

The Senate Regulated Industries and Utilities Committee offered the following substitute to HB 1259:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 38 of Title 43 of the Official Code of Georgia Annotated, relating to
2 private detectives and security agencies, so as to revise a definition; to revise the licensing
3 process for private detectives and private security officers; to permit one or more individuals
4 to qualify to hold the license for an individual, firm, association, company, partnership,
5 limited liability company, or corporation; to provide the board with authority to promulgate
6 rules to ensure that individuals are capable of assuming full responsibility for operations of
7 the particular individual, firm, association, company, partnership, limited liability company,
8 or corporation; to revise the provisions for issuing permits for carrying firearms for certain
9 private detectives and private security officers; to revise the provisions for granting of
10 training instructor licenses to certain individuals; to remove the provisions making the
11 chapter inapplicable to persons engaged in the business of furnishing information in
12 connection with credit or marketing or engaged as a consumer reporting agency; to provide
13 that engaging in private detective business or private security business without a license is
14 a felony; to provide for related matters; to provide for an effective date and applicability; to
15 repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

17 Chapter 38 of Title 43 of the Official Code of Georgia Annotated, relating to private
18 detectives and security agencies, is amended by striking paragraph (3) of Code Section
19 43-38-3, relating to definitions, and inserting in its place a new paragraph (3) to read as
20 follows:
21

22 "(3) 'Private detective business' means the business of obtaining or furnishing, or
23 accepting employment to obtain or to furnish, information with reference to:

24 (A) Crimes or wrongs done or threatened against the United States of America or any
25 state or territory thereof;

1 (B) The background, identity, habits, conduct, business, employment, occupation,
 2 assets, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty,
 3 activity, movement, whereabouts, affiliations, associations, transactions, acts,
 4 reputation, or character of any person;

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

6 (D) The cause or responsibility for fires, libels, losses, accidents, damage, or injury to
 7 persons or property;

8 (E) The securing of evidence in the course of the private detective business to be used
 9 before any court, board, officer, or investigating committee; or

10 (F) The protection of individuals from serious bodily harm or death.

11 In addition to the aforementioned services, 'private detective business' shall also mean
 12 providing, or accepting employment to provide, protection of persons from death or
 13 serious bodily harm."

14 SECTION 2.

15 Said chapter is further amended by striking subsection (a) of Code Section 43-38-6, relating
 16 to licenses and qualifications, and inserting in its place a new subsection (a) to read as
 17 follows:

18 "(a) Any individual, firm, association, company, partnership, limited liability company,
 19 or corporation desiring to engage in the private detective or private security business in this
 20 state shall make a verified application in writing to the division director for a license
 21 therefor. If the applicant is a firm, association, company, partnership, limited liability
 22 company, or corporation, the person filing the application on behalf of such firm,
 23 association, company, partnership, limited liability company, or corporation shall be a
 24 corporate officer of such corporation or an officer of such firm, association, partnership,
 25 or limited liability company; and such individual shall meet the qualifications set out in this
 26 Code section. In lieu of the foregoing requirement, the applicant of a firm, association,
 27 company, partnership, limited liability company, or corporation desiring to engage in the
 28 private security business may be the chief security officer, or equivalent position, of such
 29 entity, and such individual shall meet the qualifications set out in this Code section."

30 SECTION 3.

31 Said chapter is further amended by striking paragraph (7) of subsection (b) of Code Section
 32 43-38-6, relating to licenses and qualifications, and inserting in its place a new paragraph (7)
 33 to read as follows:

34 "(7) The applicant for a private detective company license has had at least two years'
 35 experience as an agent registered with a licensed detective agency or has had at least two

1 years' experience as a supervisor or administrator in in-house investigations, or has had
 2 at least two years' experience ~~in law enforcement~~ as a peace officer as defined by
 3 subparagraph (A) of paragraph (8) of Code Section 35-8-2, or has a four-year degree in
 4 criminal justice or a related field from an accredited university or college; and the
 5 applicant for a security company license has had at least two years' experience as a
 6 supervisor or administrator in in-house security operations or with a licensed security
 7 agency, or has had at least two years' experience in law enforcement, or has a four-year
 8 degree in criminal justice or a related field from an accredited university or college;"

9 SECTION 4.

10 Said chapter is further amended by adding a new subsection (j) to Code Section 43-38-6,
 11 relating to licenses and qualifications, to read as follows:

12 "(j) In addition to the initial applicant, any individual, firm, association, company,
 13 partnership, limited liability company, or corporation desiring to engage in the private
 14 detective or private security business may choose to designate one or more individuals to
 15 qualify to hold the license for the individual, firm, association, company, partnership,
 16 limited liability company, or corporation. Such individual or individuals shall meet the
 17 same qualifications set out in this Code section as relate to the initial applicant, and the
 18 board shall have the authority to promulgate rules and regulations necessary to ensure that
 19 such additional individual or individuals are capable of assuming full responsibility for the
 20 operations of the particular individual, firm, association, company, partnership, limited
 21 liability company, or corporation in compliance with this Code section and with all rules
 22 and regulations promulgated pursuant to this Code section."

