, to the person's mailing address as it appears in the department's records.

(c) The action is effective at the time notice is served. The person shall immediately surrender to the department any security officer commission, pocket card, or other form of identification issued by the department.

(d) At a hearing under this section, the person must show cause why:

(1) the application should not have been denied;

(2) the license or security officer commission should not have been suspended; or

(3) the license or commission should not have been revoked.

(e) Chapter 2001, Government Code, applies to a proceeding under this section for the summary denial of an application for or the summary suspension or revocation of a license or security officer commission.

(f) The dismissal of a complaint, information, or indictment or an acquittal releases the person from automatic grounds for a summary denial of an application or summary suspension of a license or security officer commission under this section. A conviction for the offense giving rise to a summary suspension is automatic grounds for immediate, summary revocation.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(37), eff. September 1, 2019.

(h) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(37), eff. September 1, 2019.

(i) Repealed by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(37), eff. September 1, 2019.

(j) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1146, Sec. 4.102(8), eff. September 1, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.102, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.114(b)(37), eff. September 1, 2019.

#### **Sec. 1702.365. ABDUCTION OF CHILD.**

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

(1) has custody or physical possession of the child under a court order; or

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.103, eff. September 1, 2019.

#### **Sec. 1702.367. COMPLAINT INVESTIGATION; SUBPOENA; WITNESS.**

(a) For an investigation conducted under this chapter, if necessary to enforce this chapter or the commission rules adopted under this chapter, the department may issue an administrative subpoena to any person in this state compelling:

(1) the production of information or documents; or

(2) the attendance and testimony of a witness.

(b) A witness is not privileged to refuse to testify to a fact or to produce a record or document with respect to which the witness is properly examined by the hearings officer.

(c) A person required to testify or to produce a record or document on any matter properly under inquiry by the department who refuses to testify or to produce the record or document on the ground that the testimony or the production of the record or document would incriminate or tend to incriminate the person is nonetheless required to testify or to produce the record or document. A person who is required to testify or to produce a record or document under this subsection is not subject to indictment or prosecution for a transaction, matter, or thing concerning which the person truthfully testifies or produces evidence.

(d) If a witness refuses to obey a subpoena or to give evidence relevant to proper inquiry by the department, the department may petition a district court of the county in which the hearing is held to compel the witness to obey the subpoena or to give the evidence. The court shall immediately issue process to the witness and shall hold a hearing on the petition as soon as possible.

(e) An investigator employed by the department may take statements under oath in an investigation of a matter covered by this chapter.

(f) A person licensed or otherwise regulated under this chapter who fails without good cause to comply with a subpoena issued under this section may be subject to suspension of a license under Section 1702.361.

(g) If a subpoena issued under this section relates to an ongoing criminal investigation by the department and the department determines that disclosure could significantly impede the investigation, the subpoena may provide that the person to whom the subpoena is directed may not:

- (1) disclose that the subpoena has been issued;
- (2) identify or describe any records requested by the subpoena; or
- (3) disclose whether records have been furnished in response to the subpoena.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.104, eff. September 1, 2019.

#### **Sec. 1702.368. NOTIFICATION OF CONVICTION FOR CERTAIN OFFENSES.**

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.105, eff. September 1, 2019.

#### **Sec. 1702.369. NO REINSTATEMENT AFTER REVOCATION.**

A revoked license may not be reinstated.



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

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

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

(a) Except as provided by Subsection (b), a political subdivision may not offer residential alarm system sales, service, installation, or monitoring unless it has been providing monitoring services to residences within the boundaries of the political subdivision as of September 1, 1999. Any fee charged by the political subdivision may not exceed the cost of the monitoring.

(b) A political subdivision may:

- (1) offer service, installation, or monitoring for property owned by the political subdivision or another political subdivision;
- (2) allow for the response of an alarm or detection device by a law enforcement agency or by a law enforcement officer acting in an official capacity;
- (3) offer monitoring in connection with a criminal investigation; or
- (4) offer monitoring to a financial institution, as defined by Section 59.301, Finance Code, that requests, in writing, that the political subdivision provide monitoring service to the financial institution.

(c) The limitations of Subsection (a) do not apply to a political subdivision in a county with a population of less than 80,000 or in a political subdivision where monitoring is not otherwise provided or available.

**Sec. 1702.372. RECUSAL OF COMMISSION MEMBER.**

(a) A commission member who participated in the investigation of a complaint of a violation of this chapter or in informal settlement negotiations regarding the complaint:

- (1) may not vote on the matter at a commission meeting related to the complaint; and
- (2) shall state at the meeting the reason for which the member is prohibited from voting on the matter.

(b) A statement under Subsection (a)(2) shall be entered into the minutes of the meeting.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.106, eff. September 1, 2019.

**SUBCHAPTER P. PENALTIES AND ENFORCEMENT PROVISIONS**

**Sec. 1702.381. CIVIL PENALTY.**

(a) A person who is not licensed under this chapter, who does not have a license application pending, and who violates this chapter may be assessed a civil penalty to be paid to the state not to exceed \$10,000 for each violation.

(b) A person who contracts with or employs a person who is required to hold a license or security officer commission under this chapter knowing that the person does not hold the required license or commission or who otherwise, at the time of contract or employment, is in violation of this chapter may be assessed a civil penalty to be paid to the state in an amount not to exceed \$10,000 for each violation.

(c) A civil penalty under this section may be assessed against a person on proof that the person has received at least 30 days' notice of the requirements of this section.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.107, eff. September 1, 2019.

**Sec. 1702.382. INJUNCTION.**

(a) An attorney for the department, the attorney general's office, or any criminal prosecutor in this state may institute an action against a person to enjoin a violation by the person of this chapter or an administrative rule.

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

**Sec. 1702.383. ACTION FOR CIVIL PENALTY OR INJUNCTION.**

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

**Sec. 1702.3835. DECEPTIVE TRADE PRACTICE.**

(a) A person who performs or offers to perform an activity regulated under this chapter, but who is not licensed or otherwise authorized under this chapter to perform the activity, commits a false, misleading, or deceptive act or practice within the meaning of Section 17.46, Business & Commerce Code.

(b) A public or private right or remedy under Chapter 17, Business & Commerce Code, may be used to enforce this chapter.

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

**Sec. 1702.384. FALSIFICATION OF CERTAIN DOCUMENTS; OFFENSE.**

(a) A person commits an offense if the person knowingly falsifies fingerprints or photographs submitted under Section 1702.110.

(b) An offense under this section is a felony of the third degree.

**Sec. 1702.3841. INSUFFICIENT INSURANCE COVERAGE; OFFENSE.**

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

(b) An offense under this section is a Class A misdemeanor.

**Sec. 1702.386. UNAUTHORIZED EMPLOYMENT; OFFENSE.**

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

(b) An offense under Subsection (a) is a Class A misdemeanor.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.108, eff. September 1, 2019.

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

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

- (1) a peace officer;
- (2) an individual licensed as a private investigator; or
- (3) a commissioned security officer employed by a licensed guard company.

(b) An offense under Subsection (a) is a state jail felony.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.109, eff. September 1, 2019.

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

(a) A private investigator executing a capias or an arrest warrant on behalf of a bail bond surety may not:

- (1) enter a residence without the consent of the occupants;
- (2) execute the capias or warrant without written authorization from the surety;
- (3) wear, carry, or display any uniform, badge, shield, or other insignia or emblem that implies that the private investigator is an employee, officer, or agent of the federal government, the state, or a political subdivision of the state; or
- (4) notwithstanding Section 9.51, Penal Code, use deadly force.

(b) Notwithstanding Subsection (a)(3), a private investigator may display identification that indicates that the person is acting on behalf of a bail bond surety.

(c) A private investigator executing a capias or an arrest warrant on behalf of a bail bond surety shall immediately take the person arrested to:

(1) if the arrest is made in the county in which the capias or warrant was issued:

(A) the county jail for that county if:

(i) the offense is a Class A or Class B misdemeanor or a felony; or

(ii) the offense is a Class C misdemeanor and the capias or warrant was issued by a magistrate of that county; or

(B) the municipal jail for the appropriate municipality if the offense is a Class C misdemeanor and the capias or warrant was issued by a magistrate of the municipality; or

(2) if the arrest is made in a county other than the county in which the capias or warrant was issued, the county jail for the county in which the arrest is made.

