

HOUSE BILL NO. 523

INTRODUCED BY KEYSER, MANUEL, HAZELBAKER, VAN VALKENBURG

BY REQUEST OF THE BOARD OF CRIME CONTROL

IN THE HOUSE

January 27, 1983	Introduced and referred to Committee on Business and Industry.
February 3, 1983	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
February 4, 1983	Bill printed and placed on members' desks.
February 8, 1983	Second reading, do pass.
February 9, 1983	Considered correctly engrossed.
February 10, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 11, 1983	Introduced and referred to Committee on Business and Industry.
March 25, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1983	Second reading, concurred in.
March 28, 1983	Third reading, concurred in. Ayes, 41; Noes, 6.

IN THE HOUSE

March 28, 1983	Returned to House with amendments.
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April 1, 1983

Second reading, amendments  
concurred in.

April 4, 1983

Third reading, amendments  
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 *House* BILL NO. *523*  
2 INTRODUCED BY *Hayes Manuel*  
3 BY REQUEST OF THE BOARD OF CRIME CONTROL  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE BOARD OF  
6 PRIVATE SECURITY PATROLMEN AND INVESTIGATORS; REQUIRING THE  
7 LICENSING OF PRIVATE SECURITY AND DETECTIVE BUSINESSES;  
8 REQUIRING THE REGISTRATION OF ARMED AND UNARMED PRIVATE  
9 DETECTIVES AND SECURITY GUARDS; AUTHORIZING THE BOARD TO  
10 ADOPT RULES; PROVIDING FOR THE SUSPENSION AND REVOCATION OF  
11 LICENSES, REGISTRATIONS, AND IDENTIFICATION CARDS; REQUIRING  
12 THE APPROVAL AND REGISTRATION OF ALL WEAPONS USED BY  
13 REGISTRANTS; REGULATING THE UNIFORMS AND INSIGNIA WORN BY  
14 EMPLOYEES OF LICENSEES; PROVIDING A PENALTY; AMENDING  
15 SECTIONS 37-60-101, 37-60-103 THROUGH 37-60-105, 37-60-201,  
16 37-60-202, 37-60-301 THROUGH 37-60-310, 37-60-312,  
17 37-60-314, 37-60-321, AND 37-60-402 THROUGH 37-60-405, MCA;  
18 AND REPEALING SECTIONS 37-60-102, 37-60-311, AND 37-60-313,  
19 MCA."  
20

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 NEW SECTION. Section 1. Board of private security  
23 patrolmen and investigators. (1) There is a board of private  
24 security patrolmen and investigators.

25 (2) The board consists of seven voting members

1 appointed by the governor with the consent of the senate.

2 The members shall represent:

3 (a) one contract security company, as defined by  
4 37-60-101;

5 (b) one proprietary security organization, as defined  
6 by 37-60-101;

7 (c) one city police department;

8 (d) one county sheriff's department;

9 (e) one member of the public;

10 (f) one member of the peace officers' standards and  
11 training advisory council; and

12 (g) a licensed private investigator.

13 (3) Members of the board must be at least 25 years of  
14 age and have been residents of this state for more than 5  
15 years.

16 (4) The appointed members of the board shall serve for  
17 a term of 3 years.

18 (5) The governor may remove a member for misconduct,  
19 incompetency, neglect of duty, or unprofessional or  
20 dishonorable conduct.

21 (6) A vacancy on the board must be filled in the same  
22 manner as the original appointment and may only be for the  
23 unexpired portion of the term.

24 (7) The board is allocated to the department for  
25 administrative purposes only as prescribed in 2-15-121.

-2- INTRODUCED BILL

HB 523

Section 2. Section 37-60-101, MCA, is amended to read:

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

(1) "Alarm response runner" means any individual employed by a contract security company or a proprietary security organization to respond to security alarm system signals. A person whose sole function is to maintain or repair a security alarm system is not included within the meaning of this definition.

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

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

(4) "Armed private security guard" means an individual employed by a contract security company or a proprietary security organization whose principal duty is that of a security guard, armored car service guard, carrier service guard, or alarm response runner and who, at any time wears, carries, possesses, or has access to a firearm in the performance of his duties.

(5) "Armored car service" means any person who

transports or offers to transport under armed private security guard from one place to another any currency, jewels, stocks, bonds, paintings, or other valuables of any kind in a specially equipped motor vehicle that offers a high degree of security.

(6) "Board" means the board of private security patrolmen and investigators provided for in [section 1].

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

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

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

~~(2)~~ "Director" means the director of the department of commerce or his designee.

(10) "Insurance adjuster" means a person employed by an insurance company, other than a private investigator, who for any consideration whatsoever conducts any of the investigations enumerated in subsection (13) in the course of adjusting or otherwise participating in the disposal of

1 any claims in connection with a policy of insurance but who  
 2 does not perform surveillance activities.

3 ~~(3)(11) "Licensee" means a person licensed under this~~  
 4 ~~chapter and includes but is not limited to private~~  
 5 ~~investigator and private patrol operator.~~

6 ~~(4) "Manager" means the individual under whose~~  
 7 ~~direction, control, charge, or management the business of a~~  
 8 ~~licensee is operated.~~

9 ~~(5)(12) "Person" includes any individual, firm,~~  
 10 ~~company, association, organization, partnership, and~~  
 11 ~~corporation.~~

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

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

17 (b) the identity, habits, conduct, business,  
 18 occupation, honesty, integrity, trustworthiness, efficiency,  
 19 loyalty, activity, movement, whereabouts, affiliations,  
 20 associations, transactions, reputation, or character of any  
 21 person;

22 (c) the location, disposition, or recovery of lost or  
 23 stolen property;

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

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

3 (14) "Private security guard" means an individual  
 4 employed to protect a person or property or both a person  
 5 and property from criminal acts and whose duties include but  
 6 are not limited to the prevention of unlawful entry, theft,  
 7 criminal mischief, arson, or trespass on private property,  
 8 or the direction of the movements of the public in public  
 9 areas.

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

16 (16) "Qualifying agent" means, in the case of a  
 17 corporation, a corporate employee employed in a management  
 18 capacity or, in the case of a partnership, a general or  
 19 unlimited partner meeting the qualifications set forth in  
 20 this chapter for the operation of a contract security  
 21 company, proprietary security organization, or private  
 22 investigator, whichever is applicable.

23 (17) "Security alarm system" means an assembly of  
 24 equipment and devices, or a single device such as a solid  
 25 state unit which plugs directly into a 110-volt AC line.

1 designed to detect or signal or to both detect and signal  
 2 unauthorized intrusion, movement, or criminal acts at a  
 3 protected premises, to which signals police, private  
 4 security guards, or alarm response runners are expected to  
 5 respond. Fire alarm systems and alarm systems that monitor  
 6 temperature, humidity, or any other atmospheric condition  
 7 not directly related to the detection of an unauthorized  
 8 intrusion or criminal act at a premises are not included  
 9 within the meaning of this definition.

10 (18) "Street patrol service" means any contract  
 11 security company or proprietary security organization that  
 12 uses foot patrols, motor vehicles, or any other means of  
 13 transportation to maintain public order or detect criminal  
 14 activities in public areas or thoroughfares.

15 (19) "Unarmed private investigator" means a private  
 16 investigator who does not wear, carry, possess, or have  
 17 access to a firearm in the performance of his duties.

18 (20) "Unarmed private security guard" means an  
 19 individual employed by a contract security company or a  
 20 proprietary security organization whose principal duty is  
 21 that of a private security guard, armored car service guard,  
 22 or alarm response runner, who does not wear, carry, possess,  
 23 or have access to a firearm in the performance of those  
 24 duties."

25 Section 3. Section 37-60-103, MCA, is amended to read:

1 "37-60-103. Definition---of---private---patrol---operator  
 2 Purpose. A private patrol operator or operator of a private  
 3 patrol service within the meaning of this chapter is a  
 4 person who, for any consideration whatsoever:

5 (1) agrees to furnish or furnishes a watchman, guard,  
 6 patrolman, or other person to protect persons or property or  
 7 to prevent the theft, unlawful taking, loss, embezzlement,  
 8 misappropriation, or concealment of any goods, wares,  
 9 merchandise, money, bonds, stocks, notes, documents, papers,  
 10 or property of any kind; or

11 (2) performs the service of such watchman, guard,  
 12 patrolman, or other person for any of said purposes. The  
 13 purpose of this chapter is to increase the levels of  
 14 integrity, competency, and performance of private security  
 15 personnel and private investigators in order to safeguard  
 16 the public health, safety, and welfare against illegal,  
 17 improper, or incompetent actions committed by private  
 18 security personnel or private investigators."

19 Section 4. Section 37-60-104, MCA, is amended to read:

20 "37-60-104. Restrictions on authority of---licensed  
 21 private---patrol---operator contract security company and  
 22 proprietary security organization. A person licensed as a  
 23 private---patrol---operator only No employee of a contract  
 24 security company or proprietary security organization may  
 25 not make any investigation or investigations except those

that are incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property or any other thing ~~enumerated in 37-60-103~~ which he has been hired or engaged to protect, guard, or watch."

