

Title 32: PROFESSIONS AND OCCUPATIONS

Chapter 93: PRIVATE SECURITY GUARDS

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Maine Revised Statutes
Title 32: PROFESSIONS AND OCCUPATIONS
Chapter 93: PRIVATE SECURITY GUARDS

§9401. SHORT TITLE

This chapter shall be known and may be cited as the "Private Security Guards Act." [1981, c. 113, §2 (NEW).]

SECTION HISTORY
1981, c. 113, §2 (NEW).

§9402. PURPOSE

It is the purpose of this chapter to regulate any person engaging in the business of providing a private security guard or private security guards. [1981, c. 113, §2 (NEW).]

SECTION HISTORY
1981, c. 113, §2 (NEW).

§9403. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1981, c. 113, §2 (NEW).]

1. Armored car service. "Armored car service" means the service provided by any person transporting or offering to transport, under armed security guard, currency, jewels, stocks, bonds, paintings or other things of value in a motor vehicle specially equipped to offer a high degree of security.

[1981, c. 113, §2 (NEW) .]

1-A. Agent. "Agent" means a principal corporate officer, partner, owner or majority shareholder of a contract security company or a resident of the State who manages or supervises the security guard business of a resident or nonresident contract security company within the State. This definition does not apply in section 9412, subsection 2, wherein "agent" has the common dictionary definition indicated by its context.

[1987, c. 170, §1 (NEW) .]

2. Commissioner. "Commissioner" means the Commissioner of Public Safety.

[1981, c. 113, §2 (NEW) .]

3. Contract security company. "Contract security company" means any person engaged in the business of providing, or who undertakes to provide, a security guard for another person.

[1981, c. 113, §2 (NEW) .]

3-A. Dangerous substance. "Dangerous substance" means alcohol or any substance that is a schedule W, X, Y or Z drug under Title 17-A, chapter 45.

[1987, c. 170, §2 (NEW) .]

3-B. Drug abuser. "Drug abuser" means a person who uses any dangerous substance in violation of any law of the State.

[1987, c. 170, §2 (NEW) .]

3-C. Drug addict. "Drug addict" means a drug-dependent person who due to the use of a dangerous substance has developed such a tolerance to the substance that abrupt termination of the use of the substance would produce withdrawal symptoms.

[1987, c. 170, §2 (NEW) .]

3-D. Drug-dependent person. "Drug-dependent person" means a person who is unable to function effectively and whose inability to do so results from the use of a dangerous substance.

[1987, c. 170, §2 (NEW) .]

3-E. Employee. "Employee" means a natural person who performs one or more security guard functions under a contract of hire between the natural person and a contract security company or between the natural person and a proprietary security organization. A natural person who is an employee of a contract security company may not simultaneously be an employee of a proprietary security organization. This definition does not apply in section 9412, subsection 4, wherein "employee" has its common dictionary definition.

[1987, c. 170, §2 (NEW) .]

3-F. Firearm. "Firearm" has the same meaning as set forth in Title 17-A, section 2, subsection 12-A.

[1987, c. 170, §2 (NEW) .]

3-G. Formal charging instrument. "Formal charging instrument" means a complaint, indictment, information, juvenile petition or other formal written accusation against a person for some criminal or juvenile offense.

[1987, c. 170, §2 (NEW) .]

3-H. Fugitive from justice. "Fugitive from justice" has the same meaning as set forth in Title 15, section 201, subsection 4.

[1987, c. 170, §2 (NEW) .]

3-I. Government. "Government" has the same meaning as set forth in Title 17-A, section 2, subsection 13.

[1987, c. 170, §2 (NEW) .]

3-J. Law enforcement officer. "Law enforcement officer" has the same meaning as set forth in Title 17-A, section 2, subsection 17.

[1987, c. 170, §2 (NEW) .]

4. Licensee. "Licensee" means any person to whom a license is granted in accordance with this chapter.

[1981, c. 113, §2 (NEW) .]

5. Licensing authority. "Licensing authority" means the Commissioner of Public Safety.

[1981, c. 113, §2 (NEW) .]

6. Person. "Person" means any natural person, firm, association, organization, partnership, corporation or any employee or agent thereof.

[1981, c. 113, §2 (NEW) .]

7. Principal corporate officer. "Principal corporate officer" means the president, vice-president, treasurer, secretary, clerk and comptroller, as well as any other person who performs functions for the corporation corresponding to those performed by the other officers enumerated in this subsection.

[1981, c. 113, §2 (NEW) .]

8. Proprietary security organization. "Proprietary security organization" means any organization or department of that organization which provides fulltime security guards solely for itself.

[1981, c. 113, §2 (NEW) .]