(d) A person commits an offense if the person violates this section. An offense under this section is a state jail felony.

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

(a) A person commits an offense if the person fails to surrender or immediately return to the department the person's commission, pocket card, or other identification issued to the person by the department under this chapter on notification of a summary suspension or summary denial under Section 1702.364.

(b) An offense under this section is a Class A misdemeanor.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.110, eff. September 1, 2019.

**Sec. 1702.3875. IMPERSONATING SECURITY OFFICER; OFFENSE.**

(a) A person commits an offense if the person:

(1) impersonates a commissioned or noncommissioned security officer with the intent to induce another to submit to the person's pretended authority or to rely on the person's pretended acts of a security officer; or

(2) knowingly purports to exercise any function that requires licensure as a noncommissioned security officer or a security officer commission.

(b) An offense under this section is a Class A misdemeanor.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.111, eff. September 1, 2019.

**Sec. 1702.388. VIOLATION OF CHAPTER; OFFENSE.**

(a) A person commits an offense if the person violates a provision of this chapter for which a specific criminal penalty is not prescribed.

(b) An offense under this section is a Class A misdemeanor, except that the offense is a felony of the third degree if the person has previously been convicted under this chapter of failing to hold a license, certificate of insurance, or commission that the person is required to hold under this chapter.

Amended by:  
Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 5.112, eff. September 1, 2019.

**Sec. 1702.389. VENUE.**

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

**GOVERNMENT CODE  
TITLE 4. EXECUTIVE BRANCH  
SUBTITLE B. LAW ENFORCEMENT AND PUBLIC PROTECTION  
CHAPTER 411. DEPARTMENT OF PUBLIC SAFETY OF THE STATE OF TEXAS  
SUBCHAPTER Q. POWERS AND DUTIES RELATED TO CERTAIN REGULATORY  
PROGRAM**

**Sec. 411.501. DEFINITION.**

In this subchapter, "license" means a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by a person to engage in a particular activity, business, occupation, or profession.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.502. APPLICABILITY.**

This subchapter applies to a program, and persons regulated under the program, administered by the department under the following laws, including rules adopted under those laws:

- (1) Section 411.0625;
- (2) Chapter 487, Health and Safety Code;
- (3) Chapter 1702, Occupations Code;
- (4) Chapter 1956, Occupations Code;
- (5) Section 521.2476, Transportation Code; and
- (6) Subchapter G, Chapter 548, Transportation Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.503. FINAL ENFORCEMENT AUTHORITY.**

(a) Except as provided by Section 411.506(b), the commission shall make the final determination in an administrative action against a person for a violation of a law or rule governing a program or person subject to this subchapter.

(b) The commission may not delegate the duty under Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.504. COMPLAINTS.**

(a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department regarding a violation of a law or rule governing a program or person subject to this subchapter. The department shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The department shall make information available describing its procedures for complaint investigation and resolution.

(c) The department shall periodically notify the complaint parties of the status of the complaint until final disposition.

(d) On written request, the department shall inform the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the information would jeopardize an ongoing investigation.

(e) The commission shall adopt rules to:

(1) implement this section; and

(2) establish a procedure for the investigation and resolution of complaints, including a procedure for documenting complaints to the department from the time of the submission of the initial complaint to the final disposition of the complaint.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.505. INVESTIGATIONS.**

The department may conduct investigations as necessary to enforce a law or rule governing a program or person subject to this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.506. INFORMAL COMPLAINT RESOLUTION AND INFORMAL PROCEEDINGS.**

(a) The commission by rule shall establish procedures for the informal resolution of complaints filed with the department related to a violation of a law or rule governing a program or person subject to this subchapter, including procedures governing:

(1) informal disposition of a contested case under Section 2001.056; and

(2) an informal proceeding held in compliance with Section 2001.054.

(b) Any settlement agreement arising from the procedures described by Subsection (a) must be approved by the director or the director's designee.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.507. LICENSE DENIAL; ADMINISTRATIVE SANCTION.**

(a) This section applies to a person required to obtain a license under a program subject to this subchapter.

(b) The commission may deny an application for, revoke, suspend, or refuse to renew a license or may reprimand a license holder for a violation of a law or rule governing a program subject to this subchapter.

(c) The commission may place on probation a person whose license is suspended. If a license suspension is probated, the commission may require the person to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the department; or

(3) continue or renew education until the person attains a degree of competency satisfactory to the commission in those areas that are the basis for the probation.

(d) The commission shall develop a penalty schedule for each program subject to this subchapter consisting of administrative sanctions authorized under Subsections (b) and (c) based on the severity and frequency of a violation of a law or rule related to the program.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.508. RIGHT TO NOTICE AND HEARING; ADMINISTRATIVE PROCEDURE.**

(a) For each program subject to this subchapter, a person is entitled to notice and a hearing if the commission proposes to:

(1) deny an application for, revoke, suspend, or refuse to renew a license;

(2) reprimand a license holder; or

(3) place a license holder on probation.

(b) A proceeding to impose an administrative sanction as described by Subsection (a) is a contested case under Chapter 2001.

(c) Unless otherwise provided by law, judicial review of an administrative sanction or penalty imposed by the commission is under the substantial evidence rule as provided by Subchapter G, Chapter 2001.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.509. CEASE AND DESIST ORDER.**

The department may issue a cease and desist order if the department determines that the action is necessary to prevent a violation of a law or rule governing a program or person subject to this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.510. INJUNCTIVE RELIEF.**

(a) On request of the department, the attorney general shall institute an action for injunctive relief to restrain a person in violation of or threatening to violate a law or rule governing a program or person subject to this subchapter.

(b) An action filed under this section shall be filed in a district court in:

(1) Travis County; or

(2) the county in which the violation allegedly occurred or is threatened to occur.

(c) The attorney general may recover reasonable expenses incurred in obtaining injunctive relief under this section, including court costs, attorney's fees, investigative costs, witness fees, and deposition expenses.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.511. STAGGERED RENEWAL; PRORATION OF LICENSE FEE.**

(a) The commission by rule may adopt a system under which licenses expire on various dates during the year.

(b) A license issued under a program governed by this subchapter may not expire later than the second anniversary of the date the license is issued.

(c) For the year in which the expiration date of a license is changed, the department shall prorate license fees on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.512. ANNUAL REGULATORY REPORT.**

(a) The department shall annually make available on the department's Internet website a report of regulatory statistics for the preceding state fiscal year for each program subject to this subchapter and aggregate information on all the programs.

(b) The report must include, as applicable, information regarding:

(1) the number of licenses issued under the program;

(2) the number and types of complaints received and resolved by the department;

(3) the number of investigations conducted by the department; and

(4) the number and types of disciplinary actions taken by the department.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.



## **SUBCHAPTER R. ADMINISTRATIVE PENALTY**

### **Sec. 411.521. DEFINITION**

In this subchapter, "license" has the meaning assigned by Section 411.501.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

### **Sec. 411.522. APPLICABILITY.**

This subchapter applies to a program, and persons regulated under the program, to which Section 411.502 applies.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

### **Sec. 411.523. IMPOSITION OF PENALTY.**

The commission may impose an administrative penalty against a person who violates:

- (1) a law establishing a program subject to this subchapter; or
- (2) a rule adopted or order issued by the commission under a law described by Subdivision (1).

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

### **Sec. 411.524. AMOUNT OF PENALTY.**

(a) If the relevant law establishing a program subject to this subchapter does not state the maximum amount of an administrative penalty under that law, the amount of the penalty shall be assessed by the commission in an amount not to exceed \$5,000 per day for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount of the penalty shall be based on:

- (1) the seriousness of the violation;
- (2) the respondent's history of previous violations;
- (3) the amount necessary to deter a future violation;
- (4) efforts made by the respondent to correct the violation; and
- (5) any other matter that justice may require.