Section 5. Section 37-60-105, MCA, is amended to read:

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

~~(1) a person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship;~~

~~(2) an officer or employee of the United States of America or of this state or a political subdivision thereof while such officer or employee is engaged in the performance of his official duties;~~

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

~~(4) a charitable, philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit;~~

~~(5) an attorney at law in performing his duties as~~

such attorney at law;

~~(6) a collection agency or finance company licensed to do business under the laws of this state, or an employee thereof while acting within the scope of his employment, while making an investigation incidental to the business of the agency or company, including an investigation of the location of a debtor or his property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof; or~~

~~(7) insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them; or~~

~~(7) an insurance adjuster, as defined by 37-60-101(10)."~~

Section 6. Section 37-60-201, MCA, is amended to read:

~~"37-60-201. Buty-to-administer chapter Organization -- meetings -- records. The director shall administer and enforce the provisions of this chapter. The board shall meet annually and shall elect from among the seven members a president and a secretary. The board shall hold other meetings when necessary to transact its business. A majority of the board constitutes a quorum at any meeting. The department shall keep complete minutes and records of the meetings and rules and orders promulgated by the board.~~

Copies of records and papers kept by the department, certified by the chairman and authenticated by the seal of the board, shall be received in evidence in courts with like effect as the original. Records of the board are open to public inspection under rules it prescribes."

Section 7. Section 37-60-202, MCA, is amended to read:

"37-60-202. Rulemaking power. The director may board shall adopt and enforce reasonable rules:

(1) classifying licensees according to the type of business regulated by this chapter in which they are engaged, including but not limited to private investigators and private patrol operators, and limiting the field and scope of the operations of a licensee to those in which he is classified and qualified to engage specifying the form of and procedure to be used in granting, denying, suspending, or revoking any license, registration, or identification card;

(2) fixing the qualifications of resident managers, qualifying agents, licensees, registrants, and holders of identification cards, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare; and

(3) carrying out generally the provisions of this chapter establishing, in accordance with 37-1-134, application and examination fees for original or renewal

licenses, registrations, and identification cards, and providing for refunding of any such fees;

(4) prohibiting the establishment of branch offices of any licensee, except a proprietary security organization, without approval by the board, establishing qualification requirements and license fees for those offices;

(5) for the certification of private investigator and private security guard training programs, including the certification of firearms training programs and firearms instructors;

(6) for the registration and approval of weapons;

(7) requiring the maintenance of records;

(8) requiring licensees to maintain such insurance coverage as the board considers necessary;

(9) defining "unprofessional conduct" for the purposes of removal from the board and suspension or revocation of licenses, registrations, and identification cards;

(10) establishing the expiration and renewal periods for licenses, registrations, and identification cards; and

(11) for the temporary employment of persons without the required registration or identification cards."

NEW SECTION. Section 8. Compensation of members -- expenses. Each member of the board shall receive compensation and travel expenses as provided for in 37-1-133.



1 ~~NEW SECTION.~~ Section 9. Attorney general to act as  
 2 attorney for the board. The attorney general shall act as  
 3 attorney for the board in actions and proceedings brought by  
 4 or against it under this chapter. Fees and expenses of the  
 5 attorney general acting in this capacity shall be paid out  
 6 of board money in the earmarked revenue fund.

7 Section 10. Section 37-60-301, MCA, is amended to  
 8 read:

9 "37-60-301. License required. ~~No person shall engage~~  
 10 ~~in a business regulated by this chapter unless he is~~  
 11 ~~licensed under this chapter and no person shall falsely~~  
 12 ~~represent that he is employed by a licensee.~~ Except as  
 13 provided in 37-60-105, it is unlawful for any person to act  
 14 as a contract security company or proprietary security  
 15 organization or private investigator within this state  
 16 without having first obtained a license from the board."

17 Section 11. Section 37-60-302, MCA, is amended to  
 18 read:

19 "37-60-302. ~~Application-----form~~ qualifying agent and  
 20 resident manager required -- substitution. (1) An  
 21 application applicant for a license under this chapter,  
 22 ~~shall be on a form prescribed by the director and~~  
 23 ~~accompanied by the application fee provided by this chapter,~~  
 24 other than an individual to operate as a contract security  
 25 company or a private investigator, shall, upon or before

1 application to the board, appoint for the duration of the  
 2 license:

3 (a) a resident manager for each branch office located  
 4 within this state, under whose direct supervision and  
 5 control the business of the applicant shall be conducted;  
 6 and

7 (b) a qualifying agent.

8 (2) Every qualifying agent and resident manager shall  
 9 satisfy all of the appropriate licensing requirements of  
 10 this chapter as though the applicant were an individual.

11 (3) If a qualifying agent or resident manager for any  
 12 reason ceases to perform the duties of a qualifying agent or  
 13 resident manager on a regular basis, the licensee shall  
 14 promptly notify the board by certified mail of that fact and  
 15 of the name of a substitute individual, who shall make  
 16 application to the board for continuation of the license.  
 17 Pending application by and board action upon the application  
 18 of the substitute, the board may suspend the license or  
 19 extend it for a reasonable time."

20 Section 12. Section 37-60-303, MCA, is amended to  
 21 read:

22 "37-60-303. ~~Application-----contents~~ License  
 23 qualifications. An ~~application shall be verified and shall~~  
 24 ~~include:~~

25 ~~{1} the full name and business address of the~~

1 applicant;

2 (2) ~~the name under which the applicant intends to do~~

3 ~~business;~~

4 (3) ~~a statement as to the general nature of the~~

5 ~~business in which the applicant intends to engage;~~

6 (4) ~~a statement as to the classification or~~

7 ~~classifications under which the applicant desires to be~~

8 ~~qualified;~~

9 (5) ~~if the applicant is a person other than an~~

10 ~~individual, the full name and residence address of each of~~

11 ~~its partners, officers, and directors and its manager;~~

12 (6) ~~two recent photographs of the applicant, of a type~~

13 ~~prescribed by the directory and two classifiable sets of his~~

14 ~~fingerprints;~~

15 (7) ~~a verified statement of his experience~~

16 ~~qualifications; and~~

17 (8) ~~such other information, evidence, statements, or~~

18 ~~documents as may be required by the director. (1) An~~

19 ~~applicant for a license to act as a contract security~~

20 ~~company or a proprietary security organization shall submit~~

21 ~~evidence under oath that he:~~

22 (a) is at least 18 years of age;

23 (b) has been a citizen of the United States and

24 resident of the state of Montana for a period of 6 months

25 immediately prior to making application for the license;

1 (c) has not been convicted in any jurisdiction of any

2 felony or any crime involving moral turpitude or illegal use

3 or possession of a dangerous weapon, for which a full pardon

4 or similar relief has not been granted;

5 (d) has not been judicially declared incompetent by

6 reason of any mental defect or disease or, if so declared,

7 has been fully restored;

8 (e) is not suffering from habitual drunkenness or from

9 narcotics addiction or dependence;

10 (f) is of good moral character; and

11 (g) has complied with such other experience

12 qualifications as may be set by the rules of the board.

13 (2) Every applicant for a license to act as a private

14 investigator shall submit evidence under oath that he:

15 (a) is a citizen of the United States;

16 (b) is at least 25 years of age;

17 (c) has at least a high school education or its

18 equivalent;

19 (d) is a resident of this state;

20 (e) has not been convicted of a felony or a crime

21 involving moral turpitude;

22 (f) has not been dishonorably discharged from any

23 branch of the United States military service;

24 (g) is of good moral character; and

25 (h) for a period of not less than 3 years;

(i) has been lawfully engaged in the private investigative business;

(ii) has been lawfully employed as a private investigator or been the holder of a certificate of authority to conduct a private investigative business;

(iii) has been an investigator, detective, special agent, or peace officer of a city, county, or state government or of the United States government; or

(iv) has been graduated from an accredited university or college with a degree in police administration.

(3) A corporation applying for a license under this section must be incorporated under the laws of this state or be duly qualified to do business within this state.

(4) The board may require an applicant to demonstrate by written examination such additional qualifications as the board may by rule require."

Section 13. Section 37-60-304, MCA, is amended to read:

"37-60-304. qualifications of applicants licenses -- application form and content. Before a license is granted, the applicant or his manager shall meet all of the following:

(1) be at least 18 years of age;

(2) be a citizen of the United States and a resident of the state of Montana;

~~(3) be of good moral character and temperate habits;~~

~~and~~

~~(4) comply with such other qualifications concerning training, education, or experience as the director may fix by rule. (1) Application for a license shall be made on a form prescribed by the board and accompanied by the application fee set by the board.~~

(2) An application shall be made under oath and shall include:

(a) the full name and address of the applicant;

(b) the name under which the applicant intends to do business;

(c) a statement as to the general nature of the business in which the applicant intends to engage;

(d) a statement as to whether the applicant desires to be licensed as a contract security company, a proprietary security organization, or a private investigator;

(e) two recent photographs of the applicant, of a type prescribed by the board, and two classifiable sets of his fingerprints;

(f) a statement of his experience qualifications;

(g) such other information, evidence, statements, or documents as may be prescribed by the rules of the board; and

(h) if the applicant is a person other than an

1 individual, the full name and residence address of each of  
 2 its partners, officers, and directors and its manager and,  
 3 if the applicant is a corporation, a certified copy of its  
 4 certificate of incorporation or certificate of authority  
 5 issued by the secretary of state.