23 SECTION 5.

24 Said chapter is further amended by striking subsection (a) of Code Section 43-38-10, relating
 25 to permits to carry firearms, proficiency requirement, exemption from specified laws, denial,
 26 refusal to renew, and suspension of permits, and effect of license suspension and restoration,
 27 and inserting in its place a new subsection (a) to read as follows:

28 "(a) The board may grant a permit to carry a ~~pistol, revolver, or other~~ firearm to any person
 29 who is at least 21 years of age and who is licensed or registered in accordance with this
 30 chapter and who meets the qualifications and training requirements set forth in this Code
 31 section and such other qualifications and training requirements as the board by rule may
 32 establish and who is not prohibited by federal or state law from possession of a firearm.
 33 The board shall have the authority to establish limits on type and caliber of such weapons
 34 by rule. Application for such permit and for renewal thereof shall be made on forms

1 provided by the division director. No weapons permit issued under this Code section shall
2 be transferable to another individual."

3 SECTION 6.

4 Said chapter is further amended by adding a new subsection (k) to Code Section 43-38-10,
5 relating to permits to carry firearms, proficiency requirement, exemption from specified laws,
6 denial, refusal to renew, and suspension of permits, and effect of license suspension and
7 restoration, to read as follows:

8 "(k) The board shall have the authority to refuse to grant a weapons permit to an applicant
9 or to revoke the registration of a person registered by the board if that person would be
10 ineligible for issuance of a license or permit pursuant to subsection (b) of Code Section
11 16-11-129 or if such person would be prohibited under federal or state law from possessing
12 a firearm."

13 SECTION 7.

14 Said chapter is further amended by adding a new subsection (e) to Code Section 43-38-10.1,
15 relating to training instructors and training programs, to read as follows:

16 "(e) The board shall have the authority to refuse to grant a training instructor license to an
17 applicant or to revoke the registration of an instructor licensed by the board if that person
18 would be ineligible for issuance of a license or permit pursuant to subsection (b) of Code
19 Section 16-11-129 or if such person would be prohibited under federal or state law from
20 possessing a firearm."

21 SECTION 8.

22 Said chapter is further amended by striking subsection (a) of Code Section 43-38-14, relating
23 to exceptions to operation of chapter and to local regulation, and inserting in its place a new
24 subsection (a) to read as follows:

25 "(a) This chapter shall not apply to:

26 (1) An officer or employee of the United States of America or of this state or a political
27 subdivision thereof while the employee or officer is engaged in the performance of
28 official duties;

29 ~~(2) A person engaged in the business of furnishing information in connection with credit~~
30 ~~or marketing and a person or firm engaged as a consumer reporting agency, as defined~~
31 ~~by the federal Fair Credit Reporting Act;~~

32 ~~(3)~~(2) An attorney at law or a bona fide legal assistant in performing his or her duties;

33 ~~(4)~~(3) Admitted insurers, agents, and insurance brokers licensed by the state while
34 performing duties in connection with insurance transacted by them;

(5)(4) A peace officer employed on a full-time basis by a federal, state, county, or local law enforcement agency who contracts directly with an employer to work during his or her off-duty hours and whose off-duty employment is conducted on an independent contractor basis with another employer other than a peace officer engaged in the private detective or private security business or a private detective or private security agency, subject to Code Section 16-10-3, relating to the receipt of funds by state officers or employees for the enforcement of penal laws;

(6)(5) A firm engaged in the business of independent insurance claims adjusting whose employees hold a valid Georgia adjuster's license; or

(7)(6) The employees of a firm mentioned in paragraph (6) (5) of this subsection."

SECTION 9.

Said chapter is further amended by striking Code Section 43-38-16, relating to penalties, in its entirety and inserting in its place a new Code Section 43-38-16 to read as follows:

"43-38-16.

Any person who engages in the private detective business or private security business or offers, pretends, or holds himself or herself out as eligible to engage in the private detective business or private security business and who is not legally licensed or registered under this chapter shall be guilty of a ~~misdemeanor~~ felony and, upon conviction thereof, shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 or by imprisonment for not less than two nor more than five years, or both. Each day or fraction of a day that he or she practices in violation of this chapter shall constitute a separate offense."

SECTION 10.

This Act shall become effective July 1, 2006, and shall not apply to any offense committed before that date. Any such offense committed before that date shall be governed by the statute in effect at the time the offense was committed.

SECTION 11.

All laws and parts of laws in conflict with this Act are repealed.