(c) The commission shall establish a written enforcement plan that provides notice to license holders of the specific ranges of penalties that apply to specific alleged violations and the criteria by which the department determines the amount of a proposed administrative penalty.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.525. IMPOSITION OF SANCTION.**

A proceeding under this subchapter imposing an administrative penalty may be combined with a proceeding to impose an administrative sanction. If a sanction is imposed in a proceeding under this subchapter, the requirements of this subchapter apply to the imposition of the sanction.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.526. NOTICE OF VIOLATION AND PENALTY.**

If, after investigation of a possible violation and the facts surrounding the possible violation, the department determines that a violation occurred, the department shall issue to the respondent a notice of alleged violation stating:

- (1) a brief summary of the alleged violation;
- (2) the amount of the recommended administrative penalty; and
- (3) that the respondent has the right to a hearing to contest the alleged violation, the amount of the penalty, or both.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.527. PENALTY TO BE PAID OR HEARING REQUESTED.**

(a) Not later than the 20th day after the date the respondent receives the notice, the respondent may:

- (1) accept the department's determination and recommended administrative penalty; or
- (2) make a written request for a hearing on that determination.

(b) If the respondent accepts the department's determination, the commission by order may approve the determination and require the person to pay the recommended penalty.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.528. HEARING ON RECOMMENDATIONS.**

(a) If the respondent requests a hearing, the hearing shall be conducted by the department or the State Office of Administrative Hearings.

(b) The State Office of Administrative Hearings shall consider the department's applicable substantive rules and policies when conducting a hearing under this subchapter.

(c) A department hearing officer or an administrative law judge at the State Office of Administrative Hearings, as applicable, shall:

- (1) make findings of fact and conclusions of law; and
- (2) promptly issue to the commission a proposal for decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.529. DECISION BY COMMISSION.**

(a) Based on the findings of fact, conclusions of law, and proposal for decision, the commission by order may determine that:

- (1) a violation occurred and impose an administrative penalty; or
- (2) a violation did not occur.

(b) The department shall give notice of the order to the respondent.

(c) The order under this section must include:

- (1) separate statements of the findings of fact and conclusions of law;
- (2) the amount of any penalty imposed;
- (3) a statement of the right of the respondent to judicial review of the order;

and

- (4) any other information required by law.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.530. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.**

(a) Not later than the 30th day after the date the commission's order becomes final, the respondent shall:

- (1) pay the penalty; or
- (2) file a petition for judicial review contesting the order and:
  - (A) forward the penalty to the department for deposit in an escrow

account; or

(B) give the department a supersedeas bond in a form approved by the department that:

- (i) is for the amount of the penalty; and
- (ii) is effective until judicial review of the decision is final.

(b) A respondent who is financially unable to comply with Subsection (a)(2) is entitled to judicial review if the respondent files with the court, as part of the respondent's petition for judicial review, a sworn statement that the respondent is unable to meet the requirements of Subsection (a)(2).

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.531. COLLECTION OF PENALTY.**

If the person on whom the administrative penalty is imposed violates Section 411.530(a), the department or the attorney general may bring an action to collect the penalty.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.532. REMITTANCE OF PENALTY AND INTEREST.**

(a) If, after judicial review, the administrative penalty is reduced or not imposed, the department shall:

(1) remit to the person the appropriate amount, plus accrued interest, if the person paid the amount of the penalty; or

(2) execute a release of the bond, if the person posted a supersedeas bond.

(b) The interest paid under Subsection (a)(1) is accrued at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid to the department and ending on the date the penalty is remitted.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**Sec. 411.533. ADMINISTRATIVE PROCEDURE.**

(a) The commission by rule shall prescribe procedures for the determination and appeal of a decision to impose an administrative penalty.

(b) A proceeding under this subchapter to impose an administrative penalty is a contested case under Chapter 2001.

Added by Acts 2019, 86th Leg., R.S., Ch. 595 (S.B. 616), Sec. 3.002, eff. September 1, 2019.

**CHAPTER 53 – OCCUPATION CODE**  
**TITLE 2. GENERAL PROVISIONS RELATING TO LICENSING**  
**CHAPTER 53. CONSEQUENCES OF CRIMINAL CONVICTION**  
**SUBCHAPTER A. GENERAL PROVISIONS**

**Sec. 53.001. APPLICABILITY OF CERTAIN DEFINITIONS.**

The definitions provided by Chapter 2001, Government Code, apply to this chapter.

**Sec. 53.002. APPLICABILITY OF CHAPTER.**

This chapter does not apply to:

(1) the Supreme Court of Texas, a person licensed under the court's authority on behalf of the judicial department of government, or an applicant for a license issued under the court's authority on behalf of the judicial department of government;

(2) a person licensed or an applicant for a license under Chapter 1701;

(3) an applicant for certification as emergency medical services personnel under Chapter 773, Health and Safety Code; or

(4) a person who:

(A) is licensed by the Texas Medical Board, the Texas State Board of Pharmacy, the State Board of Dental Examiners, or the State Board of Veterinary Medical Examiners; and

(B) has been convicted of a felony under Chapter 481 or 483 or Section 485.033, Health and Safety Code.

**Sec. 53.003. LEGISLATIVE INTENT; LIBERAL CONSTRUCTION OF SUBCHAPTER.**

(a) It is the intent of the legislature to enhance opportunities for a person to obtain gainful employment after the person has:

- (1) been convicted of an offense; and
- (2) discharged the sentence for the offense.

(b) This chapter shall be liberally construed to carry out the intent of the legislature.

Added by Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 4, eff. September 1, 2019.

**SUBCHAPTER B. INELIGIBILITY FOR LICENSE**

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

(a) Subject to Section 53.0231, a licensing authority may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of:

- (1) an offense that directly relates to the duties and responsibilities of the licensed occupation;
- (2) an offense listed in Article 42A.054, Code of Criminal Procedure; or
- (3) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.

(a-1) Subsection (a) does not apply to a person who has been convicted only of an offense punishable as a Class C misdemeanor unless:

- (1) the person is an applicant for or the holder of a license that authorizes the person to possess a firearm; and
- (2) the offense for which the person was convicted is a misdemeanor crime of domestic violence as that term is defined by 18 U.S.C. Section 921.

(b) A license holder's license shall be revoked on the license holder's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

(c) Except as provided by Subsections (d) and (e), notwithstanding any other law, a licensing authority may not consider a person to have been convicted of an offense for purposes of this section if, regardless of the statutory authorization:

- (1) the person entered a plea of guilty or nolo contendere;
- (2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and

(3) at the end of the period of supervision, the judge dismissed the proceedings and discharged the person.

(d) A licensing authority may consider a person to have been convicted of an offense for purposes of this section regardless of whether the proceedings were dismissed and the person was discharged as described by Subsection (c) if:

(1) the person was charged with:

(A) any offense described by Article 62.001(5), Code of Criminal Procedure; or

(B) an offense other than an offense described by Paragraph (A) if:

(i) the person has not completed the period of supervision or the person completed the period of supervision less than five years before the date the person applied for the license; or

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

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

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

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

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

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

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 5, eff. September 1, 2019.

### **Sec. 53.0211. LICENSING OF CERTAIN APPLICANTS WITH PRIOR CRIMINAL CONVICTIONS.**

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

(1) law enforcement services;

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

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

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

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

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

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

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

(1) commits a new offense;

(2) commits an act or omission that causes the person's community supervision, mandatory supervision, or parole to be revoked, if applicable; or  
(3) violates the law or rules governing the practice of the occupation for which the provisional license is issued.

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

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

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

**Sec. 53.022. FACTORS IN DETERMINING WHETHER CONVICTION DIRECTLY RELATES TO OCCUPATION.**

In determining whether a criminal conviction directly relates to the duties and responsibilities of a licensed occupation, the licensing authority shall consider each of the following factors:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;
- (4) the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation; and
- (5) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 6, eff. September 1, 2019.

**Sec. 53.023. ADDITIONAL FACTORS FOR LICENSING AUTHORITY TO CONSIDER AFTER DETERMINING CONVICTION DIRECTLY RELATES TO OCCUPATION.**

(a) If a licensing authority determines under Section 53.022 that a criminal conviction directly relates to the duties and responsibilities of a licensed occupation, the licensing authority shall consider the following in determining whether to take an action authorized by Section 53.021:

- (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) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
  - (7) other evidence of the person's fitness, including letters of recommendation.
- (b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations described by Subsection (a)(7).
- (c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 12, eff. September 1, 2019.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 7, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 8, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 12, eff. September 1, 2019.