6 (3) The board shall verify the statements in the  
 7 application and the applicant's moral character. The board  
 8 shall send a copy of the application to the chief of police,  
 9 the sheriff, and the county attorney in whose jurisdiction  
 10 the principal office of the applicant is to be located."

11 Section 14. Section 37-60-305, MCA, is amended to  
 12 read:

13 "37-60-305. Examination Armed guards and investigators  
 14 -- registration requirements. The director shall require an  
 15 applicant or his manager to demonstrate his qualifications  
 16 by -- a -- written -- examination. (1) Except as provided in  
 17 37-60-105 and 37-60-308, no person may perform the duties of  
 18 an armed private security guard or an armed private  
 19 investigator in this state without having first been  
 20 registered with the board and issued a registration card in  
 21 the manner prescribed by this section.

22 (2) Applicants for registration shall file a sworn  
 23 application on a form prescribed by the board, including the  
 24 same information as required of applicants for licensure in  
 25 37-60-304(2)(a) through (g), accompanied by the application

1 fee prescribed by the board.

2 (3) Applicants for registration as armed private  
 3 security guards shall meet the same qualifications required  
 4 of applicants for licensure in 37-60-303(1)(a) through (g)  
 5 and in addition to those requirements shall:

6 (a) complete the training requirements of a private  
 7 security guard training program certified by the board and  
 8 furnish the board, on a form prescribed by the board,  
 9 written notice of satisfactory completion of such training;  
 10 and

11 (b) fulfill such other requirements as the board may  
 12 by rule prescribe.

13 (4) Applicants for registration as armed private  
 14 investigators shall meet the same qualifications required of  
 15 applicants for licensure in 37-60-303(2)(a) through (h) and  
 16 in addition to those requirements shall:

17 (a) complete the training requirements of a private  
 18 investigator training program certified by the board and  
 19 furnish the board, on a form prescribed by the board,  
 20 written notice of satisfactory completion of such training;  
 21 and

22 (b) fulfill such other requirements as the board may  
 23 by rule prescribe."

24 Section 15. Section 37-60-306, MCA, is amended to  
 25 read:

1       ~~"37-60-306. Denial of license hearing Unarmed~~  
 2 ~~guards and investigators -- identification cards required --~~  
 3 ~~qualifications. If a license is denied, the applicant for~~  
 4 ~~such license or for renewal thereof may request a hearing~~  
 5 ~~within 30 days after notice of denial. Such hearing shall~~  
 6 ~~be held in accordance with the provisions of the Montana~~  
 7 ~~Administrative Procedure Act and the rules of the department~~  
 8 ~~of commerce. (1) Except as provided in 37-60-105 and~~  
 9 ~~37-60-308, no person may perform the duties of an unarmed~~  
 10 ~~private security guard or an unarmed private investigator in~~  
 11 ~~this state without first making application to the board and~~  
 12 ~~being issued an identification card in the manner prescribed~~  
 13 ~~by this section.~~

14       ~~(2) Applicants for identification cards shall file a~~  
 15 ~~sworn application on a form prescribed by the board,~~  
 16 ~~including the same information as required of licensees in~~  
 17 ~~37-60-304(2)(a) through (g), accompanied by the application~~  
 18 ~~fee prescribed by the board.~~

19       ~~(3) Applicants for identification cards shall meet~~  
 20 ~~such qualifications as may be prescribed by the board."~~

21       Section 16. Section 37-60-307, MCA, is amended to  
 22 read:

23       ~~"37-60-307. Manager of a licensee Action on~~  
 24 ~~application. (1) The business of each licensee shall be~~  
 25 ~~operated under the direction, control, charge, or management~~

1       ~~in this state of either the licensee or a manager, but no~~  
 2 ~~licensee shall be required to employ more than one manager,~~  
 3       ~~(2) No person shall act as a manager of a licensee~~  
 4 ~~until he has complied with each of the following:~~

5       ~~(a) demonstrated his qualifications by a written~~  
 6 ~~examination, if required by the director; and~~

7       ~~(b) made a satisfactory showing to the director that~~  
 8 ~~he has the qualifications prescribed by 37-60-304. (1) The~~  
 9 ~~board shall grant the application for an original or renewal~~  
 10 ~~license, identification card, or registration unless it~~  
 11 ~~finds that the applicant, branch office manager, or~~  
 12 ~~qualifying agent has:~~

13       ~~(a) not met the qualifications of 37-60-303;~~

14       ~~(b) practiced fraud, deceit, or misrepresentation in~~  
 15 ~~the application process;~~

16       ~~(c) knowingly made a material misstatement in the~~  
 17 ~~application for a license;~~

18       ~~(d) violated any of the provisions of this chapter or~~  
 19 ~~the rules of the board; or~~

20       ~~(e) taken any action warranting suspension or~~  
 21 ~~revocation under 37-60-321.~~

22       ~~(2) If an original or renewal license, identification~~  
 23 ~~card, or registration is denied, the applicant may request a~~  
 24 ~~hearing within 30 days after receipt of notice of denial.~~  
 25 ~~The hearing shall be held in accordance with the provisions~~

1 of the Montana Administrative Procedure Act and the rules of  
2 the department of commerce.

3 (3) Licenses, registration, or identification cards  
4 shall be granted by name for those categories of persons  
5 listed in 37-60-101(1), (2), (3), (4), (5), (8), (13), (14),  
6 (15), (18), (19), or (20), or any combination of the  
7 foregoing."

8 Section 17. Section 37-60-308, MCA, is amended to  
9 read:

10 "37-60-308. Temporary operation employment without  
11 individual licensee registration or identification card --  
12 authority of board. Where the individual on the basis of  
13 whose qualifications a license under this chapter has been  
14 obtained ceases to be connected with the licensee for any  
15 reason whatever, the business may be carried on for such  
16 temporary period and under such terms and conditions as the  
17 director shall provide by regulations. The board may, under  
18 such conditions as it shall prescribe by rules, authorize the  
19 employment by any licensee of any person for not more than  
20 90 days who, because of his failure to register or obtain a  
21 registration or identification card in accordance with  
22 37-60-305 or 37-60-306, could otherwise not act as a private  
23 security guard or private investigator."

24 Section 18. Section 37-60-309, MCA, is amended to  
25 read:

1 "37-60-309. Form of license, registration, and  
2 identification card. (1) The license, when issued  
3 registration, and identification card, shall be in such form  
4 as may be determined by the director and shall include  
5 boards.

6 (1) the name of the licensee;

7 (2) A license shall include the name of the licensee,  
8 the name under which the licensee is to operate, and the  
9 number and date of the license.

10 (3) the number and date of the license. A registration  
11 or identification card shall include the name of the  
12 individual the card is issued to, a photograph of the  
13 individual, the name of the licensee employing the  
14 individual the card is issued to, a card number, and the  
15 date the card is issued."

16 NEW SECTION. Section 19. Fees. The fees prescribed by  
17 the board must be charged by the department and paid into  
18 the earmarked revenue fund for the use of the board, subject  
19 to 37-1-101(6).

20 Section 20. Section 37-60-310, MCA, is amended to  
21 read:

22 "37-60-310. Display of license, registration, and  
23 identification card. (1) The A license shall at all times be  
24 posted in a conspicuous place in the principal place of  
25 business of the licensee.

(2) Any registrant or holder of an identification card must carry the card on his person while performing his duties and while going to and from work. Any peace officer of this state or any of its political subdivisions may request to see the card at any reasonable time, and the card must be shown."

Section 21. Section 37-60-312, MCA, is amended to read:

"37-60-312. Annual renewal. (1) Licenses, registrations, and identification cards issued under this chapter ~~and the pocket cards issued pursuant thereto shall~~ expire at 12 midnight on ~~June 30 of each year the dates~~ prescribed by the board if not, in each instance, renewed. To renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the ~~director~~ board and pay the renewal fee prescribed by this chapter.

(2) The board may refuse to renew a license, registration, or identification card for any reason for which it could refuse to grant an original application or suspend or revoke any license, registration, or identification card under 37-60-321."

Section 22. Section 37-60-314, MCA, is amended to read:

"37-60-314. Notice ~~to department of change of name or~~

~~address Nontransferability of license -- record changes. A licensee shall notify the department of any and all changes of his address, of the name under which he does business, and of any change in its officers or partners within 30 days after such change. (1) No license issued under this chapter is transferable.~~

(2) A licensee shall notify the board within 5 days of any change in its officers or directors or other material change in the information previously furnished or required to be furnished to the board or any other material change or occurrence that could reasonably be expected to affect the licensee's right to a license. Upon such change or occurrence, the board may suspend or revoke the license or may allow the business to be carried on for a temporary period under terms and conditions as the board may require.