8-A. Reckless or negligent conduct. "Reckless or negligent conduct" means that the applicant, either consciously disregarding or failing to be aware of a risk that his conduct would cause such a result, engaged in conduct which in fact created a substantial risk of either death, serious bodily injury, bodily injury or offensive physical contact to another human being or the taking of, or damage or destruction to, the property of another person or government, and the applicant's disregard or failure to be aware of that risk, when viewed in light of the nature and purpose of the applicant's conduct and the circumstances known to him, involved a deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation.

[1987, c. 170, §3 (NEW) .]

9. Security guard. "Security guard" means any person who, for any consideration whatsoever, performs any of the following functions:

A. Protection of individuals or property from harm or theft of property of any kind; [1981, c. 113, §2 (NEW).]

B. Prevention, observation or detection of any unauthorized activity on private property; [1981, c. 113, §2 (NEW).]

C. Prevention of unlawful intrusion or entry, larceny, vandalism, abuse, arson or trespass on private property; [1981, c. 113, §2 (NEW).]

D. [1987, c. 701, §4 (RP).]

E. Street patrol service; or [1981, c. 113, §2 (NEW).]

F. Armored car service. [1981, c. 113, §2 (NEW); 1987, c. 701, §4 (AMD).]

10. Security system. "Security system" means equipment designed to detect or signal an unauthorized intrusion to which security guards are expected to respond.

[1987, c. 701, §5 (AMD) .]

11. Street patrol service. "Street patrol service" means any contract security company or proprietary security organization utilizing foot patrols, motor vehicles or any other means of transportation on public thoroughfares as security guards.

[1981, c. 113, §2 (NEW) .]

SECTION HISTORY

1981, c. 113, §2 (NEW). 1987, c. 170, §§1-5 (AMD).

§9404. LICENSE REQUIREMENT; EXCEPTIONS

1. No person may act as a security guard without first obtaining from the commissioner a license to be a contract security company.

[1981, c. 113, §2 (NEW) .]

2. This section does not apply to the following:

A. Any proprietary security organization or any employee thereof; [1987, c. 170, §6 (AMD).]

B. Any person employed by a person possessing a valid license to be a contract security company; [1981, c. 113, §2 (NEW).]

C. Any person possessing a valid contract security company license granted under any prior existing provision of law of this State, provided that upon expiration of that license the person shall be governed by this section. [1981, c. 113, §2 (NEW).]

[1981, c. 113, §2 (NEW) .]

SECTION HISTORY

1981, c. 113, §2 (NEW). 1987, c. 170, §6 (AMD).

§9405. LICENSE QUALIFICATIONS

1. Qualifications.

[1987, c. 170, §7 (RP) .]

1-A. Criteria for issuing license. The commissioner shall issue, upon written application, a license to be a contract security company to any person who has demonstrated good moral character and who meets the following requirements:

A. Is 18 years of age or older; [1987, c. 170, §8 (NEW).]

B. Is a citizen or resident alien of the United States; [1987, c. 170, §8 (NEW).]

C. Has not been dishonorably discharged from military service; [1987, c. 170, §8 (NEW).]

D. Has not been convicted of a crime punishable by one year or more imprisonment or, within the past 5 years, of any crime enumerated in section 9412; [1987, c. 170, §8 (NEW).]

E. Has not been adjudicated to have committed a juvenile offense involving conduct which, if committed by an adult, is punishable by one year or more imprisonment or, within the past 5 years, a juvenile offense involving conduct which, if committed by an adult, is a crime enumerated in section 9412; [1987, c. 170, §8 (NEW).]

F. Submits an application which contains the following, to be answered by the applicant:

(1) Full name;

(2) Full current address and addresses for the prior 5 years;

(3) The date and place of birth, height, weight and color of eyes;

(4) A record of previous issuances of, refusals to issue and renew, suspensions and revocations of a license to be a contract security company. The record of previous refusals to issue alone does not constitute cause for refusal and the record of previous refusals to renew and revocations alone constitutes cause for refusal only as provided in section 9411-A;

(5) The following questions.