Text of section as added by Acts 2019, 86th Leg., R.S., Ch. 984 (S.B. 1217), Sec. 1

For text of section as added by Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 9, see other Sec. 53.0231.

**Sec. 53.0231. LIMITATION REGARDING CONSIDERATION OF CERTAIN ARRESTS.**

For purposes of determining a person's fitness to perform the duties and discharge the responsibilities of the licensed occupation, a licensing authority may not consider an arrest that did not result in the person's conviction or placement on deferred adjudication community supervision.

Added by

Acts 2019, 86th Leg., R.S., Ch. 984 (S.B. 1217), Sec. 1, eff. June 14, 2019.

Text of section as added by Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 9

For text of section as added by Acts 2019, 86th Leg., R.S., Ch. 984 (S.B. 1217), Sec. 1, see other Sec. 53.0231.

**Sec. 53.0231. NOTICE OF PENDING DENIAL OF LICENSE.**

(a) Notwithstanding any other law, a licensing authority may not deny a person a license or the opportunity to be examined for a license because of the person's prior conviction of an offense unless the licensing authority:

(1) provides written notice to the person of the reason for the intended denial; and

(2) allows the person not less than 30 days to submit any relevant information to the licensing authority.

(b) A notice required under Subsection (a) must contain, as applicable:



(1) a statement that the person is disqualified from receiving the license or being examined for the license because of the person's prior conviction of an offense specified in the notice; or

(2) a statement that:

(A) the final decision of the licensing authority to deny the person a license or the opportunity to be examined for the license will be based on the factors listed in Section 53.023(a); and

(B) it is the person's responsibility to obtain and provide to the licensing authority evidence regarding the factors listed in Section 53.023(a).

Added by Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 9, eff. September 1, 2019.

**Sec. 53.024. PROCEEDINGS GOVERNED BY ADMINISTRATIVE PROCEDURE ACT.**

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

**Sec. 53.025. GUIDELINES.**

(a) Each licensing authority shall issue guidelines relating to the practice of the licensing authority under this chapter. The guidelines must state the reasons a particular crime is considered to relate to a particular license and any other criterion that affects the decisions of the licensing authority.

(b) A state licensing authority that issues guidelines under this section shall file the guidelines with the secretary of state for publication in the Texas Register.

(c) A local or county licensing authority that issues guidelines under this section shall post the guidelines at the courthouse for the county in which the licensing authority is located or publish the guidelines in a newspaper having countywide circulation in that county.

(d) Amendments to the guidelines, if any, shall be issued annually.

**Sec. 53.026. APPLICANT BEST PRACTICES GUIDE.**

(a) The state auditor shall, in collaboration with licensing authorities, develop a guide of best practices for an applicant with a prior conviction to use when applying for a license. The state auditor shall publish the guide on the state auditor's Internet website.

(b) A licensing authority shall include a link to the guide on the authority's Internet website and in each notice described by Section 53.051 and letter described by Section 53.104.

Added by Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 9, eff. September 1, 2019.

## **SUBCHAPTER C. NOTICE AND REVIEW OF SUSPENSION, REVOCATION, OR DENIAL OF LICENSE**

### **Sec. 53.051. NOTICE.**

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

- (1) the reason for the suspension, revocation, denial, or disqualification, including any factor considered under Section 53.022 or 53.023 that served as the basis for the suspension, revocation, denial, or disqualification;
- (2) the review procedure provided by Section 53.052; and
- (3) the earliest date the person may appeal the action of the licensing authority.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 10, eff. September 1, 2019.

### **Sec. 53.052. JUDICIAL REVIEW.**

(a) A person whose license has been suspended or revoked or who has been denied a license or the opportunity to take an examination under Section 53.021 and who has exhausted the person's administrative appeals may file an action in the district court in the county in which the licensing authority is located for review of the evidence presented to the licensing authority and the decision of the licensing authority.

(b) The petition for an action under Subsection (a) must be filed not later than the 30th day after the date the licensing authority's decision is final and appealable.

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

## **SUBCHAPTER D. PRELIMINARY EVALUATION OF LICENSE ELIGIBILITY**

### **Sec. 53.101. DEFINITIONS.**

In this subchapter:

(1) "License" means a license, certificate, registration, permit, or other authorization that:

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

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

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

### **Sec. 53.102. REQUEST FOR CRIMINAL HISTORY EVALUATION LETTER.**

(a) A person may request a licensing authority to issue a criminal history evaluation letter regarding the person's eligibility for a license issued by that authority if the person:

(1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license; and

(2) has reason to believe that the person is ineligible for the license due to a conviction or deferred adjudication for a felony or misdemeanor offense.

(b) The request must state the basis for the person's potential ineligibility.

**Sec. 53.103. AUTHORITY TO INVESTIGATE.**

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

**Sec. 53.104. DETERMINATION OF ELIGIBILITY; LETTER.**

(a) If a licensing authority determines that a ground for ineligibility does not exist, the authority shall notify the requestor in writing of the authority's determination on each ground of potential ineligibility.

(b) If a licensing authority determines that the requestor is ineligible for a license, the licensing authority shall issue a letter setting out each basis for potential ineligibility, including any factor considered under Section 53.022 or 53.023 that served as the basis for potential ineligibility, and the authority's determination as to eligibility. In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the licensing authority at the time the letter is issued, the authority's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.

(c) A licensing authority must provide notice under Subsection (a) or issue a letter under Subsection (b) not later than the 90th day after the date the authority receives the request.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 765 (H.B. 1342), Sec. 11, eff. September 1, 2019.

**Sec. 53.105. FEES.**

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

**SUBCHAPTER E. NOTICE OF POTENTIAL INELIGIBILITY FOR LICENSE**

**Sec. 53.151. DEFINITIONS.**

Notwithstanding Section 53.001, in this subchapter, "licensing authority" and "occupational license" have the meanings assigned to those terms by Section 58.001.

**Sec. 53.152. NOTICE BY ENTITIES PROVIDING EDUCATIONAL PROGRAMS.**

(a) An entity that provides an educational program to prepare an individual for issuance of an initial occupational license shall notify each applicant to and enrollee in the educational program of:

- (1) the potential ineligibility of an individual who has been convicted of an offense for issuance of an occupational license on completion of the educational program;
- (2) the current guidelines issued under Section 53.025 by any licensing authority that may issue an occupational license to an individual who completes the educational program;
- (3) any other state or local restriction or guideline used by a licensing authority described by Subdivision (2) to determine the eligibility of an individual who has been convicted of an offense for an occupational license issued by the licensing authority; and
- (4) the right to request a criminal history evaluation letter under Section 53.102.

(b) The entity shall provide the notice required under Subsection (a) to each applicant and enrollee regardless of whether the applicant or enrollee has been convicted of an offense.

**Sec. 53.153. REFUND AND ORDERED PAYMENTS.**

A licensing authority that determines that an entity regulated by the licensing authority has failed to provide the notice required by Section 53.152 to an individual entitled to receive the notice and that the individual's application for an occupational license for which the entity's educational program prepares the individual was denied because the individual has been convicted of an offense shall order the entity to:

- (1) refund the amount of any tuition paid by the individual to the entity; and
- (2) pay to the individual an amount equal to the total of the following, as applicable:
  - (A) the amount of any application fees paid by the individual to the licensing authority; and
  - (B) the amount of any examination fees paid by the individual to the licensing authority or an examination provider approved by the licensing authority.

**ADMINISTRATIVE RULES  
TITLE 37. PUBLIC SAFETY AND CORRECTIONS  
PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY  
CHAPTER 35. PRIVATE SECURITY  
SUBCHAPTER A – GENERAL PROVISIONS**

**RULE § 35.1 DEFINITIONS**

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

(1) Act--Texas Occupations Code, Chapter 1702.

(2) Application--Includes an application for an original, renewal, duplicate or updated individual license, security officer commission, or company license issued under the Act.

(3) Company representative--An individual on the basis of whose qualifications a company license has been obtained.

(4) Department--The Texas Department of Public Safety.

(5) Licensee--An individual or company currently licensed under the Act. The term includes those holding a commission as a security officer.

(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) SOAH--The State Office of Administrative Hearings.

(8) 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.