(3) This section may not be applied to restrict the sale of a business if the buyer qualifies for a license under the provisions of this chapter."

Section 23. Section 37-60-321, MCA, is amended to read:

"37-60-321. Suspension or revocation. The ~~director~~ board may suspend or revoke a license, registration, or identification card issued under this chapter if he ~~it~~ determines that the licensee or his ~~its~~ manager ~~or~~ qualifying agent, if an individual, or if the licensee is a

1 ~~person--other--than-an-individual--that~~ any of its officers,  
2 directors, ~~or partners, or its manager or any registrant or~~  
3 ~~holder of an identification card~~ has:

4 (1) made any false statement or given any false  
5 information in connection with an application for ~~a--license~~  
6 ~~or a grant, renewal, or reinstatement of a license,~~  
7 ~~registration, or identification card;~~

8 (2) violated any provisions of this chapter;

9 (3) violated any rule of the ~~director board~~ adopted  
10 pursuant to the authority contained in this chapter;

11 (4) been convicted of a felony or any crime involving  
12 moral turpitude or illegally using, carrying, or possessing  
13 a dangerous weapon and as a result of such conviction is  
14 under state supervision;

15 (5) impersonated or permitted or aided and abetted an  
16 employee to impersonate a law enforcement officer or  
17 employee of the United States of America or of any state or  
18 political subdivision thereof;

19 (6) committed or permitted any employee to commit any  
20 act, while the license, ~~registration, or identification card~~  
21 was expired, which would be cause for the suspension, or  
22 revocation, ~~of--a--license~~ or grounds-for-the denial of an  
23 application for-a--license;

24 (7) willfully failed or refused to render to a client  
25 services or a report as agreed between the parties and for

1 which compensation has been paid or tendered in accordance  
2 with the agreement of the parties; or

3 (8) knowingly violated or advised, encouraged, or  
4 assisted the violation of any court order or injunction in  
5 the course of business as a licensee, ~~registrant, or holder~~  
6 ~~of an identification card;~~

7 (9) ~~resorted to fraud, misrepresentation, or~~  
8 ~~deception, in the course of business, which was not required~~  
9 ~~to perform a client services; or~~

10 (10) ~~been guilty of unprofessional conduct as defined~~  
11 ~~by the rules of the board."~~

12 NEW SECTION. Section 24. Surrender of licenses,  
13 registration, and identification cards. (1) Whenever a  
14 license is suspended or revoked, the licensee shall within  
15 24 hours after receiving notification of the suspension or  
16 revocation by the board surrender the license by mailing it  
17 or delivering it personally to the board.

18 (2) Whenever any person to whom a registration or  
19 identification card has been issued ceases employment for  
20 which the card was issued or has his card revoked or  
21 suspended by the board, he shall surrender the card to the  
22 licensee and within 5 days thereafter the licensee shall  
23 mail or personally deliver the card to the board.

24 Section 25. Section 37-60-402, MCA, is amended to  
25 read:



1 "37-60-402. Confidentiality of information -- false  
 2 reports -- badges and uniforms -- illegal entry. (1) A  
 3 licensee or officer, director, partner, or manager of a  
 4 licensee may divulge to any law enforcement officer or  
 5 county attorney or his representative any information he may  
 6 acquire as to any criminal offense, but he may not divulge  
 7 to any other person, except as required by law, any  
 8 information acquired by him except at the direction of the  
 9 employer or client for whom the information was obtained.

10 (2) No licensee or officer, director, partner,  
 11 manager, or employee of a licensee may knowingly make any  
 12 false report to his employer or client for whom information  
 13 was being obtained.

14 (3) No written report may be submitted to a client  
 15 except by the licensee, qualifying manager, or a person  
 16 authorized by either of them, and the person submitting the  
 17 report shall exercise diligence in ascertaining whether or  
 18 not the facts and information in the report are true and  
 19 correct.

20 ~~{4}--No--licensee--or--officer--director--partner--~~  
 21 ~~manager--or--employee--of--a--private--investigator--may--use--a~~  
 22 ~~badge--in--connection--with--the--official--activities--of--the~~  
 23 ~~licensee's--business.~~

24 ~~{5}--No--private--patrol--licensee--or--officer--director--~~  
 25 ~~partner--manager--or--employee--of--a--private--patrol--licensee~~

1 ~~may--use--a--badge--except--while--engaged--in--guard--or--patrol--work~~  
 2 ~~and--while--wearing--a--uniform.~~

3 ~~{6}{4}~~ No licensee or officer, director, partner,  
 4 manager, or employee of a licensee may use a title, wear a  
 5 uniform, use an identification card, or make any statement  
 6 with the intent to give an impression that he is connected  
 7 in any way with the federal government, a state government,  
 8 or any political subdivision of a state government.

9 ~~{7}{5}~~ No licensee or officer, director, partner,  
 10 manager, or employee of a licensee may enter any private  
 11 building or portion thereof without the consent of the owner  
 12 or of the person in legal possession thereof."

13 Section 26. Section 37-60-403, MCA, is amended to  
 14 read:

15 "37-60-403. Licensee advertising. Every advertisement  
 16 by a licensee soliciting or advertising business shall  
 17 contain his name and address as they appear in the records  
 18 of the department board."

19 Section 27. Section 37-60-404, MCA, is amended to  
 20 read:

21 "37-60-404. Duty to maintain employee records. Each  
 22 licensee shall maintain a record containing such information  
 23 relative to his employees as may be prescribed by the  
 24 director board."

25 Section 28. Section 37-60-405, MCA, is amended to

1 read:

2 ~~"37-60-405. Penalty Approval of weapons. Any person~~  
 3 ~~who violates any of the provisions of this chapter is guilty~~  
 4 ~~of a misdemeanor punishable by fine not to exceed \$500 or by~~  
 5 ~~imprisonment in the county jail not to exceed 6 months or by~~  
 6 ~~both such fine and imprisonment. The weapons to be carried by~~  
 7 ~~registrants must be approved by the board."~~

8 NEW SECTION. Section 29. Compliance required of peace  
 9 officer. Any individual employed in this state as a peace  
 10 officer, as defined in 46-1-201, shall comply with the  
 11 provisions of this chapter in the same manner as any other  
 12 person not so employed.

13 NEW SECTION. Section 30. Regulation of uniforms,  
 14 badges, and equipment. (1) No licensee or officer, director,  
 15 partner, manager, or employee of a licensee may wear, carry,  
 16 or display a badge in connection with the activities of the  
 17 licensee's business. However, a person employed by a  
 18 licensee who holds a commission as a peace officer, as  
 19 defined in 46-1-201, from a county sheriff of this state is  
 20 exempt from this provision.

21 (2) The board is authorized to establish rules  
 22 regulating uniforms and any emblems, patches, insignias, and  
 23 devices that may be either worn or displayed on uniforms,  
 24 vehicles, or equipment.

25 NEW SECTION. Section 31. Penalty. Any person who

1 violates any of the provisions of this chapter is guilty of  
 2 a misdemeanor punishable by a fine of not more than \$1,000  
 3 or by imprisonment of not more than 1 year, or by both such  
 4 fine and imprisonment.

5 NEW SECTION. Section 32. Application of act to  
 6 existing businesses. A person engaged in the business of a  
 7 contract security company, a proprietary security  
 8 organization, or a private investigator within this state on  
 9 October 1, 1983, shall within 30 days of that date apply to  
 10 the board for a license to operate such business. Any person  
 11 filing a timely application for a license may continue to  
 12 engage in business pending a final determination upon the  
 13 application by the board.

14 NEW SECTION. Section 33. Codification instruction.  
 15 (1) Section 1 is intended to be codified as an integral part  
 16 of Title 2, chapter 15, part 18, and the provisions of Title  
 17 2, chapter 15, part 1, apply to section 1.

18 (2) Sections 8, 9, 19, 24, and 29 through 32 are  
 19 intended to be codified as an integral part of Title 37,  
 20 chapter 60, and the provisions of Title 37, chapter 60,  
 21 apply to sections 8, 9, 19, 24, and 29 through 32.

22 NEW SECTION. Section 34. Repealer. Sections  
 23 37-60-102, 37-60-311, and 37-60-313, MCA, are repealed.

-End-

## STATE OF MONTANA

REQUEST NO. 279-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 31, 19 83, there is hereby submitted a Fiscal Note for House Bill 523 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 523 creates the board of private security patrolment and investigators; requires the licensing of private security and detective businesses; requires the registration of armed and unarmed private detectives and security guards; authorizes the board to adopt rules; provides for the suspension and revocation of licenses, registrations, and identification cards; requires the approval and registration of all weapons used by registrants; regulates the uniforms and insignia worn by employees of licensees; provides a penalty; amends Sections 37-60-101, 37-60-103 through 37-60-105, 37-60-201, 37-60-202, 37-60-301 through 37-60-310, 37-60-312, 37-60-314, 37-60-321, and 37-60-402 through 37-60-405, MCA; and repeals Sections 37-60-102, 37-60-311, and 37-60-313, MCA."