- (a) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a crime which is punishable by one year or more imprisonment or for any other crime alleged to have been committed by you with the use of a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, or of a firearm against another person?
- (b) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense which involves conduct which, if committed by an adult, would be punishable by one year or more of imprisonment or for any other juvenile offense alleged to have been committed by you with the use of a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, or of a firearm against another person?
- (c) Have you ever been convicted of a crime described in division (a) or adjudicated as having committed a juvenile offense as described in division (b)?
- (d) Is there a formal charging instrument now pending against you in this jurisdiction for any crime enumerated in section 9412?
- (e) Is there a formal charging instrument now pending against you in this jurisdiction for a juvenile offense which involves conduct which, if committed by an adult, would be a crime enumerated in section 9412?
- (f) Have you within the past 5 years been convicted of a crime described in division (d) or adjudicated as having committed a juvenile offense as described in division (e)?
- (g) Are you a fugitive from justice?
- (h) Are you a drug abuser, drug addict or drug-dependent person?
- (i) Do you have a mental disorder which causes you to be potentially dangerous to yourself or others?
- (j) Have you been adjudicated to be an incapacitated person pursuant to Title 18-A, article V, Parts 3 and 4, and not had that designation removed by an order under Title 18-A, section 5-307, subsection (b)?
- (k) Have you been dishonorably discharged from the military forces within the past 5 years?
- (l) Are you an illegal alien;

(6) A list of employees as of the date the applicant signs the application who will perform security guard functions within the State. This list shall identify each employee by his full name, full current address and addresses for the prior 5 years and his date and place of birth, height, weight and color of eyes. For each employee on this list who will perform security guard functions at the site of a labor dispute or strike, the applicant shall have previously investigated the background of the employee to ensure that the employee meets all of the requirements to be a security guard as contained in section 9410-A, subsection 1. If the employee meets all of the requirements to be a security guard, the applicant shall also submit a statement, signed by the applicant, stating that the applicant has conducted this background investigation and that the employee meets the requirements contained in section 9410-A, subsection 1; and

(7) A photograph of the applicant taken within 6 months of the date the applicant affixes his signature to the application; and [1987, c. 170, §8 (NEW) .]

G. Does the following:

- (1) At the request of the commissioner or his designee, takes whatever action is required of him by law to allow the commissioner or his designee to obtain from: Hospitals and mental institutions either within or outside of the State, limited to records of involuntary commitments; the courts; law enforcement agencies; and the military, information relevant to the following:
- (a) The ascertainment of whether the information supplied on the application or any documents made a part of the application is true and correct;

(b) The ascertainment of whether each of the additional requirements of this section has been met; and

(c) Section 9411-A;

(2) If it becomes necessary to resolve any questions as to his identity, submits to having his fingerprints taken by the commissioner or his designee; and

(3) Submits the application fee in accordance with section 9407, subsection 1. [1987, c. 170, §8 (NEW).]

[1987, c. 170, §8 (NEW) .]

2. Good moral character.

[1987, c. 170, §9 (RP) .]

2-A. Complete application; certification by applicant. The requirements set out in subsection 1-A constitute a complete application. By affixing his signature to the application, the applicant certifies the following:

A. That the statements he makes in the application and any documents he makes a part of the application are true and correct; [1987, c. 170, §10 (NEW).]

B. That he understands an affirmative answer to any of the questions in subsection 1-A, paragraph F, subparagraph (5), except the questions in divisions (a), (b), (d) and (e), is cause for refusal; and [1987, c. 170, §10 (NEW).]

C. That he understands any false statements made in the application or any document made a part of the application may result in prosecution as provided in section 9412, subsection 1, paragraph D. [1987, c. 170, §10 (NEW).]

[1987, c. 170, §10 (NEW) .]

2-B. Copy of laws furnished to applicant. A copy of this chapter and the definitions from other chapters which are used in this chapter shall be provided to every applicant.

[1987, c. 170, §10 (NEW) .]

2-C. Good moral character. The commissioner, in judging good moral character, shall make his determination in writing based solely upon information recorded by governmental entities within 5 years of receipt of the application, including, but not limited to, the following matters:

A. Information of record relative to incidents of abuse by the applicant of family or household members, provided pursuant to Title 19-A, section 4012, subsection 1; [1995, c. 694, Pt. D, §57 (AMD); 1995, c. 694, Pt. E, §2 (AFF).]

B. Information of record relative to 3 or more convictions of the applicant for crimes punishable by less than one year imprisonment or 3 or more adjudications of the applicant for juvenile offenses involving conduct which, if committed by an adult, is punishable by less than one year imprisonment; [1987, c. 170, §10 (NEW).]

C. Information of record relative to 3 or more adjudications of the applicant for civil violations; [1987, c. 170, §10 (NEW).]

D. Information of record relative to license suspensions under section 9411-A; or [1987, c. 170, §10 (NEW).]

E. Information of record indicating that the applicant has engaged in reckless or negligent conduct. [1987, c. 170, §10 (NEW).]

[1995, c. 694, Pt. D, §57 (AMD); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Who must meet qualifications. The qualifications enumerated in this section must be met:

A. If the applicant is a partnership, by each partner; [1981, c. 113, §2 (NEW).]

B. If the applicant is a corporation, by an agent of that corporation; or [1981, c. 113, §2 (NEW).]

C. If the applicant is other than a partnership or corporation, by the natural person making the application. [1981, c. 113, §2 (NEW).]