Source Note: The provisions of this §35.1 adopted to be effective December 29, 2019, 44 TexReg 8026

### **RULE § 35.2 EMPLOYMENT REQUIREMENTS**

(a) Individuals licensed by the department to perform a regulated service may only perform such services for companies licensed under the Act. A person may not contract directly with a client to perform a regulated service unless licensed by the department as a company under the Act.

(b) The employment relationship between a licensed company and its individually licensed 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 employees. The failure to maintain and provide current documentation of such coverage is a violation of the Act.

Source Note: The provisions of this §35.2 adopted to be effective December 29, 2019, 44 TexReg 8026

### **RULE § 35.3 INDIVIDUAL LICENSE 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 Individual License Applications) is 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 license.

(b) The ability to perform a noncommissioned regulated service prior to licensure is conditional on either:

- (1) Department notification that a complete application has been received and:
  - (A) Performance of the pre-employment background check required under subsection (c) of this section;
  - (B) The determination that the applicant is not disqualified based on the background check; and
  - (C) The employer's retention of the search results in the employee's file, as required by subsection (e) of this section; or
- (2) The absence of notification by the department that a complete application has been received, the passage of 48 hours since submission of the application materials required by §35.21 of this title, and:

- (A) Performance of the pre-employment background check required under subsection (d) of this section;
- (B) The determination that the applicant is not disqualified based on the background check; and
- (C) The employer's retention of the search results in the employee's file, as required by subsection (e) of this section.

(c) For purposes of subsection (b)(1) of this section, the pre-employment background check must at a minimum include the review of either the department's publicly accessible criminal history website or a commercial criminal history website, review of the department's sex offender registry website, and confirmation the applicant is not disqualified for the license based on either the applicant's criminal history or the requirement to register as a sex offender under Chapter 62, Code of Criminal Procedure. Nothing in this subsection precludes an employer from using a more stringent method of determining an applicant's eligibility.

(d) For purposes of subsection (b)(2) of this section, the pre-employment background check must at a minimum include the review of the department's publicly accessible criminal history and sex offender registry website(s), and confirmation the applicant is not disqualified for the license based on either the applicant's criminal history or the requirement to register as a sex offender under Chapter 62, Code of Criminal Procedure. Nothing in this subsection precludes an employer from using a more stringent method of determining an applicant's eligibility.

(e) The employer must maintain written documentation of the pre-employment check for at least two (2) years, regardless of the subsequent employment status of the

applicant. The absence of such documentation constitutes a rebuttable presumption that the background check was not conducted.

Source Note: The provisions of this §35.3 adopted to be effective December 29, 2019, 44 TexReg 8026

#### **RULE §35.4 GUIDELINES FOR DISQUALIFYING CRIMINAL OFFENSES**

(a) The private security profession 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 commission determined that offenses detailed in subsection (c) of this section 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). With the exception of those offenses listed in paragraphs (6)(A) - (6)(F) of this subsection, the offenses listed in paragraphs (1) - (5) and (7) - (14) of this subsection 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 commission 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 licensee under the Act, or an offense that is facilitated by one's license 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 of the offenses detailed in paragraphs (6)(A) - (6)(F), but only if committed by an applicant for, or holder of, a license as a security officer, personal protection officer, or private investigator:

(A) 42.01(a)(7) and 42.01(a)(8) only - discharge of firearm in public place, and display of firearm or other deadly weapon in public place calculated to alarm.

(B) 42.06, False Alarm or Report.

- (C) 42.062, Interference with Emergency Request for Assistance.
- (D) 42.07, Harassment.
- (E) 42.072, Stalking.
- (F) 42.12, Discharge of Firearm in Certain Municipalities.
- (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 offense 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 conviction.
- (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 conviction.
- (f) 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.
- (g) A Class B misdemeanor conviction for an offense listed in subsection (c) of this section is disqualifying for two (2) years from the date of conviction.
- (h) 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.
- (i) A pending charge under an indictment or information for an offense listed in subsection (c) of this section is grounds for summary suspension.
- (j) 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 department will 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.

(k) In addition to the documentation listed in subsection (j) of this section, the applicant or licensee 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.

(l) The failure to timely provide the information listed in subsection (j) and subsection (k) of this section may result in the proposed action being taken against the application or license.

(m) 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. All periods of disqualification provided in this section are subject to an analysis under subsection (j) of this section, and the requirements of Texas Occupations Code, Chapter 53.

Source Note: The provisions of this §35.4 adopted to be effective December 29, 2019, 44 TexReg 8026

#### **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) All licensees and company representatives 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. Commissioned security officers and personal protection officers shall cooperate fully with any request of the Medical Advisory Board made pursuant to Health and Safety Code, §12.095 relating to its determination of the officer's ability to exercise sound judgment with respect to the proper use and storage of a handgun. Violation of this subsection may result in the suspension of the license or commission for the duration of the noncompliance.

(c) An individual licensee issued a pocket card shall carry the pocket card on or about their person while on duty and shall present same to a peace officer or to a representative of the department upon request.

Source Note: The provisions of this §35.5 adopted to be effective December 29, 2019, 44 TexReg 8026

#### **RULE §35.6 CONTRACT AND NOTIFICATION REQUIREMENTS**

(a) A company license holder 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 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 provided to the recipient in a written form that emphasizes the required information; and

(2) If the services are those of an alarm system company, required notice shall include stickers or other materials to be affixed to the alarm system indicating the alarm system company's or alarm systems monitor's new telephone number.

(f) Subsection (e) of this section shall not apply to an alarm system company that subcontracts its monitoring services to another alarm system company if the conditions detailed in this subsection are met:

(1) The contract for monitoring is with another alarm systems company licensed under the Act;

(2) The contract between the original contracting licensee and the client remains in full force and effect, continues to govern all rights of the client with respect to the provision of alarm services, and remains in the control of the original contracting licensee;

(3) Neither the contact information provided to the client, nor the address and telephone numbers for alarm service, have changed as a result of the subcontracting arrangement; and

(4) The contact information provided to the client relating to the monitoring of the alarm system has not changed.

Source Note: The provisions of this §35.6 adopted to be effective December 29, 2019, 44 TexReg 8026

### **RULE §35.7 FIREARM STANDARDS**

(a) Commissioned security officers and personal protection officers may only carry firearms of a category recognized in subsection (b) of this section, and only if:

(1) the officers have been formally trained as required under the Act and this chapter; and

(2) the officers have submitted documentation of the training to 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 any time, except as authorized by law.

(f) The discharge of a firearm by a security officer while on duty or otherwise acting or purporting to act under the authority of a security officer commission shall be immediately reported to the officer's employer. The employer must notify the department of the discharge of a firearm in writing within twenty-four (24) hours of the incident. The notification to the department must include:

(1) The name of the person discharging the firearm;

(2) The name of the employer;

(3) The location of the incident;

(4) A brief description of the incident;

(5) A statement reflecting whether death, personal injury, or property damage resulted; and

(6) The name of the investigating or arresting law enforcement agency, if applicable.

Source Note: The provisions of this §35.7 adopted to be effective December 29, 2019, 44 TexReg 8026

### **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 §35.12 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 – LICENSING**

### **RULE §35.21 INDIVIDUAL LICENSE APPLICATIONS**

(a) It is the responsibility of the licensed company to ensure an application that meets the requirements of this section is submitted to the department by or on behalf of any employee who is required to be licensed 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:

- (1) The required fee;
- (2) A copy of the applicant's Level II certificate of completion when applicable;
- (3) Fingerprints in the form and manner approved by the department; and
- (4) The criminal history check fee as provided in this chapter.

(c) As part of the department's criminal history check, additional court documents or related materials may be requested of the applicant. Failure to comply with such a request may result in the rejection of the application as incomplete.

Source Note: The provisions of this §35.21 adopted to be effective December 29, 2019, 44 TexReg 8028

### **RULE §35.22 RENEWAL INDIVIDUAL LICENSE APPLICATIONS**

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

- (1) The required fee;
- (2) If the fingerprints on file do not meet current Federal Bureau of Investigation or the department's quality standards, applicants will be required to submit a new set of electronic fingerprints to complete the renewal application process; 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 license to remain in effect pending the approval of the renewal application. If the completed application is not received by the department prior to the expiration date, no regulated services may be performed until a complete renewal application is submitted in compliance with this chapter.