ASSUMPTIONS:

- 1) Assume 1000 licensees (207 currently).
- 2) Assume 4 board meetings per year for a minimum of 28 meeting days.
- 3) Assume 15 rule notices and adoptions at \$13.50 per page.
- 4) Assume setting up new board, forms, licensing system costs, office equipment, costs of which are FY 84 - \$12,250, FY 85 - \$11,075.
- 5) Assume .50 FTE required (Grade 12, step 4).

FISCAL IMPACT:

	FY 84	FY 85
Revenue	\$ 60,755	\$ 54,405
Expenditures	(24,637)	(25,332)
Total Impact	\$ 36,118	\$ 29,073

TECHNICAL NOTES:

- 1) Fees should be set by the board commensurate with costs as prescribed in 37-1-134, MCA, for boards within the Department of Commerce.
- 2) Section 19, page 24 needs clarification and an amendment will be submitted by the Department of Commerce.

FISCAL NOTE 9:Y/1

  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-1-83

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 523

## 3 House Business and Industry Committee

4  
5 A statement of intent is required for this bill because  
6 section 7 requires the board to adopt administrative rules.

7 Subsection (1) of 37-60-202 requires the board to adopt  
8 rules specifying the form of various documents granted by  
9 the board and the method of taking various licensing actions  
10 on the same. The minimum standards for the documents are set  
11 out in section 37-60-309 but may include such other matters  
12 of identification, such as finger prints, as the board  
13 determines to be necessary. The procedures and standards for  
14 suspension and revocation of a license, registration, or  
15 identification card are set out in 37-60-321. This section  
16 facially allows the board to suspend or revoke the  
17 registration of an individual for violations by his licensed  
18 employee or vice versa. As to those situations involving the  
19 suspension or revocation of the document of one party for  
20 the actions by another, it is the Legislature's intent that  
21 the board rules governing this matter should only require or  
22 allow the suspension or revocation of a document issued by  
23 the board if the person or entity whose document is in  
24 jeopardy had the right of control over the person or entity  
25 whose actions put the document in jeopardy and if the person

1 whose document is in jeopardy knew or should have known of  
2 the actions of that other person.

3 Subsection (4) of 37-60-202 also requires the board to  
4 adopt rules prohibiting the establishment of certain branch  
5 offices without approval by the board and establishing  
6 requirements for board approval. The qualifications that may  
7 be required by the board under this subsection may not apply  
8 to proprietary security organizations, and may concern such  
9 matters as the supervision and management of the office but  
10 must not prescribe requirements for office size, equipment,  
11 etc.

12 Subsection (5) requires the adoption of training  
13 program rules. It is the intention of the Legislature that  
14 these rules specify a minimum curriculum and minimum  
15 standards for instructors used in all phases of the program,  
16 including firearms instructors.

17 Board rules adopted under subsection (8) relating to  
18 insurance may not require schools to carry insurance to  
19 protect themselves against civil liability for negligent or  
20 inadequate training incurred after students graduate from  
21 the training program.

22 Board rules defining "unprofessional conduct" under  
23 subsection (9) may include only that conduct which has a  
24 direct relationship to the ability of the board member or  
25 the licensee, registrant, or identification card holder to

1 perform official duties or acts taken in the capacity of a  
2 licensee, registrant, or card holder.

3 Under subsection (11), the board must adopt rules  
4 which, at a minimum, provide for a maximum period of time in  
5 which employees may be considered to be "on probation" with  
6 an employer and for that period only, excused from the  
7 requirements for identification or registration cards which  
8 would otherwise apply.

Approved by Committee  
on Business and Industry

## HOUSE BILL NO. 523

INTRODUCED BY KEYSER, MANUEL,

HAZELBAKER, VAN VALKENBURG

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE BOARD OF PRIVATE SECURITY PATROLMEN AND INVESTIGATORS; REQUIRING THE LICENSING OF PRIVATE SECURITY AND DETECTIVE BUSINESSES; REQUIRING THE REGISTRATION OF ARMED AND UNARMED PRIVATE DETECTIVES AND SECURITY GUARDS; AUTHORIZING THE BOARD TO ADOPT RULES; PROVIDING FOR THE SUSPENSION AND REVOCATION OF LICENSES, REGISTRATIONS, AND IDENTIFICATION CARDS; REQUIRING THE APPROVAL ~~AND REGISTRATION~~ OF ALL WEAPONS USED BY REGISTRANTS; REGULATING THE UNIFORMS AND INSIGNIA WORN BY EMPLOYEES OF LICENSEES; PROVIDING A PENALTY; AMENDING SECTIONS 37-60-101, 37-60-103 THROUGH 37-60-105, 37-60-201, 37-60-202, 37-60-301 THROUGH 37-60-310, 37-60-312, 37-60-314, 37-60-321, AND 37-60-402 THROUGH 37-60-405, MCA; ~~AND REPEALING SECTIONS 37-60-102, 37-60-311, AND 37-60-313, MCA; AND PROVIDING AN EFFECTIVE DATE.~~"

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

NEW SECTION. Section 1. Board of private security patrolmen and investigators. (1) There is a board of private security patrolmen and investigators.

- (2) The board consists of seven voting members appointed by the governor with the consent of the senate. The members shall represent:
  - (a) one contract security company, as defined by 37-60-101;
  - (b) one proprietary security organization, as defined by 37-60-101;
  - (c) one city police department;
  - (d) one county sheriff's department;
  - (e) one member of the public;
  - (f) one member of the peace officers' standards and training advisory council; and
  - (g) a licensed private investigator.
- (3) Members of the board must be at least 25 years of age and have been residents of this state for more than 5 years.
- (4) The appointed members of the board shall serve for a term of 3 years.
- (5) The governor may remove a member for misconduct, incompetency, neglect of duty, or unprofessional or dishonorable conduct.
- (6) A vacancy on the board must be filled in the same manner as the original appointment and may only be for the unexpired portion of the term.
- (7) The board is allocated to the department for

administrative purposes only as prescribed in 2-15-121.

Section 2. Section 37-60-101, MCA, is amended to read:

"37-60-101. ~~General definitions~~ Definitions. As used

in this chapter, the following definitions apply:

(1) "Alarm response runner" means any individual employed by a contract security company or a proprietary security organization to respond to security alarm system signals. A person whose sole function is to maintain or repair a security alarm system is not included within the meaning of this definition.

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

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

(4) "Armed private security guard" means an individual employed by a contract security company or a proprietary security organization whose principal duty is that of a security guard, armored car service guard, carrier service guard, or alarm response runner and who at any time wears, carries, possesses, or has access to a firearm in the performance of his duties.

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

(6) "Board" means the board of private security patrolmen and investigators provided for in [section 1].

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

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

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

(10) "Director" means the director of the department of commerce or his designee.

(11) "Insurance adjuster" means a person employed by an insurance company, other than a private investigator, who for any consideration whatsoever conducts any of the investigations enumerated in subsection (13) in the course

1 of adjusting or otherwise participating in the disposal of  
2 any claims in connection with a policy of insurance but who  
3 does not perform surveillance activities.

4 (3)(11) "Licensee" means a person licensed under this  
5 chapter and ~~includes but is not limited to~~ private  
6 investigator and private patrol operator.

7 (4) ~~"Manager" means the individual under whose~~  
8 ~~direction, control, charge, or management the business of a~~  
9 ~~licensee is operated.~~

10 (5)(12) "Person" includes any individual, firm,  
11 company, association, organization, partnership, and  
12 corporation.

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

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

18 (b) the identity, habits, conduct, business,  
19 occupation, honesty, integrity, trustworthiness, efficiency,  
20 loyalty, activity, movement, whereabouts, affiliations,  
21 associations, transactions, reputation, or character of any  
22 person;

23 (c) the location, disposition, or recovery of lost or  
24 stolen property;

25 (d) the cause or responsibility for fires, libels,

1 losses, accidents, or injury to persons or property; or

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

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

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

17 (16) "Qualifying agent" means, in the case of a  
18 corporation, a corporate employee employed in a management  
19 capacity or, in the case of a partnership, a general or  
20 unlimited partner meeting the qualifications set forth in  
21 this chapter for the operation of a contract security  
22 company, proprietary security organization, or private  
23 investigator, whichever is applicable.

24 (17) "Security alarm system" means an assembly of  
25 equipment and devices, or a single device such as a solid



state unit which plugs directly into a 110-volt AC line, designed to detect or signal or to both detect and signal unauthorized intrusion, movement, or criminal acts at a protected premises, to which signals police, private security guards, or alarm response runners are expected to respond. Fire alarm systems and alarm systems that monitor temperature, humidity, or any other atmospheric condition not directly related to the detection of an unauthorized intrusion or criminal act at a premises are not included within the meaning of this definition.

