

Va. Code Ann. § 9.1-139

Current through the 2013 Regular Session, and 2013 Special Session I. Annotations Current For Cases Received by October 25, 2013.

Code of Virginia > **TITLE 9.1. COMMONWEALTH PUBLIC SAFETY** > **CHAPTER 1. DEPARTMENT OF CRIMINAL JUSTICE SERVICES** > **ARTICLE 4. PRIVATE SECURITY SERVICES BUSINESSES**

§ 9.1-139. Licensing, certification, and registration required; qualifications; temporary licenses

- A. No person shall engage in the private security services business or solicit private security business in the Commonwealth without having obtained a license from the Department. No person shall be issued a private security services business license until a compliance agent is designated in writing on forms provided by the Department. The compliance agent shall ensure the compliance of the private security services business with this article and shall meet the qualifications and perform the duties required by the regulations adopted by the Board. A compliance agent shall have either a minimum of (i) three years of managerial or supervisory experience in a private security services business; with a federal, state or local law-enforcement agency; or in a related field or (ii) five years of experience in a private security services business; with a federal, state or local law-enforcement agency; or in a related field.
- B. No person shall act as private security services training school or solicit students for private security training in the Commonwealth without being certified by the Department. No person shall be issued a private security services training school certification until a school director is designated in writing on forms provided by the Department. The school director shall ensure the compliance of the school with the provisions of this article and shall meet the qualifications and perform the duties required by the regulations adopted by the Board.
- C. No person shall be employed by a licensed private security services business in the Commonwealth as armored car personnel, courier, armed security officer, detector canine handler, unarmed security officer, security canine handler, private investigator, personal protection specialist, alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician's assistant, or electronic security technician without possessing a valid registration issued by the Department, except as provided in this article.
- D. A temporary license may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary license until (i) he has designated a compliance agent who has complied with the compulsory minimum training standards established by the Board pursuant to subsection A of [§ 9.1-141](#) for compliance agents, (ii) each principal of the business has submitted his fingerprints for a National Criminal Records search and a Virginia Criminal History Records search, and (iii) he has met all other requirements of this article and Board regulations.
- E. No person shall be employed by a licensed private security services business in the Commonwealth unless such person is certified or registered in accordance with this chapter.
- F. A temporary registration may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary registration until he has (i) complied with, or been exempted from the compulsory minimum training standards established by the Board, pursuant to subsection A of [§ 9.1-141](#), for armored car personnel, couriers, armed security officers, detector canine handlers, unarmed security officers, security canine handlers, private investigators, personal protection specialists, alarm respondents, locksmith, central station dispatchers, electronic security sales representatives, electronic security technician's assistants, or electronic security technicians, (ii) submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (iii) met all other requirements of this article and Board regulations.
- G. A temporary certification as a private security instructor or private security training school may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary certification as a private security services instructor until he has (i) met the education, training and experience requirements established by the Board and (ii) submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. No person shall be issued a temporary certification as a private security

services training school until (a) he has designated a training director, (b) each principal of the training school has submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (c) he has met all other requirements of this article and Board regulations.