Source Note: The provisions of this §35.22 adopted to be effective December 29, 2019, 44 TexReg 8028

### **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 licensee shall also present a valid government issued identification card or driver license.

Source Note: The provisions of this §35.24 adopted to be effective December 29, 2019, 44 TexReg 8028

#### **RULE §35.25 ASSUMED NAMES; CORPORATIONS**

(a) All individual applicants doing business under an assumed name shall submit an assumed name certificate from the county clerk of the county in which the applicant either:

- (1) has or will maintain business or professional premises; or
- (2) conducts business or renders a professional service, if the person does not or will not maintain business or professional premises in any county.

(b) Corporations and other entities permitted and governed by the Texas Business Organizations Code using an assumed name shall submit an assumed name certificate from the Texas Secretary of State.

(c) Corporate applicants shall submit a current certificate of existence or a certificate of authority from the Texas Secretary of State.

(d) Licensees may not operate under any name not reflected in current department records as the name under which the licensee will be doing business.

Source Note: The provisions of this §35.25 adopted to be effective December 29, 2019, 44 TexReg 8028

#### **RULE §35.26 RECLASSIFICATION, ASSIGNMENT, AND TERMINATION**

(a) When a Class A or B license is reclassified as a Class C license, a fee in the amount of the difference in the cost of the licenses shall be paid. There shall be no refund when a Class C license is reclassified as a Class A or Class B license.

(b) The department may approve the assignment of a company license to the spouse or heir(s) of a deceased owner provided:

- (1) A copy of the owner's death certificate is filed with the department; and
- (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.

(c) Other assignments will be permitted only under one of the conditions detailed in this subsection:

- (1) the ownership in the assignor and assignee will remain the same;

(2) the owners holding at least 25% ownership in the original license, and collectively holding a majority ownership interest, consent to the assignment; or

(3) if there is an insufficient number of owners holding at least 25% ownership in the original license to potentially hold a majority in ownership interest in the license, the license may be assigned by majority vote of the entity's board of directors or equivalent level decision making body of the licensee. The license holder must provide the department written documentation reflecting the vote and the intended date of assignment.

(d) The assignor must provide the department written documentation establishing the intended date of assignment and notarized statements establishing the consent of a majority of the owners of the current license. The assignee must ensure any new owners are in compliance with the requirement of the Act. 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 license applications or fingerprint submissions for new owners, whichever is later. The assignor must cease performance of all regulated services on the earlier of either the proposed date of assignment or the date of surrender or termination of any related owner licenses.

(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.

(f) A license may only be terminated by consent of the owners holding at least 25% in the licensed company and collectively holding a majority ownership interest, unless the ownership structure of the company has an insufficient number of such owners to potentially represent a majority, in which case the license may be terminated by majority vote of the entity's board of directors or equivalent level decision making body of the licensee. The license holder must provide the department written documentation reflecting the vote and the intended date of termination.

Source Note: The provisions of this §35.26 adopted to be effective December 29, 2019, 44 TexReg 8028

### **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 INDIVIDUAL LICENSEE OR COMMISSIONED SECURITY OFFICER NAME CHANGE**

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

Source Note: The provisions of this §35.28 adopted to be effective December 29, 2019, 44 TexReg 8028

#### **RULE §35.29 EMPLOYEE TERMINATION**

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

Source Note: The provisions of this §35.29 adopted to be effective December 29, 2019, 44 TexReg 8028

#### **RULE §35.30 COMPANY LICENSE APPLICATION REQUIREMENTS**

As provided in §1702.110(a)(6), as part of the company application an applicant for a company license that is an entity other than individual must submit fingerprints of each officer who is to oversee the security-related aspects of the business, or a partner or shareholder who owns at least a 25% interest in the applicant. All such individuals must satisfy the eligibility criteria provided in the Act and in §35.4 of this title (relating to Guidelines for Disqualifying Criminal Offenses). Should an individual fail to meet these requirements, the company application will be denied, or, if the license has been issued, the license will be subject to suspension or revocation, as applicable.



Source Note: The provisions of this §35.30 adopted to be effective December 29, 2019, 44 TexReg 8028

#### **RULE §35.31 LICENSE EXPIRATION**

(a) All company licenses are valid for one (1) year from the date of issuance and expire on the first anniversary of the date of issuance.

(b) All individual licenses are valid for two (2) years from the date of issuance and expire on the second anniversary of the date of issuance.

Source Note: The provisions of this §35.31 adopted to be effective December 29, 2019, 44 TexReg 8028

### **SUBCHAPTER C – COMPANY REPRESENTATIVE**

#### **RULE §35.41 COMPANY REPRESENTATIVE**

(a) The company representative is the individual to whom the department may direct all correspondence and on whom the department may rely to ensure the company's compliance with all requirements of this chapter and the Act. This individual must meet the applicable experience requirements for company licensure provided in the Act and this chapter, and must successfully complete the examination as provided in §1702.117 of the Act and §35.42 of this title (relating to Examination).

(b) An applicant for a company license who is an individual will be the company representative for all purposes relating to the administration of the Act.

(c) An applicant for a company license that is an entity other than an individual must designate an individual to be the company representative. The individual must be an officer who is to oversee the security-related aspects of the business, or a partner or shareholder who owns at least a 25% interest in the applicant. Formal documentation reflecting the individual's status with the applicant must be submitted to the department in conjunction with the company license application. An applicant may appoint multiple company representatives if necessary to satisfy the experience requirements for multiple licenses, so long as each individual meets the requirements of §1702.110(a)(6) of the Act and of this section.

Source Note: The provisions of this §35.41 adopted to be effective December 29, 2019, 44 TexReg 8028

#### **RULE §35.42 EXAMINATION**

(a) All company representatives as defined in §35.1 of this title (relating to Definitions) and as described in §35.41 of this title (relating to Company Representative) must pass the written examination administered by the department. The minimum passing score is 70%.

(b) Good order and discipline will be maintained during the examination. Conduct which is disruptive is grounds for immediate removal.

(c) An oral examination may be given upon receipt of proof of dyslexia as defined by Texas Education Code, §51.970. Proof must be submitted in writing in a manner prescribed by the department.

(d) Any examination other than the single examination authorized by payment of the original license fee shall be considered a reexamination for which the reexamination fee shall be required.

Source Note: The provisions of this §35.42 adopted to be effective December 29, 2019, 44 TexReg 8028

### **RULE §35.43 TEMPORARY CONTINUATION OF BUSINESS**

(a) Pursuant to §1702.122 of the Act, if a company representative ceases to be connected with a company license holder, the business may be temporarily operated by an owner, officer, partner, or shareholder for a period not to exceed ninety (90) days following the date the company representative ceases to be connected with the company license holder.

(b) Continued operation of the company in a regulated capacity beyond the ninety (90) day period provided in subsection (a) of this section, without a qualified company representative, is a violation of the Act.

(c) An individual whose registration as a qualified manager expires on September 1, 2019, under the provisions of the 86th Legislature, Senate Bill 616, may continue to function as the company representative until the later of either September 1, 2020, or until the company license expires. Upon renewal of the company license, the company representative must meet the requirements of §35.41(c) of this title (relating to Company Representative).

(d) An individual may not continue to function as the company representative, and is deemed to no longer be connected with the company for purposes of this section, should the individual fail to meet the eligibility criteria provided in the Act and this chapter.

Source Note: The provisions of this §35.43 adopted to be effective December 29, 2019, 44 TexReg 8028

## **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 Texas Government Code, §411.524.

For more details visit the Texas Office of the Secretary of State to view an attached graphic chart for this rule.

Source Note: The provisions of this §35.52 adopted to be effective December 29, 2019, 44 TexReg 8029

## **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 PRELIMINARY HEARING: SETTLEMENT CONFERENCE**

(a) A person who receives notice of the department's intention to deny an application for a license, to reprimand, suspend or revoke a license, or to impose an administrative penalty under §35.52 of this title (relating to Administrative Penalties), may appeal the decision by submitting a request to appeal by mail, facsimile, or electronic mail, to the department in the manner provided on the department's Private Security Program website within thirty (30) calendar days after receipt of notice of the department's proposed action. If a written request to appeal is not submitted within thirty (30) calendar days of the date notice was received, the right to an informal hearing or settlement conference, as applicable, under this section or §35.66 of this title (relating to Hearings Before The State Office Of Administrative Hearings) is waived, and the action becomes final.