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

(19) "Unarmed private investigator" means a private investigator who does not wear, carry, possess, or have access to a firearm in the performance of his duties.

(20) "Unarmed private security guard" means an individual employed by a contract security company or a proprietary security organization whose principal duty is that of a private security guard, armored car service guard, or alarm response runner, who does not wear, carry, possess, or have access to a firearm in the performance of those duties."

Section 3. Section 37-60-103, MCA, is amended to read:

"37-60-103. Definition--of--private--patrol--operator

Purpose. A private patrol operator or operator of a private patrol service within the meaning of this chapter is a person who, for any consideration whatsoever:

(1)--agrees to furnish or furnishes a watchman, guard, patrolman, or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers, or property of any kind; or

(2)--performs the service of such watchman, guard, patrolman, or other person for any of said purposes. The purpose of this chapter is to increase the levels of integrity, competency, and performance of private security personnel and private investigators in order to safeguard the public health, safety, and welfare against illegal, improper, or incompetent actions committed by private security personnel or private investigators."

Section 4. Section 37-60-104, MCA, is amended to read:

"37-60-104. Restrictions on authority--of--licensed private--patrol--operator contract security company and proprietary security organization. A person--licensed--as--a private--patrol--operator--only No employee of a contract security company or proprietary security organization may

not make any investigation or investigations except those that are incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property or any other thing enumerated in 37-60-103 which he has been hired or engaged to protect, guard, or watch."

Section 5. Section 37-60-105, MCA, is amended to read:

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

to:

~~(1) a person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship;~~

(1) ANY ONE PERSON EMPLOYED SINGLY AND EXCLUSIVELY BY ANY ONE EMPLOYER IN CONNECTION WITH THE AFFAIRS OF SUCH EMPLOYER ONLY AND WHERE THERE EXISTS AN EMPLOYER-EMPLOYEE RELATIONSHIP AND THE EMPLOYEE IS UNARMED, DOES NOT WEAR A UNIFORM, AND HAS LITTLE CONTACT WITH THE PUBLIC;

~~(2) an officer or employee of the United States of America or of this state or a political subdivision thereof while such officer or employee is engaged in the performance of his official duties;~~

~~(3) a person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds,~~

~~or commercial credit;~~

~~(4) a charitable, philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit;~~

~~(5) an attorney at law in performing his duties as such attorney at law;~~

~~(6) a collection agency or finance company licensed to do business under the laws of this state or an employee thereof while acting within the scope of his employment, while making an investigation incidental to the business of the agency or company, including an investigation of the location of a debtor or his property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof; or~~

~~(7) insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them; or~~

~~(8) an insurance adjuster, as defined by 37-60-101(10)."~~

Section 6. Section 37-60-201, MCA, is amended to read:

~~"37-60-201. But-to-administer-chapter Organization -- meetings -- records. The--director--shall--administer-and enforces-the-provisions-of-this-chapter. The board shall meet~~

1 annually and shall elect from among the seven members a  
 2 president and a secretary. The board shall hold other  
 3 meetings when necessary to transact its business. A majority  
 4 of the board constitutes a quorum at any meeting. The  
 5 department shall keep complete minutes and records of the  
 6 meetings and rules and orders promulgated by the board.  
 7 Copies of records and papers kept by the department,  
 8 certified by the chairman and authenticated by the seal of  
 9 the board, shall be received in evidence in courts with like  
 10 effect as the original. Records of the board are open to  
 11 public inspection under rules it prescribes."

12 Section 7. Section 37-60-202, MCA, is amended to read:

13 "37-60-202. Rulemaking power. The director--may board  
 14 shall adopt and enforce reasonable rules:

15 (1) ~~classifying--licensees--according--to--the--type--of~~  
 16 ~~business--regulated--by--this--chapter--in--which--they--are~~  
 17 ~~engaged--including--but--not--limited--to--private--investigators~~  
 18 ~~and--private--patrol--operators--and--limiting--the--field--and~~  
 19 ~~scope--of--the--operations--of--a--licensee--to--those--in--which--he~~  
 20 ~~is--classified--and--qualified--to--engage~~ specifying the form of  
 21 and procedure to be used in granting, denying, suspending,  
 22 or revoking any license, registration, or identification  
 23 card;

24 (2) fixing the qualifications of resident managers,  
 25 qualifying agents, licensees, registrants, and holders of

1 identification cards, in addition to those prescribed in  
 2 this chapter, necessary to promote and protect the public  
 3 welfare; and

4 ~~(3) carrying out--generally--the--provisions--of--this~~  
 5 ~~chapter--~~ establishing, in accordance with 37-1-134,  
 6 application and examination fees for original or renewal  
 7 licenses, registrations, and identification cards, and  
 8 providing for refunding of any such fees;

9 ~~(4) prohibiting the establishment of branch offices of~~  
 10 ~~any licensee, except a proprietary security organization,~~  
 11 ~~without approval by the board, establishing qualification~~  
 12 ~~requirements and license fees for those offices;~~

13 ~~(5) for the certification of private investigator and~~  
 14 ~~private security guard training programs, including the~~  
 15 ~~certification of firearms training programs and firearms~~  
 16 ~~instructors;~~

17 ~~(6) for the registration and approval of weapons;~~

18 ~~(7) requiring the maintenance of records;~~

19 ~~(8) requiring licensees to maintain such insurance~~  
 20 ~~coverage as the board considers necessary;~~

21 ~~(9) defining "unprofessional conduct" for the purposes~~  
 22 ~~of removal from the board and suspension or revocation of~~  
 23 ~~licenses, registrations, and identification cards;~~

24 ~~(10) establishing the expiration and renewal periods~~  
 25 ~~for licenses, registrations, and identification cards; and~~

~~(11) for the temporary employment of persons without the required registration or identification cards."~~

**NEW SECTION.** Section 8. Compensation of members -- expenses. Each member of the board shall receive compensation and travel expenses as provided for in 37-1-133.

**NEW SECTION.** Section 9. Attorney general to act as attorney for the board. The attorney general shall act as attorney for the board in actions and proceedings brought by or against it under this chapter. Fees and expenses of the attorney general acting in this capacity shall be paid out of board money in the earmarked revenue fund.

Section 10. Section 37-60-301, MCA, is amended to read:

"37-60-301. License required. ~~No person shall engage in a business regulated by this chapter unless he is licensed under this chapter and no person shall falsely represent that he is employed by a licensee.~~ Except as provided in 37-60-105, it is unlawful for any person to act as a contract security company or proprietary security organization or private investigator within this state without having first obtained a license from the board."

Section 11. Section 37-60-302, MCA, is amended to read:

"37-60-302. ~~Application~~ form Qualifying agent and

~~resident manager required -- substitution.~~ (1) An ~~applicetion~~ applicant for a license under this chapter, ~~shall be on a form prescribed by the director and accompanied by the application fee provided by this chapter,~~ other than an individual to operate as a contract security company or a private investigator, shall, upon or before application to the board, appoint for the duration of the license:

(a) a resident manager for each branch office located within this state, under whose direct supervision and control the business of the applicant shall be conducted; and

(b) a qualifying agent.

(2) Every qualifying agent and resident manager shall satisfy all of the appropriate licensing requirements of this chapter as though the applicant were an individual.

(3) If a qualifying agent or resident manager for any reason ceases to perform the duties of a qualifying agent or resident manager on a regular basis, the licensee shall promptly notify the board by certified mail of that fact and of the name of a substitute individual, who shall make application to the board for continuation of the license. Pending application by and board action upon the application of the substitute, the board may suspend the license or extend it for a reasonable time."