- H. A licensed private security services business in the Commonwealth shall not employ as an unarmed security officer, electronic security technician's assistant, unarmed alarm respondent, central station dispatcher, electronic security sales representative, locksmith, or electronic security technician, any person who has not complied with, or been exempted from, the compulsory minimum training standards established by the Board, pursuant to subsection A of [§ 9.1-141](#), except that such person may be so employed for not more than 90 days while completing compulsory minimum training standards.
- I. No person shall be employed as an electronic security employee, electronic security technician's assistant, unarmed alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician or supervisor until he has submitted his fingerprints to the Department to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. The provisions of this subsection shall not apply to an out-of-state central station dispatcher meeting the requirements of subdivision 19 of [§ 9.1-140](#).
- J. The compliance agent of each licensed private security services business in the Commonwealth shall maintain documentary evidence that each private security registrant and certified employee employed by his private security services business has complied with, or been exempted from, the compulsory minimum training standards required by the Board. Before January 1, 2003, the compliance agent shall ensure that an investigation to determine suitability of each unarmed security officer employee has been conducted, except that any such unarmed security officer, upon initiating a request for such investigation under the provisions of subdivision A 11 of [§ 19.2-389](#), may be employed for up to 30 days pending completion of such investigation. After January 1, 2003, no person shall be employed as an unarmed security officer until he has submitted his fingerprints to the Department for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. Any person who was employed as an unarmed security officer prior to January 1, 2003, shall submit his fingerprints to the Department in accordance with subsection B of [§ 9.1-145](#).
- K. No person with a criminal conviction for a misdemeanor involving (i) moral turpitude, (ii) assault and battery, (iii) damage to real or personal property, (iv) controlled substances or imitation controlled substances as defined in Article 1 ([§ 18.2-247](#) et seq.) of Chapter 7 of Title 18.2, (v) prohibited sexual behavior as described in Article 7 ([§ 18.2-61](#) et seq.) of Chapter 4 of Title 18.2, or (vi) firearms, or any felony shall be (a) employed as a registered or certified employee by a private security services business or training school, or (b) issued a private security services registration, certification as an unarmed security officer, electronic security employee or technician's assistant, a private security services training school or instructor certification, compliance agent certification, or a private security services business license, except that, upon written request, the Director of the Department may waive such prohibition.
- L. The Department may grant a temporary exemption from the requirement for licensure, certification, or registration for a period of not more than 30 days in a situation deemed an emergency by the Department.
- M. All private security services businesses and private security services training schools in the Commonwealth shall include their license or certification number on all business advertising materials.
- N. A licensed private security services business in the Commonwealth shall not employ as armored car personnel any person who has not complied with, or been exempted from, the compulsory minimum training standards established by the Board pursuant to subsection A of [§ 9.1-141](#), except such person may serve as a driver of an armored car for not more than 90 days while completing compulsory minimum training standards, provided such person does not possess or have access to a firearm while serving as a driver.

History

1976, c. 737, § 54-729.29; 1977, c. 376, § 54.1-1902; 1978, cc. 28, 428; 1984, cc. 57, 779; 1988, cc. 48, 765; [1991, c. 589](#); [1992, c. 578](#), § 9-183.3; [1994, cc. 45, 47, 810](#); [1995, c. 79](#); [1996, c. 541](#); [1998, cc. 53, 122, 807](#); [2000, c. 26](#); [2001, cc. 821, 844](#); [2002, cc. 578, 597](#); [2003, c. 124](#); [2004, c. 470](#); [2008, c. 638](#).

Annotations

Notes

EDITOR'S NOTE. --

Acts [2001, c. 821](#) amended former § 9-183.3, from which this section is derived. Pursuant to [§ 30-152](#), Acts [2001, c. 821](#) has been given effect in this section as set out above. The 2001 amendment by c. 821, in subsection J, substituted "conviction for" for "record of," inserted "(i)" before "moral turpitude," inserted "(ii) assault and battery, (iii) damage to real or personal property, (iv) controlled substances or imitation controlled substances as defined in Article 1 ([§ 18.2-247](#) et seq.) of Chapter 7 of Title 18.2, (v) prohibited sexual behavior as described in Article 7 ([§ 18.2-61](#) et seq.) of Chapter 4 of Title 18.2, or (vi) firearms," following "moral turpitude" and substituted "(a)" and "(b)" for "(i)" and "(ii)."

Acts [2008, c. 638](#), cl. 2, provides: "That the Criminal Justice Services Board shall adopt reasonable regulations in accordance with the Administrative Process Act ([§ 2.2-4000](#) et seq.) to implement the provisions of this act."