(b) If the action is based on the person's criminal history, a preliminary, telephonic hearing will be scheduled. Following the hearing, the department will either dismiss the proceedings and withdraw the proposed action, or issue a written statement of findings to the respondent either upholding or modifying the original proposed action.

(c) If the proposed action is based on an administrative violation, a settlement conference will be scheduled. The settlement conference may be conducted in person or by telephone, by agreement of the parties. Following the settlement conference, the parties will execute an agreed order, or, if no agreement is reached, the department will issue a written determination either upholding or modifying the originally proposed action.

(d) The department's findings following an preliminary hearing, or its determination following a settlement conference, may be appealed to the State Office of Administrative Hearings by submitting a request by mail, facsimile, or electronic mail, to the department in the manner provided on the department's Private Security Program website, within thirty (30) calendar days after receipt of the findings or determination. If a written request is not submitted within thirty (30) calendar days of the date notice was received, the findings or determination shall become final.

(e) Requests for continuance must be submitted in writing at least three (3) business days prior to the scheduled hearing or conference. Requests must be based on good cause. Multiple requests may be presumed to lack good cause and may be denied on that basis.

Source Note: The provisions of this §35.62 adopted to be effective December 29, 2019, 44 TexReg 8030

## **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 LICENSE**

(a) An applicant for a personal protection license shall:

- (1) Submit a written application for a personal protection license 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 license, or submit an application for security officer commission in conjunction with the application for a personal protection license;
- (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 their license to another employer if the personal protection officer:

- (1) Has transferred their security officer commission to the new employer; and
- (2) Submits the appropriate form and transfer fee to the department within fourteen (14) days of the transfer of employment to the new employer.

Source Note: The provisions of this §35.91 adopted to be effective December 29, 2019, 44 TexReg 8031

### **RULE §35.92 EMPLOYER REQUIREMENTS**

Personal protection officer employers shall:

- (1) Issue the personal protection officer 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 license including the personal protection officer's name, current residential address, and telephone number.

Source Note: The provisions of this §35.92 adopted to be effective December 29, 2019, 44 TexReg 8031

### **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 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 their 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 license upon request made by a peace officer or representative of the department.

Source Note: The provisions of this §35.93 adopted to be effective December 29, 2019, 44 TexReg 8031

## **SUBCHAPTER H – LETTER OF AUTHORITY**

### **RULE §35.101 SECURITY DEPARTMENT OF PRIVATE BUSINESS**

(a) To employ a commissioned security officer, a personal protection officer, or a noncommissioned security officer, a security department of a private business, as defined in the Act, must notify and register with the department as provided in §1702.181 of the Act.

(b) A security department of a private business may not provide guard company services to a third party unless licensed as a guard company.

Source Note: The provisions of this §35.101 adopted to be effective effective December 29, 2019, 44 TexReg 8031

#### **RULE §35.102 SECURITY DEPARTMENT OF POLITICAL SUBDIVISION**

To employ a commissioned private security officer or personal protection officer, a security department of a political subdivision must notify and register with the department as provided in §1702.181 of the Act.

Source Note: The provisions of this §35.102 adopted to be effective December 29, 2019, 44 TexReg 8031

### **SUBCHAPTER I – COMPANY RECORDS**

#### **RULE §35.111 EMPLOYEE RECORDS**

Licensees and security departments of private businesses or political subdivisions registered with the department shall keep records of all employees licensed 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 a pre-employment check if required under §35.3 of this title (relating to Individual License Applicant Pre-employment Check); and
- (8) All training certificates earned by the employee while employed by the private business or political subdivision.

Source Note: The provisions of this §35.111 adopted to be effective December 29, 2019, 44 TexReg 8031

#### **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 licensed or commissioned 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.

Source Note: The provisions of this §35.112 adopted to be effective December 29, 2019, 44 TexReg 8031

### **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 an applicant for licensure as a private investigations company or the prospective company representative of the applicant company, must meet one of the qualifications detailed in this section:

- (1) Three (3) consecutive years of investigation related experience;
- (2) A bachelor's degree in criminal justice or related course of study;
- (3) A bachelor's degree with twelve (12) months of investigation related experience;
- (4) An associate degree in criminal justice or related course of study, with twenty-four (24) months of investigation related experience;
- (5) A specialized course of study directly designed for and related to the private investigation profession, taught and presented through affiliation with a four (4) year college or university accredited and recognized by the State of Texas. This course of study must be endorsed by the four (4) year college or university's department of criminal justice program and include a departmental faculty member(s) on its instructional faculty. This course of study must consist of a minimum of two hundred (200) instructional hours including coverage of ethics, the Act, and this chapter; or
- (6) Other combinations of education and investigation related experience may be substituted for the above at the discretion of the department or its designated representative.

(b) The degrees referenced in subsection (a) of this section must be affiliated with a college or university recognized by the Texas Higher Education Coordinating Board, Southern Association of Colleges and Schools, or other accreditation organization recognized by the State of Texas.

Source Note: The provisions of this §35.121 adopted to be effective December 29, 2019, 44 TexReg 8032



### **RULE §35.122 GUARD COMPANY LICENSE**

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

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

Source Note: The provisions of this §35.122 adopted to be effective December 29, 2019, 44 TexReg 8032

### **RULE §35.123 LOCKSMITH COMPANY LICENSE**

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

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

- (xxiii) Safe installation, moving, and anchoring.
- (xxiv) Single door access control service and installation.
- (B) Successful completion of a basic locksmith proficiency exam that covers a minimum of twelve (12) locksmith subjects and is approved by the department; and
- (C) One (1) year of full-time locksmith related experience.

Source Note: The provisions of this §35.123 adopted to be effective December 29, 2019, 44 TexReg 8032

## **SUBCHAPTER K – FEES**

### **RULE §35.131 LICENSING AND EXAMINATION FEES**

- (a) Pursuant to the Act, the figure in this subsection details the fee schedule:  
Attached Graphic
- (b) An additional fee of \$5.00 will be charged for any new application or renewal requiring the issuance of a new pocket 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 commission or license is issued prior to being dishonored or reversed, revocation proceedings will be initiated pursuant to the Act, §1702.361. The department may dismiss a pending revocation proceeding upon receipt of payment of the full amount due, including any additional processing fees.
- (f) Original fees shall not be prorated. The full fee shall accompany all original applications.

Source Note: The provisions of this §35.131 adopted to be effective December 29, 2019, 44 TexReg 8032

### **RULE §35.132 SUBSCRIPTION FEES**

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

- (1) Each individual licensee shall pay the following subscription fee for occupational license renewal: \$2 for a \$30 to \$50 renewal and \$3 for a \$100 renewal. This fee is in addition to the renewal fee.
- (2) Each company licensee shall pay the following subscription fee for occupational license renewal: \$7 for a \$225 renewal; \$11 for a \$300 to \$350 renewal; \$12 for a \$400 renewal; and \$16 for a \$540 renewal. This fee is in addition to the renewal fee.
- (3) Each individual applicant for a license shall pay the following subscription fee upon application: \$2 for a \$30 to \$50 application; and \$3 for a \$100 application. This fee is in addition to the application fee.

(4) Each company license applicant shall pay the following subscription fee upon application: \$11 for a \$300 to \$350 application; \$12 for a \$400 application; and \$16 for a \$540 application. This fee is in addition to the application fee.

(5) Each individual licensee shall pay a \$2 subscription fee for an employee information update. This fee is in addition to the employee information update fee.

Source Note: The provisions of this §35.132 adopted to be effective December 29, 2019, 44 TexReg 8032

## **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 a license 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 designee, or a department approved school and department approved instructor using the most current version of the respective department 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 license. 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 license 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 license. 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 license 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 of 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 license who have honorably retired as Texas peace officers within the preceding two (2) years may be exempted from the Level II and 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 licensee employed as an alarm systems installer in order to renew an original license.

(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 licensee who has not been employed in the investigation or security services industry in the past three (3) years or more must submit current training certificate(s) to the department.