1 Section 12. Section 37-60-303, MCA, is amended to  
 2 read:  
 3 "37-60-303. Application-----contents License  
 4 qualifications. An--application--shall--be--verified--and--shall  
 5 include:  
 6 (1)--the--full--name--and--business--address--of--the  
 7 applicant;  
 8 (2)--the--name--under--which--the--applicant--intends--to--do  
 9 business;  
 10 (3)--a--statement--as--to--the--general--nature--of--the  
 11 business--in--which--the--applicant--intends--to--engage;  
 12 (4)--a--statement--as--to--the--classification--or  
 13 classifications--under--which--the--applicant--desires--to--be  
 14 qualified;  
 15 (5)--if--the--applicant--is--a--person--other--than--an  
 16 individual, the--full--name--and--residence--address--of--each--of  
 17 its--partners, officers, and directors and its manager;  
 18 (6)--two--recent--photographs--of--the--applicant--of--a--type  
 19 prescribed--by--the--director, and two--classifiable--sets--of--his  
 20 fingerprints;  
 21 (7)--a--verified--statement--of--his--experience  
 22 qualifications; and  
 23 (8)--such--other--information, evidence, statements, or  
 24 documents--as--may--be--required--by--the--director. (1) An  
 25 applicant for a license to act as a contract security

1 company or a proprietary security organization shall submit  
 2 evidence under oath that he:  
 3 (a) is at least 18 years of age;  
 4 (b) has been a citizen of the United States and  
 5 resident of the state of Montana for a period of 6 months  
 6 immediately prior to making application for the license;  
 7 (c) has not been convicted in any jurisdiction of any  
 8 felony or any crime involving moral turpitude or illegal use  
 9 or possession of a dangerous weapon, for which a full pardon  
 10 or similar relief has not been granted;  
 11 (d) has not been judicially declared incompetent by  
 12 reason of any mental defect or disease or, if so declared,  
 13 has been fully restored;  
 14 (e) is not suffering from habitual drunkenness or from  
 15 narcotics addiction or dependence;  
 16 (f) is of good moral character; and  
 17 (g) has complied with such other experience  
 18 qualifications as may be set by the rules of the board.  
 19 (2) Every applicant for a license to act as a private  
 20 investigator shall submit evidence under oath that he:  
 21 (a) is a citizen of the United States;  
 22 (b) is at least 25 years of age;  
 23 (c) has at least a high school education or its  
 24 equivalent;  
 25 (d) is a resident of this state;

(e) has not been convicted of a felony or a crime involving moral turpitude;

(f) has not been dishonorably discharged from any branch of the United States military service;

(g) is of good moral character; and

(h) for a period of not less than 3 years;

(i) has been lawfully engaged in the private investigative business;

(j) has been lawfully employed as a private investigator or been the holder of a certificate of authority to conduct a private investigative business;

(k) has been an investigator, detective, special agent, or peace officer of a city, county, or state government or of the United States government; or

(l) has been graduated from an accredited university or college with a degree in police administration.

(3) A corporation applying for a license under this section must be incorporated under the laws of this state or be duly qualified to do business within this state.

(4) The board may require an applicant to demonstrate by written examination such additional qualifications as the board may by rule require."

Section 13. Section 37-60-304, MCA, is amended to read:

"37-60-304. Qualifications--of--applicants Licenses--

application form and content. Before a license is granted, the applicant or his manager shall meet all of the following:

(1) be at least 18 years of age;

(2) be a citizen of the United States and a resident of the state of Montana;

(3) be of good moral character and temperate habits; and

(4) comply with such other qualifications concerning training, education, or experience as the director may fix by rule. (1) Application for a license shall be made on a form prescribed by the board and accompanied by the application fee set by the board.

(2) An application shall be made under oath and shall include:

(a) the full name and address of the applicant;

(b) the name under which the applicant intends to do business;

(c) a statement as to the general nature of the business in which the applicant intends to engage;

(d) a statement as to whether the applicant desires to be licensed as a contract security company, a proprietary security organization, or a private investigator;

(e) two recent photographs of the applicant, of a type prescribed by the board, and two classifiable sets of his

fingerprints:

(f) a statement of his experience qualifications;

(g) such other information, evidence, statements, or documents as may be prescribed by the rules of the board; and

(h) if the applicant is a person other than an individual, the full name and residence address of each of its partners, officers, and directors and its manager and, if the applicant is a corporation, a certified copy of its certificate of incorporation or certificate of authority issued by the secretary of state.

(3) The board shall verify the statements in the application and the applicant's moral character. The board shall send a copy of the application to the chief of police, the sheriff, and the county attorney in whose jurisdiction the principal office of the applicant is to be located."

Section 14. Section 37-60-305, MCA, is amended to read:

"37-60-305. ~~Examination~~ ~~Armed guards and investigators~~ ~~registration requirements.~~ ~~The director shall require an~~ ~~applicant or his manager to demonstrate his qualifications~~ ~~by a written examination.~~ (1) Except as provided in 37-60-105 and 37-60-308, no person may perform the duties of an armed private security guard or an armed private investigator in this state without having first been

registered with the board and issued a registration card in the manner prescribed by this section.

(2) Applicants for registration shall file a sworn application on a form prescribed by the board, including the same information as required of applicants for licensure in 37-60-304(2)(a) through (g), accompanied by the application fee prescribed by the board.

(3) Applicants for registration as armed private security guards shall meet the same qualifications required of applicants for licensure in 37-60-303(1)(a) through (g) and in addition to those requirements shall:

(a) complete the training requirements of a private security guard training program certified by the board and furnish the board, on a form prescribed by the board, written notice of satisfactory completion of such training; and

(b) fulfill such other requirements as the board may by rule prescribe.

(4) Applicants for registration as armed private investigators shall meet the same qualifications required of applicants for licensure in 37-60-303(2)(a) through (h) and in addition to those requirements shall:

(a) complete the training requirements of a private investigator training program certified by the board and furnish the board, on a form prescribed by the board,

1 written notice of satisfactory completion of such training;  
 2 and  
 3 (b) fulfill such other requirements as the board may  
 4 by rule prescribe."

5 Section 15. Section 37-60-306, MCA, is amended to  
 6 read:

7 "37-60-306. Denial of license hearing Unarmed  
 8 guards and investigators -- identification cards required --  
 9 qualifications. If a license is denied, the applicant for  
 10 such license or for renewal thereof may request a hearing  
 11 within 30 days after notice of denial. Such hearing shall  
 12 be held in accordance with the provisions of the Montana  
 13 Administrative Procedure Act and the rules of the department  
 14 of commerce. (1) Except as provided in 37-60-105 and  
 15 37-60-308, no person may perform the duties of an unarmed  
 16 private security guard or an unarmed private investigator in  
 17 this state without first making application to the board and  
 18 being issued an identification card in the manner prescribed  
 19 by this section.

20 (2) Applicants for identification cards shall file a  
 21 sworn application on a form prescribed by the board,  
 22 including the same information as required of licensees in  
 23 37-60-304(2)(a) through (g), accompanied by the application  
 24 fee prescribed by the board.

25 (3) Applicants for identification cards shall meet

1 such qualifications as may be prescribed by the board."

2 Section 16. Section 37-60-307, MCA, is amended to  
 3 read:

4 "37-60-307. Manager of a licensee Action on  
 5 application. (1) The business of each licensee shall be  
 6 operated under the direction, control, charge, or management  
 7 in this state of either the licensee or a manager, but no  
 8 licensee shall be required to employ more than one manager.  
 9 (2) No person shall act as a manager of a licensee  
 10 until he has complied with each of the following:

11 (a) demonstrated his qualifications by a written  
 12 examination if required by the director; and

13 (b) made a satisfactory showing to the director that  
 14 he has the qualifications prescribed by 37-60-304. (1) The  
 15 board shall grant the application for an original or renewal  
 16 license, identification card, or registration unless it  
 17 finds that the applicant, branch office manager, or  
 18 qualifying agent has:

19 (a) not met the qualifications of 37-60-303;

20 (b) practiced fraud, deceit, or misrepresentation in  
 21 the application process;

22 (c) knowingly made a material misstatement in the  
 23 application for a license;

24 (d) violated any of the provisions of this chapter or  
 25 the rules of the board; or



(e) taken any action warranting suspension or revocation under 37-60-321.

(2) If an original or renewal license, identification card, or registration is denied, the applicant may request a hearing within 30 days after receipt of notice of denial. The hearing shall be held in accordance with the provisions of the Montana Administrative Procedure Act and the rules of the department of commerce.

(3) Licenses, registrations, or identification cards shall be granted by name for those categories of persons listed in 37-60-101(1), (2), (3), (4), (5), (8), (13), (14), (15), (18), (19), or (20), or any combination of the foregoing."

Section 17. Section 37-60-308, MCA, is amended to read:

"37-60-308. Temporary operation ~~employment~~ without individual licensee registration or identification card -- authority of board. Where ~~the individual on the basis of~~ whose qualifications a license under this chapter has been obtained ~~ceases to be connected with the licensee for any~~ reason ~~whatever, the business may be carried on for such~~ temporary ~~period and under such terms and conditions as the~~ director ~~shall provide by regulation. The board may, under~~ such conditions as it shall prescribe by rule, authorize the employment by any licensee of any person for not more than

90 days who, because of his failure to register or obtain a registration or identification card in accordance with 37-60-305 or 37-60-306, could otherwise not act as a private security guard or private investigator."

Section 18. Section 37-60-309, MCA, is amended to read:

"37-60-309. Form of license, registration, and identification card. (1) The license, when issued, registration, and identification card, shall be in such form as may be determined by the director ~~and shall include~~ board.

~~(1) the name of the licensee;~~

(2) A license shall include the name of the licensee, the name under which the licensee is to operate, and the number and date of the license.

(3) ~~the number and date of the license~~ A registration or identification card shall include the name of the individual the card is issued to, a photograph of the individual, the name of the licensee employing the individual the card is issued to, a card number, and the date the card is issued."

NEW SECTION. Section 19. Fees. (1) The fees prescribed by the board must be charged AND COLLECTED by the department and MUST BE paid DEPOSITED into the earmarked revenue fund for the use of the board, subject to

1 37-1-101(6).