Acts [2008, c. 638](#), cl. 3, provides: "That, in addition to the requirements of [§§ 2.2-4007.01](#) and [2.2-4007.02](#), during the promulgation of regulations in accordance with the second enactment of this act, the Department of Criminal Justice Services shall meet with representatives of the various locksmith organizations and other interested parties to solicit input from such organizations and persons in the formation and development of regulations concerning (i) the appropriate educational and training requirements for locksmiths and (ii) the Department's investigation of complaints against its locksmith regulants, including the process by which anonymous complaints will be handled by the Department pursuant to the requirements of Article 3 ([§ 2.2-4018](#) et seq.) of Chapter 40 of Title 2.2. For the purposes of clause (i), the educational and training requirements, to the extent practicable, shall not exceed such requirements for electronic security businesses."

Acts [2008, c. 638](#), cl. 4, provides: "That the Board of Criminal Justice Services shall promulgate regulations to implement the provisions of this act to be effective by July 1, 2008."

Acts [2008, c. 638](#), which inserted "locksmith" in subsections C, F, H and I, in cl. 5 provides: "That the registration requirements of this act shall become effective on October 1, 2008. Applicants for licensing and registration for locksmiths may submit an application to the Department on or after July 1, 2008." At the direction of the Virginia Code Commission, amendments by this act to subsection C of this section are effective October 1, 2008.

THE 2002 AMENDMENTS. --

The 2002 amendments by cc. 578 and 597 are identical, and in subsection I, divided the former first sentence into the present first and second sentences by deleting "and" following "Board" and adding "Before January 1, 2003, the compliance agent shall ensure"; added the last two sentences of subsection I; and added subsection M.

THE 2003 AMENDMENTS. --

The 2003 amendment by c. 124, in subsections C and E, inserted references to unarmed security officers and electronic security technician's assistants; substituted "90" for "ninety" in subsections G and M; and substituted "30" for "thirty" in subsection I.

THE 2004 AMENDMENTS. --

The 2004 amendment by c. 470 inserted subsection E; redesignated former subsections E through M as present subsections F through N; and inserted "detector canine handlers" near the middle of subsection C and in clause (i) in the last sentence of subsection F.

THE 2008 AMENDMENTS. --

The 2008 amendment by c. 638 inserted "locksmith" in subsections C, F, H, and I. See Editor's notes.

Case Notes

APPLIED in

[United States v. Day, 591 F.3d 679, 2010 U.S. App. LEXIS 429 \(4th Cir. 2010\).](#)

CIRCUIT COURT OPINIONS

UNJUST ENRICHMENT CLAIM NOT VIABLE WHERE CONTRACT DEEMED VOID UNDER STATUTE.

--Because a contract between a security services provider and a business was found to be illegal under subsection A

of [§ 9.1-139](#), there was no basis to find an implied or quasi-contract; as a result, the business was granted summary judgment on the provider's unjust enrichment or quantum meruit claim, in which it sought retention of money it garnished from the business's bank account to pay for its security services. [Urban Protective Servs. v. Great Latin Rests., L.L.C., 2007 Va. Cir. LEXIS 33](#) (Fairfax County Mar. 5, 2007).

OPINIONS OF THE ATTORNEY GENERAL

LICENSING REQUIREMENT. --When an employee installing wiring or equipment used to support electronic security equipment has access to "confidential information concerning the design, extent, status ... or location of an end user's electronic security equipment," the contractor or subcontractor employing this individual must obtain a license from the Department of Criminal Justice Services as required by [§ 9.1-138](#), et seq. See opinion of Attorney General to The Honorable William K. Barlow, Member, House of Delegates, 10-115, [2011 Va. AG LEXIS 13](#) (2/25/11).

No distinction is made between contractors and subcontractors under the statute, only whether the individual performing the work has access to confidential information concerning the "end user's electronic security equipment." See opinion of Attorney General to The Honorable William K. Barlow, Member, House of Delegates, 10-115, [2011 Va. AG LEXIS 13](#) (2/25/11).

A business that provides wiring and data services that might be used by others, such as licensed alarm companies, to support security equipment, would not necessarily trigger the licensing equipment. See opinion of Attorney General to The Honorable William K. Barlow, Member, House of Delegates, 10-115, [2011 Va. AG LEXIS 13](#) (2/25/11).

CODE OF VIRGINIA

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