[1981, c. 113, §2 (NEW) .]

4. Access to confidential records. Notwithstanding that certain records retained by governmental entities are by law made confidential, yet are necessary to the commissioner's determination of the applicant's good moral character and compliance with the additional requirements of this section and of section 9411-A, the following records shall be made available, at the request of the commissioner or his designee, for inspection by and dissemination to the commissioner or his designee:

A. The records pertaining to involuntary commitments to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center; [1987, c. 170, §11 (NEW); 2005, c. 236, §§3, 4 (REV).]

B. The records compiled pursuant to Title 19-A, section 4012, subsection 1; [1995, c. 694, Pt. D, §58 (AMD); 1995, c. 694, Pt. E, §2 (AFF).]

C. Juvenile and adult crime records; and [1987, c. 170, §11 (NEW).]

D. Military records. [1987, c. 170, §11 (NEW).]

[1995, c. 694, Pt. D, §58 (AMD); 1995, c. 694, Pt. E, §2 (AFF); 2005, c. 236, §§3, 4 (REV) .]

SECTION HISTORY

1981, c. 113, §2 (NEW). 1987, c. 170, §§7-11 (AMD). 1995, c. 694, §§D57,58 (AMD). 1995, c. 694, §E2 (AFF). 2005, c. 236, §§3,4 (REV).

§9406. ACQUISITION OF LICENSE BY PERSONS CURRENTLY LICENSED

A person possessing, under the laws of this State, a valid license to be a contract security company on the effective date of this chapter shall, upon expiration of his license, application and payment of the required fee, be issued a contract security company license. [1981, c. 113, §2 (NEW).]

SECTION HISTORY

1981, c. 113, §2 (NEW).

§9407. APPLICATION FOR ORIGINAL LICENSE

1. Application; fee. Applications for original licenses shall be made to the commissioner on forms prescribed by him with respect to the requirements of section 9405. The fee for a license application is \$400, of which \$100 must be submitted with the application and \$300 must be submitted upon issuance of the

license. If the previously issued license has expired and has not been renewed within a period of 60 days, the application shall be considered the original application and the same fees and all requirements of an original application shall apply.

[1983, c. 221, §3 (AMD) .]

2. Who must subscribe and swear to the application. Each application shall be subscribed and sworn to:

- A. If the applicant is a partnership, by each partner; [1981, c. 113, §2 (NEW).]
- B. If the applicant is a corporation, by at least one principal corporate officer and, if different, by the agent of the corporation meeting the qualifications of section 9405, subsection 1-A; or [1989, c. 502, Pt. A, §114 (AMD).]
- C. If the applicant is other than a partnership or corporation, by the natural person making the application. [1981, c. 113, §2 (NEW).]

[1989, c. 502, Pt. A, §114 (AMD) .]

SECTION HISTORY

1981, c. 113, §2 (NEW). 1983, c. 221, §3 (AMD). 1989, c. 502, §A114 (AMD).

§9408. RENEWAL OF LICENSE

Each contract security company license shall be issued for a term of one year and is, unless revoked or suspended, renewable annually. The fee for a license renewal is \$200, which is refundable upon denial of renewal. [1983, c. 221, §4 (AMD).]

SECTION HISTORY

1981, c. 113, §2 (NEW). 1983, c. 221, §4 (AMD).

§9409. BONDING REQUIREMENT

1. Requirement. The requirements for bonding are as follows.

- A. A person licensed under this chapter shall give to the commissioner a bond in the sum of \$10,000 if he is a resident, and in the sum of \$50,000 if he is not a resident, of the State. [1981, c. 113, §2 (NEW).]
- B. For the purposes of this section, corporation is a resident if it is incorporated under the laws of this State. Any other person is a resident if the natural person who qualifies for the license resides in this State. [1981, c. 113, §2 (NEW).]

[1981, c. 113, §2 (NEW) .]

2. Form of bond. Each bond shall be:

- A. In a form prescribed by the commissioner; [1981, c. 113, §2 (NEW).]
- B. Executed by the licensee as principal and by a surety company authorized to do business as such in this State as surety; and [1981, c. 113, §2 (NEW).]

C. Conditioned upon the honest conduct of the licensee and the right of any person, including the officer of any aggrieved labor union or association, whether or not incorporated, injured by the intentional, knowing, reckless or negligent act of the licensee to bring, in his own name, an action on the bond. [1981, c. 113, §2 (NEW).]

[1981, c. 113, §2 (NEW) .]

SECTION HISTORY

1981, c. 113, §2 (NEW).

§9410. LICENSE TRANSFERABILITY

1. Transfer. No license issued pursuant to this chapter may be assigned or transferred either by operation of law or otherwise.

