

HOUSE BILL NO. 22

INTRODUCED BY CODY

IN THE HOUSE

DECEMBER 27, 1990 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & ECONOMIC DEVELOPMENT.

JANUARY 7, 1991 FIRST READING.

JANUARY 18, 1991 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

JANUARY 19, 1991 PRINTING REPORT.

JANUARY 21, 1991 SECOND READING, DO PASS.

JANUARY 22, 1991 ENGROSSING REPORT.

JANUARY 23, 1991 THIRD READING, PASSED.
AYES, 95; NOES, 2.

TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 24, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & INDUSTRY.

FIRST READING.

FEBRUARY 12, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

FEBRUARY 14, 1991 SECOND READING, CONCURRED IN.

FEBRUARY 15, 1991 THIRD READING, CONCURRED IN.
AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 16, 1991 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE EXEMPTION
5 STATUTE RELATING TO LICENSURE OF PRIVATE INVESTIGATORS AND
6 PATROL OFFICERS TO CLARIFY THAT PARALEGALS EMPLOYED BY ONE
7 OR MORE LAWYERS, LAW OFFICES, AGENCIES, OR ENTITIES ARE
8 EXEMPT FROM LICENSURE; AMENDING SECTIONS 37-60-101 AND
9 37-60-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
11 WHEREAS, section 2, Chapter 332, Laws of 1989, exempted
12 "a legal intern, paralegal, or legal assistant employed by a
13 licensed attorney" from licensure as a private investigator;
14 and

15 WHEREAS, the Board of Private Security Patrol Officers
16 and Investigators, in Rule 8.50.423, Administrative Rules of
17 Montana, interpreted the license exemption for paralegals to
18 apply to "a paralegal employed by only one law firm" and
19 required that paralegals "employed by more than one firm at
20 the same time" be licensed as private investigators; and

21 WHEREAS, the Legislature intended the 1989 law, by use
22 of the singular phrase "employed by a licensed attorney", to
23 include the plural, in conformity with the basic rule of
24 statutory construction set out in section 1-2-105, MCA, and
25 now finds it necessary to clarify the licensing exemption

1 with regard to paralegals.

2
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4 **Section 1.** Section 37-60-101, MCA, is amended to read:

5 "37-60-101. Definitions. As used in this chapter, the
6 following definitions apply:

7 (1) "Alarm response runner" means any individual
8 employed by a contract security company or a proprietary
9 security organization to respond to security alarm system
10 signals.

11 (2) "Armed carrier service" means any person who
12 transports or offers to transport under armed private
13 security guard from one place to another any currency,
14 documents, papers, maps, stocks, bonds, checks, or other
15 items of value that require expeditious delivery.

16 (3) "Armed private investigator" means a private
17 investigator who at any time wears, carries, possesses, or
18 has access to a firearm in the performance of his duties.

19 (4) "Armed private security guard" means an individual
20 employed by a contract security company or a proprietary
21 security organization whose duty or any portion of whose
22 duty is that of a security guard, armored car service guard,
23 carrier service guard, or alarm response runner and who at
24 any time wears or carries a firearm in the performance of
25 his duties.

1 (5) "Armored car service" means any person who
2 transports or offers to transport under armed private
3 security guard from one place to another any currency,
4 jewels, stocks, bonds, paintings, or other valuables of any
5 kind in a specially equipped motor vehicle that offers a
6 high degree of security.

7 (6) "Board" means the board of private security patrol
8 officers and investigators provided for in 2-15-1891.

9 (7) "Branch office" means any office of a licensee
10 within the state, other than its principal place of business
11 within the state.

12 (8) "Contract security company" means any person who
13 installs or maintains a security alarm system, undertakes to
14 provide a private security guard, alarm response runner,
15 armored car service, street patrol service, or armed carrier
16 service on a contractual basis to another person who
17 exercises no direction and control over the performance of
18 the details of the services rendered.

19 (9) "Department" means the department of commerce
20 provided for in 2-15-1801.

21 (10) "Insurance adjuster" means a person employed by an
22 insurance company, other than a private investigator, who
23 for any consideration whatsoever conducts investigations in
24 the course of adjusting or otherwise participating in the
25 disposal of any claims in connection with a policy of

1 insurance but who does not perform surveillance activities
2 or investigate crimes or wrongs committed or threatened
3 against the United States or any state or territory thereof.