Source Note: The provisions of this §35.141 adopted to be effective December 29, 2019, 44 TexReg 8033

#### **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) Obtain approval of all instructors as provided under §35.143 of this title (relating to Training Instructor Approval);

(3) Ensure that all owners, officers, partners, or shareholders are in compliance with the fingerprint submission requirement and individual license requirements of the Act, §1702.110 and §1702.221, respectively.

(c) The letter of approval 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) If registered as provided in §1702.181 of the Act, a security department of a private business or a security department of a political subdivision 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, or upon notification that an owner, officer, partner or shareholder has been charged with or convicted of a disqualifying offense as provided in §35.4 of this title (relating to

Guidelines For Disqualifying Criminal Offenses). Certificates of completion or proficiency submitted for courses taught subsequent to notification of withdrawal or suspension of the school's approval will be rejected.

Source Note: The provisions of this §35.142 adopted to be effective December 29, 2019, 44 TexReg 8033

### **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 license to carry 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) Notice shall be given in writing to the department within fourteen (14) days after a change in address of the approved instructor.
- (g) In addition to summary actions under the Act, based on criminal history disqualifiers, the department may revoke or suspend an instructor's approval or deny the application or renewal thereof upon evidence that:
  - (1) The instructor or applicant has violated any provisions of the Act or this chapter;
  - (2) The qualifying instructor's certificate has been revoked or suspended by the issuing agency;
  - (3) A material false statement was made in the application; or
  - (4) The instructor does not meet the qualifications set forth in the provisions of the Act and this chapter.

Source Note: The provisions of this §35.143 adopted to be effective December 29, 2019, 44 TexReg 8033

#### **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 COURSE**

- (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 License to Carry Handgun License Course.

(b) All individuals qualifying with a firearm to satisfy the requirements of the Act shall qualify with an actual demonstration by the individual of the ability to safely and proficiently use the category of firearm for which the individual seeks qualification.

(c) The categories of handguns are:

- (1) SA--Semi-automatic; and
- (2) NSA--Non semi-automatic.

(d) The SA qualification authorizes the carrying of either semi-automatic or non semi-automatic handguns.

Source Note: The provisions of this §35.145 adopted to be effective December 29, 2019, 44 TexReg 8033

### **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, TRAINING RECORDS, AND NOTIFICATIONS**

(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.

(5) Notify each applicant or enrollee of the potential ineligibility of an individual who has been convicted of an offense, the current guidelines provided in §35.4 of this title (relating to Guidelines for Disqualifying Criminal Offenses), and the right to request a criminal history evaluation letter under Occupations Code, §53.102. As provided in Occupations Code, §53.153, failure to comply with this subsection may result in an order to refund tuition paid and reimburse the individual's application and training fees. Failure to comply with an order to refund tuition or reimburse fees may result in suspension of the school license until payment is made, pursuant to §1702.361 of the Act. The figure in this paragraph provides the recommended text of the notice. Direct communication of this text to the prospective applicant, whether by email or other correspondence, or on the application for admission to a course, is sufficient to establish compliance with this section.

(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 of student, and the student's Texas Driver License number,

Texas Identification Card number or, the last four (4) digits of the student's social security number.

(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 of Level III;
- (C) Name, signature, and approval number of classroom and/or firearm

training instructor;

(D) Full name of student, and the student's Texas Driver License number, Texas Identification Card number or the last four (4) digits of the student's social security number; 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 of student, and the student's Texas Driver License number,

Texas Identification Card number or the last four (4) digits of the student's social security number;

(D) Firearms completion date;

(E) Note the category of firearm as defined in this chapter; and

(F) Be on a certificate form designed or approved by the department.

(4) Certificates of completion for alarm systems installation training shall contain:



- (A) Name and approval number of the school;
- (B) Name, signature and approval number of training instructor;
- (C) Full name of student, and the student's Texas Driver License number, Texas Identification Card number or the last four (4) digits of the student's social security number;
- (D) Date of final completion of the entire course; and
- (E) The words "Has successfully completed the alarm installation training school approved by the Texas Department of Public Safety."

Source Note: The provisions of this §35.147 adopted to be effective December 29, 2019, 44 TexReg 8033

## **SUBCHAPTER M – CONTINUING EDUCATION**

### **RULE §35.161 CONTINUING EDUCATION REQUIREMENTS**

(a) An application to renew an individual license may not be submitted 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 employee's personnel file. All individual licensees shall indicate they have completed the required minimum hours of department approved continuing education credits on their application for renewal.

(b) Owners, partners, and shareholders who hold individual licenses as owners only, shall complete a total of eight (8) hours of continuing education, including seven (7) hours in the subject matter that relates to the type of regulated service provided by their company, and one (1) hour of ethics. Noncommissioned security officers, and all individuals not required to obtain a commission or license under the Act are specifically exempted from the continuing education requirements.

(c) All individual license holders not otherwise 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 individual license held, and one (1) hour of which must cover ethics.

(d) Private investigators with more than fifteen (15) years of continued licensure as a private investigator shall complete a total of twelve (12) hours of continuing education, eight (8) hours of which must relate to investigations, 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 with less than fifteen (15) years of continued licensure as a private investigator shall complete a total of eighteen (18) hours of continuing education, fourteen (14) of which must relate to investigations, 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 individual licensed as a private investigator who fails to complete the required continuing education during the twenty-four (24) months of initial licensure is not eligible to make a new or renewal application until such time as the training requirement for the previous licensure 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 department approved schools and instructors. Commissioned security officers shall submit a firearms proficiency certificate along with the renewal application.

(h) During the first twelve (12) months of initial licensure, alarm system installers must complete the Alarm Level I training. This training consists 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. Alarm systems installer or alarm systems salesperson must earn 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 the license and before renewal.

(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 licensed alarm systems installer 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 renew until all training requirements for the previous license period have been satisfied.

(k) Alarm monitors shall complete four (4) hours of continuing education relating to the duties and responsibilities of an alarm monitor.

(l) All individuals licensed as locksmiths must complete sixteen (16) hours of continuing education every two (2) years.

(m) Attendees of continuing education courses shall maintain certificates of completion furnished by the school director in their files for a period of two (2) years. Attendees shall furnish the department with copies of all certificates of completion upon request.

Source Note: The provisions of this §35.161 adopted to be effective December 29, 2019, 44 TexReg 8035

### **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 subsection (b)(1) - subsection (b)(7):

(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 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 licensed 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 licensed 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. The exemption provided in this subsection does not apply to commissioned security officers or personal protection officers.

Source Note: The provisions of this §35.162 adopted to be effective December 29, 2019, 44 TexReg 8035

## **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 – MILITARY SERVICE MEMBERS, MILITARY VETERANS, AND MILITARY SPOUSES – SPECIAL CONDITIONS**

**RULE §35.181 EXEMPTIONS FROM PENALTY FOR FAILURE TO RENEW IN TIMELY MANNER**

An individual who holds a license issued under the Act is exempt from any increased fee or other penalty for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the department the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

Source Note: The provisions of this §35.181 adopted to be effective December 29, 2019, 44 TexReg 8036

**RULE §35.182 EXTENSION OF LICENSE RENEWAL DEADLINES FOR MILITARY SERVICE MEMBERS**

A military service member who holds a license issued under the Act is entitled to two (2) years of additional time to complete:

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

Source Note: The provisions of this §35.182 adopted to be effective December 29, 2019, 44 TexReg 8036

**RULE §35.183 ALTERNATIVE LICENSING FOR MILITARY SERVICE MEMBERS, MILITARY VETERANS, AND MILITARY SPOUSES**

(a) An individual who is a military service member, military veteran, or military spouse may apply for a license under this section if the individual:

- (1) Holds a current license issued by another jurisdiction with licensing requirements substantially equivalent to the Act's requirements for the license; or
- (2) Within the five (5) years preceding the application date held the license in this state.

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

**RULE §35.184 CREDIT FOR MILITARY EXPERIENCE AND TRAINING**

(a) Verified military service, training, or education that relates to the 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 license under the Act or this chapter, based on a disqualifying criminal history.

Source Note: The provisions of this §35.184 adopted to be effective 29, 2019, 44 TexReg 8036

**RULE §35.185 DEFINITIONS**

For purposes of this subchapter, the terms 'military service member', 'military veteran', and 'military spouse' have the meanings provided in Texas Occupations Code, §55.001.