[1981, c. 113, §2 (NEW) .]

2. Death of licensee. If the license is held by an owner other than a corporation and the owner dies, becomes disabled or otherwise ceases to engage in the business, the successor, heir, devisee or personal representative of the owner may, within 60 days of the death, disablement or other termination of operation by the original licensee, apply for a license on a form prescribed by the commissioner. The transferee shall be subject to this chapter.

[1981, c. 113, §2 (NEW) .]

3. Filing. For good cause, the commissioner may extend the period of filing the application required by subsection 2.

[1981, c. 113, §2 (NEW) .]

SECTION HISTORY

1981, c. 113, §2 (NEW).

§9410-A. SECURITY GUARD QUALIFICATIONS

1. Qualifications to be a security guard. No natural person may be employed as a security guard by a contract security company unless the natural person meets the following minimum requirements:

A. Is 18 years of age or older; [1987, c. 170, §12 (NEW).]

B. Is a citizen or resident alien of the United States; [1987, c. 170, §12 (NEW).]

C. Has not been dishonorably discharged from military service within the last 5 years; [1987, c. 170, §12 (NEW).]

D. Has not been convicted of a crime punishable by one year or more of imprisonment or, within the past 5 years, any crime enumerated in section 9412; [1987, c. 170, §12 (NEW).]

E. Has not been adjudicated to have committed a juvenile offense involving conduct which, if committed by an adult, is punishable by one year or more of imprisonment or, within the past 5 years, a juvenile offense involving conduct which, if committed by an adult, is a crime enumerated in section 9412; [1987, c. 170, §12 (NEW).]

F. Does not have 3 or more convictions for crimes punishable by less than one year of imprisonment within the past 5 years; [2003, c. 12, §1 (AMD).]

G. Is not a fugitive from justice; [1987, c. 170, §12 (NEW).]

H. Is not a drug abuser, drug addict or drug-dependent person; [1987, c. 170, §12 (NEW).]

I. Is not potentially dangerous to himself or others as the result of a mental disorder; [1987, c. 170, §12 (NEW).]

J. Has not been adjudicated to be an incapacitated person pursuant to Title 18-A, article V, Parts 3 and 4, or if so adjudicated, has had that designation removed by an order under Title 18-A, section 5-307, subsection (b); and [1987, c. 170, §12 (NEW).]

K. At the request of the contract security company, the commissioner or his designee, takes whatever action is required of him by law to allow the contract security company, the commissioner or his designee to obtain from: Hospitals and mental institutions either within or outside the State, limited to records of involuntary commitments; the courts; law enforcement agencies; and the military, information relevant to whether the natural person meets the requirements set forth in paragraphs A to J. [1987, c. 170, §12 (NEW).]

[2003, c. 12, §1 (AMD) .]

2. Reporting new security guards to commissioner. A licensee shall notify the commissioner of all employees who will perform security guard functions in the State and who were not listed in the application for a contract security company license before the date that the employee begins to perform security guard functions in the State. The notice shall be made on forms prescribed by the commissioner. The forms shall contain, but not be limited to, the following information:

A. The employee's full name; [1987, c. 170, §12 (NEW).]

B. The employee's full current address and addresses for the prior 5 years; and [1987, c. 170, §12 (NEW).]

C. The employee's date and place of birth, height, weight and color of eyes. [1987, c. 170, §12 (NEW).]

[1987, c. 170, §12 (NEW) .]

3. Background investigation of security guards at site of labor dispute or strike. For each employee reported to the commissioner under subsection 2 who will perform security guard functions at the site of a labor dispute or strike, the licensee shall have previously investigated the background of the employee to ensure that the employee meets all of the requirements to be a security guard, as contained in subsection 1. The licensee shall also sign a statement accompanying the notice required by subsection 2, in which the licensee shall state that he has conducted this investigation and that the employee meets the requirements contained in subsection 1.

[1987, c. 170, §12 (NEW) .]

4. Background investigation by licensee of all other security guards. For all other employees reported to the commissioner under subsection 2, and for each employee on the list required by section 9405, subsection 1-A, paragraph F, subparagraph (6), for whom the licensee has not previously submitted a statement that the employee meets the requirements of subsection 1, the licensee shall investigate the background of the employee to ensure that the employee meets all of the requirements to be a security guard, as contained in subsection 1. Within 60 days of the date that the employee begins to perform security guard functions within the State, the licensee shall complete this background investigation and submit to the commissioner a statement, signed by the licensee, that the licensee has conducted the background investigation and that the employee meets the requirements of subsection 1. This statement must be submitted to the commissioner before an employee may wear, carry or use a firearm in the performance of security guard functions and before an employee may perform security guard functions at the site of a labor dispute or strike.