4 (11) "Licensee" means a person licensed under this
5 chapter.

6 (12) "Paralegal" or "legal assistant" means a person
7 qualified through education, training, or work experience to
8 perform substantive legal work that requires knowledge of
9 legal concepts and that is customarily but not exclusively
10 performed by a lawyer and who may be retained or employed by
11 ~~a lawyer, law office~~ one or more lawyers, law offices,
12 governmental agency agencies, or other entity entities or
13 who may be authorized by administrative, statutory, or court
14 authority to perform this work.

15 (13) "Person" includes any individual, firm, company,
16 association, organization, partnership, and corporation.

17 (14) "Private investigator" means a person other than an
18 insurance adjuster who for any consideration whatsoever
19 makes or agrees to make any investigation with reference to:
20 (a) crimes or wrongs done or threatened against the
21 United States or any state or territory thereof;

22 (b) the identity, habits, conduct, business,
23 occupation, honesty, integrity, trustworthiness, efficiency
24 loyalty, activity, movement, whereabouts, affiliations
25 associations, transactions, reputation, or character of an

1 person;

2 (c) the location, disposition, or recovery of lost or
3 stolen property;

4 (d) the cause or responsibility for fires, libels,
5 losses, accidents, or injury to persons or property; or

6 (e) securing evidence to be used before any court,
7 board, officer, or investigating committee.

8 (15) "Private security guard" means an individual
9 employed or assigned duties to protect a person or property
10 or both a person and property from criminal acts and whose
11 duties or any portion of whose duties include but are not
12 limited to the prevention of unlawful entry, theft, criminal
13 mischief, arson, or trespass on private property, or the
14 direction of the movements of the public in public areas.

15 (16) "Proprietary security organization" means any
16 person who employs a private security guard, an alarm
17 response runner, armored car service, street patrol service,
18 or armed carrier service on a routine basis solely for the
19 purposes of that person and exerts direction and control
20 over the performance of the details of the service rendered.

21 (17) "Qualifying agent" means, in the case of a
22 corporation, a corporate employee employed in a management
23 capacity or, in the case of a partnership, a general or
24 unlimited partner meeting the qualifications set forth in
25 this chapter for the operation of a contract security

1 company, proprietary security organization, or private
2 investigator, whichever is applicable.

3 (18) "Resident manager" means the person appointed to
4 exercise direct supervision, control, charge, management, or
5 operation of each branch office located in this state where
6 the business of the licensee is conducted.

7 (19) "Security alarm system" means an assembly of
8 equipment and devices or a single device such as a solid
9 state unit which plugs directly into a 110-volt AC line,
10 designed to detect or signal or to both detect and signal
11 unauthorized intrusion, movement, or criminal acts at a
12 protected premises, to which signals police, private
13 security guards, or alarm response runners are expected to
14 respond. Fire alarm systems and alarm systems that monitor
15 temperature, humidity, or any other atmospheric condition
16 not directly related to the detection of an unauthorized
17 intrusion or criminal act at a premises are not included
18 within the meaning of this definition.

19 (20) "Street patrol service" means any contract security
20 company or proprietary security organization that uses foot
21 patrols, motor vehicles, or any other means of
22 transportation to maintain public order or detect criminal
23 activities in public areas or thoroughfares.

24 (21) "Unarmed private investigator" means a private
25 investigator who does not wear, carry, possess, or have

1 access to a firearm in the performance of his duties.

2 (22) "Unarmed private security guard" means an
3 individual employed by a contract security company or a
4 proprietary security organization whose duty or any portion
5 of whose duty is that of a private security guard, armored
6 car service guard, or alarm response runner, who does not
7 wear or carry a firearm in the performance of those duties."

