

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2095
(Industry, Business and Labor Committee)
(At the request of the Private Investigative and Security Board)

AN ACT to amend and reenact sections 43-30-01 and 43-30-10, subsection 6 of section 43-30-10.1, and section 43-30-16 of the North Dakota Century Code, relating to the private investigative security board's executive director and the board's authority to impose penalties and injunctions for unlicensed activity, issue citations for unauthorized practice, and impose administrative fees; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-30-01 of the North Dakota Century Code is amended and reenacted as follows:

43-30-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the private investigative and security board.
2. "Employee" means an employee under a contract of employment as defined in chapter 34-01, and not an independent contractor as defined by the common-law test.
3. "Executive director" means a person appointed by the board on a full-time or part-time basis to be responsible and accountable to the board for the proper administration of the board's duties.
4. "License" includes a registration issued by the board.
- ~~4.5.~~ "Licensee" includes an individual who is registered by the board.
- ~~5.6.~~ "Private investigative service" means, for a fee, reward, or other consideration, undertaking any of the following acts for the purpose of obtaining information for others:
 - a. Investigating the identity, habits, conduct, movements, whereabouts, transactions, reputation, or character of any person or organization;
 - b. Investigating the credibility of persons;
 - c. Investigating the location or recovery of lost or stolen property, missing persons, owners of abandoned property or escheated property, or heirs to estates;
 - d. Investigating the origin of and responsibility for libels, losses, accidents, or damage or injuries to persons or property;
 - e. Investigating the affiliation, connection, or relationship of any person, firm, or corporation with any organization, society, or association, or with any official, representative, or member thereof;
 - f. Investigating the conduct, honesty, efficiency, loyalty, or activities of employees, persons seeking employment, agents, or contractors and subcontractors;

- g. Investigating or obtaining evidence to be used before any authorized investigating committee, board of award, board of arbitration, administrative body, or officer or in preparation for trial of civil or criminal cases; or
- h. Investigating the identity or location of persons suspected of crimes or wrongdoing.

6-7. "Private security service" means furnishing for hire security officers or other persons to:

- a. Protect persons or property;
- b. Prevent or detect theft or the unlawful taking of goods, wares, or merchandise, or to prevent the misappropriation or concealment of goods, wares, merchandise, money, bonds, stocks, choses in action, notes, or other valuable documents or papers;
- c. Control, regulate, or direct the flow of or movements of the public, whether by vehicle or otherwise, to assure protection of private property;
- d. Prevent or detect intrusion, unauthorized entry or activity, vandalism, or trespass on private property;
- e. Perform the service of a security officer or other person for any of these purposes; or
- f. Transport money or negotiable securities to or from a financial institution or between business locations on a regular or daily basis, except for mail delivery.

SECTION 2. AMENDMENT. Section 43-30-10 of the North Dakota Century Code is amended and reenacted as follows:

43-30-10. Penalty - Injunction - Unlicensed activity.

Any person who violates this chapter or rules adopted under this chapter, or any person who provides a private investigative service or private security service without a current license issued by the board, or falsely states or represents that the person has been or is an investigative officer or employed by an investigative or security officer or agency is guilty of a class B misdemeanor. In addition to the criminal penalties provided, the civil remedy of an injunction is available to restrain and enjoin violations of any provisions of this chapter, without proof of actual damages sustained by any person. An injunction does not preclude criminal prosecution and punishment of a violator. The board is not liable for the lost income, costs, or any other expenses that may be incurred by a person against whom an injunction is sought, and the board may not be required to provide security or a bond. The board may seek costs for reimbursement of expenses for obtaining an injunction, including attorney's fees. In addition to issuing the injunction, the court may impose an administrative fee consistent with section 43-30-10.1 if the person has violated a provision of this chapter. The board may seek an injunction, impose administrative fees, or seek an order of abatement through an administrative action or in district court.

SECTION 3. AMENDMENT. Subsection 6 of section 43-30-10.1 of the North Dakota Century Code is amended and reenacted as follows:

- 6. An appeal must be heard under the procedures contained in chapter 28-32, unless the citation is brought in district court.

SECTION 4. AMENDMENT. Section 43-30-16 of the North Dakota Century Code is amended and reenacted as follows:

43-30-16. Examination, license, and registration fees.

The board may establish by rule and charge the following fees:

1. The fee to be paid by an applicant for an examination to determine the applicant's fitness to receive a license as a private investigator or a license to provide private security services may not exceed one hundred dollars.
2. The fee to be paid by an applicant for the initial issuance or the renewal of a license as a private investigator or a license to provide private security services may not exceed one hundred fifty dollars. A late fee not to exceed fifty dollars may be charged for each month the renewal fee is due and unpaid.
3. The fee to be paid by an applicant to apply for a license to conduct a private security or detective agency may not exceed one hundred dollars.
4. The fee for the issuance or the renewal of a license to conduct a private security or detective agency may not exceed three hundred dollars. A late fee not to exceed one hundred dollars may be charged for each month the renewal fee is due and unpaid.
5. The one-time fee to be paid by an applicant for the issuance of a private security training certificate may not exceed twenty-five dollars.
6. The annual fee to be paid by an applicant for the issuance of an armed ~~private security~~ certificate may not exceed ~~twenty-five~~thirty dollars. A late fee not to exceed ten dollars may be charged for each month the renewal fee is due and unpaid.
7. The fee to be paid for the issuance of a duplicate license may not exceed twenty dollars.
8. The initial registration fee to provide private investigative service or private security service may not exceed ~~twenty-five~~thirty dollars. The fee for the renewal of a registration to provide private investigative service or private security service may not exceed ~~twenty-five~~thirty dollars. A late fee not to exceed ten dollars may be charged for each month the renewal fee is due and unpaid.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2095.

Senate Vote: Yeas 45 Nays 1 Absent 1

House Vote: Yeas 71 Nays 20 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State