[1987, c. 170, §12 (NEW) .]

5. Access to confidential records. Notwithstanding that certain records retained by governmental entities are by law made confidential, yet are necessary to the commissioner's determination of the applicant's good moral character and compliance with the additional requirements of this section and of section 9411-A, the following records shall be made available, at the request of the commissioner or his designee, for inspection by and dissemination to the commissioner or his designee:

A. The records pertaining to involuntary commitments to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center; [1987, c. 170, §12 (NEW); 2005, c. 236, §§3, 4 (REV).]

B. The records compiled pursuant to Title 19-A, section 4012, subsection 1; [1995, c. 694, Pt. D, §59 (AMD); 1995, c. 694, Pt. E, §2 (AFF).]

C. Juvenile and adult crime records; and [1987, c. 170, §12 (NEW).]

D. Military records. [1987, c. 170, §12 (NEW).]

[1995, c. 694, Pt. D, §59 (AMD); 1995, c. 694, Pt. E, §2 (AFF); 2005, c. 236, §§3, 4 (REV).]

SECTION HISTORY

1987, c. 170, §12 (NEW). 1995, c. 694, §D59 (AMD). 1995, c. 694, §E2 (AFF). 2003, c. 12, §1 (AMD). 2005, c. 236, §§3,4 (REV).

§9411. REFUSAL; SUSPENSION; REVOCATION; GROUNDS

(REPEALED)

SECTION HISTORY

1981, c. 113, §2 (NEW). 1987, c. 170, §13 (RP).

§9411-A. REFUSAL TO RENEW; SUSPENSION; REVOCATION; REAPPLICATION

1. Refusal to renew; suspension; revocation. The commissioner may refuse to renew a license, after a hearing in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. The District Court may suspend or revoke the license of any person licensed under this chapter. The commissioner may refuse to renew a license and the District Court may suspend or revoke a license on any one or more of the following grounds.

A. The application, any documents made a part of the application, any notice or any statement filed with the commissioner contained a material misstatement. [1987, c. 170, §14 (NEW).]

B. The licensee becomes ineligible to hold a license under this chapter. Ineligibility is determined on the basis of the criteria contained in section 9405. [1987, c. 170, §14 (NEW).]

C. The licensee fails to comply with the requirements of section 9405, subsection 1-A, paragraph F, subparagraph (6). [1987, c. 170, §14 (NEW).]

D. The licensee has knowingly employed as a security guard, or has knowingly kept as an employee, any natural person who does not meet the requirements of section 9410-A, subsection 1. [1987, c. 170, §14 (NEW).]

E. The licensee fails to comply with the requirements of section 9410-A, subsection 2, 3 or 4. [1987, c. 170, §14 (NEW).]

F. The licensee fails to comply with any of the rules promulgated by the commissioner under this chapter. [1987, c. 170, §14 (NEW).]

G. The licensee has knowingly encouraged or allowed any employee to violate section 9412, subsection 4, 5 or 6. [1987, c. 170, §14 (NEW).]

[1987, c. 170, §14 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

2. Reapplication. No person, otherwise eligible, whose license the commissioner has refused to renew or who has had a license revoked, is eligible for reapplication until the expiration of 5 years from the date of refusal to renew or revocation.

[1987, c. 170, §14 (NEW) .]

SECTION HISTORY

1987, c. 170, §14 (NEW). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF) .

§9412. UNLAWFUL ACTS

1. Acting without license; false representations. It is a Class D crime for any person knowingly to commit any of the following acts:

A. Subject to section 9404, to act as a security guard without a valid license; [1981, c. 113, §2 (NEW) .]

B. To publish any advertisement, letterhead, circular, statement or phrase of any kind which suggests that a licensee is an official police agency or any other agency, instrumentality or division of this State, any political subdivision thereof, or of the Federal Government; [1981, c. 113, §2 (NEW) .]

C. To falsely represent that a person is or was in his employ as a licensee; [1987, c. 170, §15 (AMD) .]

D. To make any false statement or material omission in any application, any documents made a part of the application, any notice or any statement filed with the commissioner; or [1987, c. 170, §15 (AMD) .]

E. To make any false statement or material omission relative to the requirements of section 9410-A, subsection 1, in applying for a position as a security guard with a contract security company. [1987, c. 170, §16 (NEW) .]

[1987, c. 170, §§15, 16 (AMD) .]

2. Failure to return equipment; representation as peace officer. It is a Class D crime for any security guard knowingly to commit any of the following acts:

A. To fail to return immediately on demand, or within 7 days of termination of employment, any uniform, badge, or other item of equipment issued to him by an employer; [1981, c. 113, §2 (NEW) .]