8 **Section 2.** Section 37-60-105, MCA, is amended to read:

9 "37-60-105. Exemptions. This chapter does not apply to:

10 (1) (a) any one person employed singly and exclusively
11 by any one employer in connection with the affairs of such
12 employer only and where there exists an employer-employee
13 relationship and the employee is unarmed, does not wear a
14 uniform, and is guarding inside a structure which at the
15 time is not open to the public;

16 (b) a person:

17 (i) employed singly and exclusively by a retail
18 merchant;

19 (ii) performing at least some of his work for the retail
20 merchant as a private security guard; and

21 (iii) who has received training as a private security
22 guard from the employer or at the employer's direction;

23 (2) an officer or employee of the United States of
24 America or of this state or a political subdivision thereof
25 while such officer or employee is engaged in the performance

1 of his official duties;

2 (3) a person engaged exclusively in the business of
3 obtaining and furnishing information as to the financial
4 rating of persons or as to the personal habits and financial
5 responsibility of applicants for insurance, indemnity bonds,
6 or commercial credit;

7 (4) (a) an attorney at law in performing his duties as
8 an attorney at law;

9 (b) a legal intern, paralegal, or legal assistant
10 employed by a one or more licensed--attorney lawyers, law
11 offices, governmental agencies, or other entities; or

12 (c) a law student who is serving a legal internship;

13 (5) a collection agency or finance company licensed to
14 do business under the laws of this state, or an employee
15 thereof while acting within the scope of his employment,
16 while making an investigation incidental to the business of
17 the agency or company, including an investigation of the
18 location of a debtor or his property where the contract with
19 an assignor creditor is for the collection of claims owed or
20 due or asserted to be owed or due or the equivalent thereof;

21 (6) special agents employed by railroad companies,
22 provided the railroad company notifies the board that such
23 agents are operating in the state;

24 (7) insurers and insurance producers and insurance
25 brokers licensed by the state, performing duties in

1 connection with insurance transacted by them;

2 (8) an insurance adjuster, as defined by 37-60-101(10);

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4 (9) an internal investigator or auditor, while making
5 an investigation incidental to the business of the agency or
6 company by which he is singularly and regularly employed."

7 NEW SECTION. **Section 3.** Effective date. [This act] is
8 effective on passage and approval.

-End-

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

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16 and Investigators, in Rule 8.50.423, Administrative Rules of
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14 documents, papers, maps, stocks, bonds, checks, or other
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16 (3) "Armed private investigator" means a private
17 investigator who at any time wears, carries, possesses, or
18 has access to a firearm in the performance of his duties.

19 (4) "Armed private security guard" means an individual
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1 insurance but who does not perform surveillance activities
 2 or investigate crimes or wrongs committed or threatened
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5 operation of each branch office located in this state where
6 the business of the licensee is conducted.

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8 equipment and devices or a single device such as a solid
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17 the agency or company, including an investigation of the
18 location of a debtor or his property where the contract with
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THIRD READING

1 (5) "Armored car service" means any person who
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1 access to a firearm in the performance of his duties.

2 (22) "Unarmed private security guard" means an
3 individual employed by a contract security company or a
4 proprietary security organization whose duty or any portion
5 of whose duty is that of a private security guard, armored
6 car service guard, or alarm response runner, who does not
7 wear or carry a firearm in the performance of those duties."

8 **Section 2.** Section 37-60-105, MCA, is amended to read:

9 "37-60-105. Exemptions. This chapter does not apply to:

10 (1) (a) any one person employed singly and exclusively
11 by any one employer in connection with the affairs of such
12 employer only and where there exists an employer-employee
13 relationship and the employee is unarmed, does not wear a
14 uniform, and is guarding inside a structure which at the
15 time is not open to the public;

16 (b) a person:

17 (i) employed singly and exclusively by a retail
18 merchant;

19 (ii) performing at least some of his work for the retail
20 merchant as a private security guard; and

21 (iii) who has received training as a private security
22 guard from the employer or at the employer's direction;

23 (2) an officer or employee of the United States of
24 America or of this state or a political subdivision thereof
25 while such officer or employee is engaged in the performance

1 of his official duties;

2 (3) a person engaged exclusively in the business of
3 obtaining and furnishing information as to the financial
4 rating of persons or as to the personal habits and financial
5 responsibility of applicants for insurance, indemnity bonds,
6 or commercial credit;

7 (4) (a) an attorney at law in performing his duties as
8 an attorney at law;

9 (b) a legal intern, paralegal, or legal assistant
10 employed by a one or more licensed--attorney lawyers, law
11 offices, governmental agencies, or other entities; or

12 (c) a law student who is serving a legal internship;

13 (5) a collection agency or finance company licensed to
14 do business under the laws of this state, or an employee
15 thereof while acting within the scope of his employment,
16 while making an investigation incidental to the business of
17 the agency or company, including an investigation of the
18 location of a debtor or his property where the contract with
19 an assignor creditor is for the collection of claims owed or
20 due or asserted to be owed or due or the equivalent thereof;

21 (6) special agents employed by railroad companies,
22 provided the railroad company notifies the board that such
23 agents are operating in the state;

24 (7) insurers and insurance producers and insurance
25 brokers licensed by the state, performing duties in

1 connection with insurance transacted by them;

2 (8) an insurance adjuster, as defined by 37-60-101(10);

3 or

4 (9) an internal investigator or auditor, while making

5 an investigation incidental to the business of the agency or

6 company by which he is singularly and regularly employed."

7 NEW SECTION. **Section 3.** **Effective date.** [This act] is

8 effective on passage and approval.

-End-

1 HOUSE BILL NO. 22
 2 INTRODUCED BY CODY
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE EXEMPTION
 5 STATUTE RELATING TO LICENSURE OF PRIVATE INVESTIGATORS AND
 6 PATROL OFFICERS TO CLARIFY THAT PARALEGALS EMPLOYED BY ONE
 7 OR MORE LAWYERS, LAW OFFICES, AGENCIES, OR ENTITIES ARE
 8 EXEMPT FROM LICENSURE; AMENDING SECTIONS 37-60-101 AND
 9 37-60-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
 10

11 WHEREAS, section 2, Chapter 332, Laws of 1989, exempted
 12 "a legal intern, paralegal, or legal assistant employed by a
 13 licensed attorney" from licensure as a private investigator;
 14 and

15 WHEREAS, the Board of Private Security Patrol Officers
 16 and Investigators, in Rule 8.50.423, Administrative Rules of
 17 Montana, interpreted the license exemption for paralegals to
 18 apply to "a paralegal employed by only one law firm" and
 19 required that paralegals "employed by more than one firm at
 20 the same time" be licensed as private investigators; and

21 WHEREAS, the Legislature intended the 1989 law, by use
 22 of the singular phrase "employed by a licensed attorney", to
 23 include the plural, in conformity with the basic rule of
 24 statutory construction set out in section 1-2-105, MCA, and
 25 now finds it necessary to clarify the licensing exemption

1 with regard to paralegals.

2
 3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4 **Section 1.** Section 37-60-101, MCA, is amended to read:
 5 "37-60-101. Definitions. As used in this chapter, the
 6 following definitions apply:

7 (1) "Alarm response runner" means any individual
 8 employed by a contract security company or a proprietary
 9 security organization to respond to security alarm system
 10 signals.

11 (2) "Armed carrier service" means any person who
 12 transports or offers to transport under armed private
 13 security guard from one place to another any currency,
 14 documents, papers, maps, stocks, bonds, checks, or other
 15 items of value that require expeditious delivery.

16 (3) "Armed private investigator" means a private
 17 investigator who at any time wears, carries, possesses, or
 18 has access to a firearm in the performance of his duties.

19 (4) "Armed private security guard" means an individual
 20 employed by a contract security company or a proprietary
 21 security organization whose duty or any portion of whose
 22 duty is that of a security guard, armored car service guard,
 23 carrier service guard, or alarm response runner and who at
 24 any time wears or carries a firearm in the performance of
 25 his duties.

REFERENCE BILL



1 (5) "Armored car service" means any person who
 2 transports or offers to transport under armed private
 3 security guard from one place to another any currency,
 4 jewels, stocks, bonds, paintings, or other valuables of any
 5 kind in a specially equipped motor vehicle that offers a
 6 high degree of security.

7 (6) "Board" means the board of private security patrol
 8 officers and investigators provided for in 2-15-1891.

9 (7) "Branch office" means any office of a licensee
 10 within the state, other than its principal place of business
 11 within the state.

12 (8) "Contract security company" means any person who
 13 installs or maintains a security alarm system, undertakes to
 14 provide a private security guard, alarm response runner,
 15 armored car service, street patrol service, or armed carrier
 16 service on a contractual basis to another person who
 17 exercises no direction and control over the performance of
 18 the details of the services rendered.