B. To make any representation which suggests, or which would reasonably cause another person to believe, that he is a sworn peace officer of this State, any political subdivision thereof, or of any other state or of the Federal Government; [1981, c. 113, §2 (NEW) .]

C. To wear or display any badge, insignia, device, shield, patch or pattern which indicates or suggests that he is a sworn peace officer, or which contains or includes the word "police" or the equivalent thereof, or is similar in wording to any law enforcement agency; or [1981, c. 113, §2 (NEW) .]

D. To possess or utilize any vehicle or equipment displaying the words "police," "law enforcement officer," or the equivalent thereof, or have any sign, shield, marking, accessory or insignia that may indicate that the vehicle is a vehicle of a public law enforcement agency. [1981, c. 113, §2 (NEW).]

Paragraph A does not apply to any proprietary security organization or any employee thereof.

[1987, c. 170, §17 (AMD) .]

3. Representations as to employees; failure to surrender license; posting of license. It is a Class D crime for any person licensed under this chapter knowingly to commit any of the following acts:

A. To falsely represent that a person was or is in his employ as a security guard; [1981, c. 113, §2 (NEW).]

B. To fail or refuse to surrender his license to the commissioner within 72 hours following revocation or suspension of the license; or after the licensee ceases to do business subject to section 9410; [1981, c. 113, §2 (NEW).]

C. To post the license or permit the license to be posted upon premises other than those described in the license; or [1981, c. 113, §2 (NEW).]

D. To fail to cause the license to be posted and displayed at all times, within 72 hours of receipt of the license, in a conspicuous place in the principal office of the licensee within the State. [1981, c. 113, §2 (NEW).]

[1981, c. 113, §2 (NEW) .]

4. Other unlawful acts. It is a Class D crime for any person licensed under this chapter, or for any employee thereof, knowingly to commit any of the following acts:

A. To incite, encourage or aid any person who has become a party to any strike to commit any unlawful act against any person or property; [1981, c. 113, §2 (NEW).]

B. To incite, stir up, create or aid in the inciting of discontent or dissatisfaction among the employees of any person with the intention of having them strike; [1981, c. 113, §2 (NEW).]

C. To interfere with or prevent lawful and peaceful picketing during strikes; [1981, c. 113, §2 (NEW).]

D. To interfere with, restrain or coerce employees in the exercise of their right to form, join or assist any labor organization of their own choosing; [1981, c. 113, §2 (NEW).]

E. To interfere with or hinder lawful or peaceful collective bargaining between employers and employees; [1981, c. 113, §2 (NEW).]

F. To pay, offer to give any money, gratuity, consideration or other thing of value, directly or indirectly, to any person for any verbal or written report of the lawful activities of employees in the exercise of their right to organize, form or assist any labor organization and to bargain collectively through representatives of their own choosing; [1981, c. 113, §2 (NEW).]

G. To advertise for, recruit, furnish or replace or offer to furnish or replace for hire or reward, within or outside the State, any skilled or unskilled help or labor, armed guards, other than armed guards employed for the protection of payrolls, property or premises, for service upon property which is being operated in anticipation of or during the course or existence of a strike; [1981, c. 113, §2 (NEW).]

H. To furnish armed guards upon the highways for persons involved in labor disputes; [1981, c. 113, §2 (NEW).]

I. To furnish or offer to furnish to employers or their agents any arms, munitions, tear gas implements or any other weapons; [1981, c. 113, §2 (NEW).]

J. To send letters or literature to employers offering to eliminate labor unions; or [1981, c. 113, §2 (NEW).]

K. To advise any person of the membership of an individual in a labor organization for the purpose of preventing the individual from obtaining or retaining employment. [1981, c. 113, §2 (NEW).]

[1981, c. 113, §2 (NEW) .]

5. Dangerous weapons at labor disputes and strikes. It is a Class D crime for any person, including, but not limited to, security guards and persons involved in a labor dispute or strike, to be armed with a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, at the site of a labor dispute or strike. A person holding a valid permit to carry a concealed handgun is not exempt from this subsection. A security guard is exempt from this subsection to the extent that federal laws, rules or regulations require the security guard to be armed with a dangerous weapon at the site of a labor dispute or strike.

[2013, c. 424, Pt. A, §18 (AMD) .]

6. Class E crimes. It is a Class E crime for any person licensed under this chapter or for any employee of such a person, to knowingly commit any of the following acts:

A. To perform or attempt to perform security guard functions at the site of a labor dispute or strike while not physically located on property leased, owned, possessed or rented by the person for whom the licensee is providing security guards. [1987, c. 170, §18 (NEW).]

[1987, c. 170, §18 (NEW) .]