19 (9) "Department" means the department of commerce
 20 provided for in 2-15-1801.

21 (10) "Insurance adjuster" means a person employed by an
 22 insurance company, other than a private investigator, who
 23 for any consideration whatsoever conducts investigations in
 24 the course of adjusting or otherwise participating in the
 25 disposal of any claims in connection with a policy of

1 insurance but who does not perform surveillance activities
 2 or investigate crimes or wrongs committed or threatened
 3 against the United States or any state or territory thereof.

4 (11) "Licensee" means a person licensed under this
 5 chapter.

6 (12) "Paralegal" or "legal assistant" means a person
 7 qualified through education, training, or work experience to
 8 perform substantive legal work that requires knowledge of
 9 legal concepts and that is customarily but not exclusively
 10 performed by a lawyer and who may be retained or employed by
 11 ~~a lawyer, law office~~ one or more lawyers, law offices,
 12 governmental agency agencies, or other entity entities or
 13 who may be authorized by administrative, statutory, or court
 14 authority to perform this work.

15 (13) "Person" includes any individual, firm, company,
 16 association, organization, partnership, and corporation.

17 (14) "Private investigator" means a person other than an
 18 insurance adjuster who for any consideration whatsoever
 19 makes or agrees to make any investigation with reference to:

20 (a) crimes or wrongs done or threatened against the
 21 United States or any state or territory thereof;

22 (b) the identity, habits, conduct, business,
 23 occupation, honesty, integrity, trustworthiness, efficiency,
 24 loyalty, activity, movement, whereabouts, affiliations,
 25 associations, transactions, reputation, or character of any

1 person;

2 (c) the location, disposition, or recovery of lost or
3 stolen property;

4 (d) the cause or responsibility for fires, libels,
5 losses, accidents, or injury to persons or property; or

6 (e) securing evidence to be used before any court,
7 board, officer, or investigating committee.

8 (15) "Private security guard" means an individual
9 employed or assigned duties to protect a person or property
10 or both a person and property from criminal acts and whose
11 duties or any portion of whose duties include but are not
12 limited to the prevention of unlawful entry, theft, criminal
13 mischief, arson, or trespass on private property, or the
14 direction of the movements of the public in public areas.

15 (16) "Proprietary security organization" means any
16 person who employs a private security guard, an alarm
17 response runner, armored car service, street patrol service,
18 or armed carrier service on a routine basis solely for the
19 purposes of that person and exerts direction and control
20 over the performance of the details of the service rendered.

21 (17) "Qualifying agent" means, in the case of a
22 corporation, a corporate employee employed in a management
23 capacity or, in the case of a partnership, a general or
24 unlimited partner meeting the qualifications set forth in
25 this chapter for the operation of a contract security

1 company, proprietary security organization, or private
2 investigator, whichever is applicable.

3 (18) "Resident manager" means the person appointed to
4 exercise direct supervision, control, charge, management, or
5 operation of each branch office located in this state where
6 the business of the licensee is conducted.

7 (19) "Security alarm system" means an assembly of
8 equipment and devices or a single device such as a solid
9 state unit which plugs directly into a 110-volt AC line,
10 designed to detect or signal or to both detect and signal
11 unauthorized intrusion, movement, or criminal acts at a
12 protected premises, to which signals police, private
13 security guards, or alarm response runners are expected to
14 respond. Fire alarm systems and alarm systems that monitor
15 temperature, humidity, or any other atmospheric condition
16 not directly related to the detection of an unauthorized
17 intrusion or criminal act at a premises are not included
18 within the meaning of this definition.

19 (20) "Street patrol service" means any contract security
20 company or proprietary security organization that uses foot
21 patrols, motor vehicles, or any other means of
22 transportation to maintain public order or detect criminal
23 activities in public areas or thoroughfares.

24 (21) "Unarmed private investigator" means a private
25 investigator who does not wear, carry, possess, or have

1 access to a firearm in the performance of his duties.

2 (22) "Unarmed private security guard" means an
 3 individual employed by a contract security company or a
 4 proprietary security organization whose duty or any portion
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7 NEW SECTION. **Section 3. Effective date.** [This act] is

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