SECTION HISTORY

1981, c. 113, §2 (NEW). 1987, c. 170, §§15-18 (AMD). 2013, c. 424, Pt. A, §18 (AMD).

§9413. CHANGE IN THE STATUS OF LICENSE

The licensee shall notify the commissioner within 30 days of any change in his qualifying agent, officers or directors or material change in the information previously furnished or required to be furnished to the commissioner or any occurrence which could reasonably be expected to affect the licensee's right to a license under this chapter. [1981, c. 113, §2 (NEW).]

SECTION HISTORY

1981, c. 113, §2 (NEW).

§9414. POWERS OF THE COMMISSIONER

1. Subpoenas. In any investigation conducted by the commissioner under this chapter, the commissioner may issue subpoenas to compel the attendance of witnesses and the production of evidence relevant to any fact in issue.

[1981, c. 113, §2 (NEW) .]

2. Contempt. If a witness refuses to obey a subpoena or to give any evidence relevant to proper inquiry by the commissioner, the Attorney General may petition the Superior Court in the county where the refusal occurred to find the witness in contempt. The Attorney General shall cause to be served on the witness an order requiring him to appear before the Superior Court to show cause why he should not be adjudged in

contempt. The court shall, in a summary manner, hear the evidence and, if it is such as to warrant him to do so, punish the witness in the same manner and to the same extent as for contempt committed before the Superior Court or with reference to the process of the Superior Court.

[1981, c. 113, §2 (NEW) .]

3. Rules. The commissioner shall adopt all rules necessary to administer this chapter.

[1981, c. 113, §2 (NEW) .]

4. Expenses. The fees required under this chapter shall be applied to the expense of administering this chapter.

[1981, c. 113, §2 (NEW) .]

SECTION HISTORY

1981, c. 113, §2 (NEW).

§9415. APPLICATION OF MAINE ADMINISTRATIVE PROCEDURE ACT

The Maine Administrative Procedure Act, Title 5, chapter 375, subchapter I, shall govern all administrative actions taken under this chapter. [1981, c. 113, §2 (NEW).]

SECTION HISTORY

1981, c. 113, §2 (NEW).

§9416. FIREARMS

A person who acts as a security guard may, while he is in the performance of his duties in that capacity, carry a loaded weapon in a motor vehicle which is being used to provide armored car service or which is otherwise transporting things of value, provided that any weapon carried is not concealed. [1981, c. 113, §2 (NEW).]

SECTION HISTORY

1981, c. 113, §2 (NEW).

§9417. APPLICATION

This chapter does not apply to the following: [1981, c. 113, §2 (NEW).]

1. Law enforcement officers. Any person currently employed either full time or part time, who has the permission of that person's appointing authority, provided that this chapter applies to any law enforcement officer who is employed as a security guard by a contract security company licensed under this chapter;

[1989, c. 773, §1 (AMD) .]

2. Public officials. Any person employed by the United States, the State, or any political subdivision thereof, or any public instrumentality, while in the performance of that person's official duties; and

[1989, c. 773, §1 (AMD) .]

3. Locksmiths. Any person while employed or doing business as a locksmith provided that this chapter applies to any locksmith who is employed as a security guard by or doing business as a contract security company licensed under this chapter. For the purposes of this chapter, a "locksmith" is a person engaged in the sale and service of locks.

[1989, c. 773, §2 (NEW) .]

SECTION HISTORY

1981, c. 113, §2 (NEW). 1989, c. 773, §§1,2 (AMD).

§9418. CONFIDENTIALITY OF APPLICATION AND INFORMATION COLLECTED BY THE COMMISSIONER

Notwithstanding Title 1, chapter 13, subchapter 1, all applications for a license to be a contract security company and any documents made a part of the application, refusals and any information of record collected by the commissioner during the process of ascertaining whether an applicant is of good moral character and meets the additional requirements of sections 9405 and 9411-A, and all information of record collected by the commissioner during the process of ascertaining whether a natural person meets the requirements of section 9410-A, are confidential and may not be made available for public inspection or copying. The applicant or natural person may waive this confidentiality by written notice to the commissioner. All proceedings relating to the issuance of a license to be a contract security company are not public proceedings under Title 1, chapter 13, unless otherwise requested by the applicant. [2011, c. 662, §20 (AMD) .]

The commissioner or his designee shall make a permanent record of each license to be a contract security company in a suitable book or file kept for that purpose. The record shall include a copy of the license and shall be available for public inspection. Upon a specific request, the commissioner or his designee shall provide a list of names and current addresses of security guards employed by licensed contract security companies. [1987, c. 170, §19 (NEW) .]

SECTION HISTORY

1987, c. 170, §19 (NEW). 2011, c. 662, §20 (AMD).

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