2 ~~(2) THE DEPARTMENT SHALL KEEP AN ACCURATE ACCOUNT OF~~  
3 ~~FUNDS RECEIVED AND VOUCHERS ISSUED BY THE DEPARTMENT.~~

4 Section 20. Section 37-60-310, MCA, is amended to  
5 read:

6 "37-60-310. Display of license, registration, and  
7 identification card. (1) The A license shall at all times be  
8 posted in a conspicuous place in the principal place of  
9 business of the licensee.

10 ~~(2) Any registrant or holder of an identification card~~  
11 ~~must carry the card on his person while performing his~~  
12 ~~duties and while going to and from work. Any peace officer~~  
13 ~~of this state or any of its political subdivisions may~~  
14 ~~request to see the card at any reasonable time, and the card~~  
15 ~~must be shown."~~

16 Section 21. Section 37-60-312, MCA, is amended to  
17 read:

18 "37-60-312. Annual renewal. (1) Licenses,  
19 registrations, and identification cards issued under this  
20 chapter and the pocket cards issued pursuant thereto shall  
21 expire at 12 midnight on June 30 of each year the dates  
22 prescribed by the board if not, in each instance, renewed.  
23 To renew an unexpired license, the licensee shall, on or  
24 before the date on which it would otherwise expire, apply  
25 for renewal on a form prescribed by the director board and

1 pay the renewal fee prescribed by this chapter.

2 ~~(2) The board may refuse to renew a license,~~  
3 ~~registration, or identification card for any reason for~~  
4 ~~which it could refuse to grant an original application or~~  
5 ~~suspend or revoke any license, registration, or~~  
6 ~~identification card under 37-60-321."~~

7 Section 22. Section 37-60-314, MCA, is amended to  
8 read:

9 "37-60-314. Notice--to department of change of name or  
10 address Nontransferability of license -- record changes. A  
11 licensee shall notify the department of any and all changes  
12 of his address, of the name under which he does business,  
13 and of any change in its officers or partners within 30 days  
14 after such change. (1) No license issued under this chapter  
15 is transferable.

16 (2) A licensee shall notify the board within 5 days of  
17 any change in its officers or directors or other material  
18 change in the information previously furnished or required  
19 to be furnished to the board or any other material change or  
20 occurrence that could reasonably be expected to affect the  
21 licensee's right to a license. Upon such change or  
22 occurrence, the board may suspend or revoke the license or  
23 may allow the business to be carried on for a temporary  
24 period under terms and conditions as the board may require.

25 (3) This section may not be applied to restrict the

1 ~~sale of a business if the buyer qualifies for a license~~  
 2 ~~under the provisions of this chapter."~~

3 Section 23. Section 37-60-321, MCA, is amended to  
 4 read:

5 "37-60-321. Suspension or revocation. The ~~director~~  
 6 ~~board~~ may suspend or revoke a license, ~~registration, or~~  
 7 ~~identification card~~ issued under this chapter if he it  
 8 determines that the licensee or ~~his~~ ~~its~~ manager ~~or~~  
 9 ~~qualifying agent--if an individual, or if the licensee is a~~  
 10 ~~person--other--than an individual--that~~ any of its officers,  
 11 directors, ~~or~~ partners, ~~or its manager or any registrant, or~~  
 12 ~~holder of an identification card~~ has:

13 (1) made any false statement or given any false  
 14 information in connection with an application for ~~a~~ ~~license~~  
 15 or a ~~grant,~~ renewal, or reinstatement of a license,  
 16 ~~registration, or identification card;~~

17 (2) violated any provisions of this chapter;

18 (3) violated any rule of the ~~director board~~ adopted  
 19 pursuant to the authority contained in this chapter;

20 (4) been convicted of a felony or any crime involving  
 21 moral turpitude or illegally using, carrying, or possessing  
 22 a dangerous weapon and as a result of such conviction is  
 23 under state supervision;

24 (5) impersonated or permitted or aided and abetted an  
 25 employee to impersonate a law enforcement officer or

1 employee of the United States of America or of any state or  
 2 political subdivision thereof;

3 (6) committed or permitted any employee to commit any  
 4 act, while the license, ~~registration, or identification card~~  
 5 was expired, which would be cause for the suspension, or  
 6 revocation, ~~of a~~ ~~license~~ or grounds ~~for the~~ denial of an  
 7 application ~~for a~~ ~~license;~~

8 (7) willfully failed or refused to render to a client  
 9 services or a report as agreed between the parties and for  
 10 which compensation has been paid or tendered in accordance  
 11 with the agreement of the parties; ~~or~~

12 (8) knowingly violated or advised, encouraged, or  
 13 assisted the violation of any court order or injunction in  
 14 the course of business as a licensee, ~~registrant, or holder~~  
 15 ~~of an identification card;~~

16 ~~(9) resorted to fraud, misrepresentation, or~~  
 17 ~~deception in the course of business, which was not required~~  
 18 ~~to perform a client service; or~~

19 ~~(10) been guilty of unprofessional conduct as defined~~  
 20 ~~by the rules of the board."~~

21 NEW SECTION. Section 24. Surrender of licenses,  
 22 registration, and identification cards. (1) Whenever a  
 23 license is suspended or revoked, the licensee shall within  
 24 24 hours after receiving notification of the suspension or  
 25 revocation by the board surrender the license by mailing it

1 or delivering it personally to the board.

2 (2) Whenever any person to whom a registration or  
3 identification card has been issued ceases employment for  
4 which the card was issued or has his card revoked or  
5 suspended by the board, he shall surrender the card to the  
6 licensee and within 5 days thereafter the licensee shall  
7 mail or personally deliver the card to the board.

8 Section 25. Section 37-60-402, MCA, is amended to  
9 read:

10 "37-60-402. Confidentiality of information -- false  
11 reports -- badges and uniforms -- illegal entry. (1) A  
12 licensee or officer, director, partner, or manager of a  
13 licensee may divulge to any law enforcement officer or  
14 county attorney or his representative any information he may  
15 acquire as to any criminal offense, but he may not divulge  
16 to any other person, except as required by law, any  
17 information acquired by him except at the direction of the  
18 employer or client for whom the information was obtained.

19 (2) No licensee or officer, director, partner,  
20 manager, or employee of a licensee may knowingly make any  
21 false report to his employer or client for whom information  
22 was being obtained.

23 (3) No written report may be submitted to a client  
24 except by the licensee, qualifying manager, or a person  
25 authorized by either of them, and the person submitting the

1 report shall exercise diligence in ascertaining whether or  
2 not the facts and information in the report are true and  
3 correct.

4 ~~{4}--No--licensee--or--officer--director--partner--~~  
5 ~~manager--or--employee--of--a--private--investigator--may--use--a~~  
6 ~~badge--in--connection--with--the--official--activities--of--the~~  
7 ~~licensee's--business.~~

8 ~~{5}--No--private--patrol--licensee--or--officer--director~~  
9 ~~partner--manager--or--employee--of--a--private--patrol--licensee~~  
10 ~~may--use--a--badge--except--while--engaged--in--guard--or--patrol--work~~  
11 ~~and--while--wearing--a--uniform.~~

12 {6}{41} No licensee or officer, director, partner,  
13 manager, or employee of a licensee may use a title, wear a  
14 uniform, use an identification card, or make any statement  
15 with the intent to give an impression that he is connected  
16 in any way with the federal government, a state government,  
17 or any political subdivision of a state government.

18 {7}{51} No licensee or officer, director, partner,  
19 manager, or employee of a licensee may enter any private  
20 building or portion thereof without the consent of the owner  
21 or of the person in legal possession thereof."

22 Section 26. Section 37-60-403, MCA, is amended to  
23 read:

24 "37-60-403. Licensee advertising. Every advertisement  
25 by a licensee soliciting or advertising business shall

contain his name and address as they appear in the records of the department board."

Section 27. Section 37-60-404, MCA, is amended to read:

"37-60-404. Duty to maintain employee records. Each licensee EMPLOYER shall maintain a record containing such information relative to his employees as may be prescribed by the director board."

Section 28. Section 37-60-405, MCA, is amended to read:

"37-60-405. Penalty Approval of weapons. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor punishable by fine not to exceed \$500 or by imprisonment in the county jail not to exceed 6 months or by both such fine and imprisonment The weapons to be carried by registrants must be approved by the board."

NEW SECTION. Section 29. Compliance required of peace officers; PEACE OFFICER'S CASUAL EMPLOYMENT. Any individual employed in this state as a peace officer, as defined in 46-1-201, shall comply with the provisions of this chapter in the same manner as any other person not so employed A PEACE OFFICER, AS DEFINED IN 46-1-201, OR A RESERVE OFFICER, AS DEFINED IN 7-32-201, IS NOT PROHIBITED OR RESTRICTED FROM ACCEPTING AND ENGAGING IN EMPLOYMENT AS A SECURITY GUARD DURING HIS OFF-DUTY HOURS PROVIDED THAT HE DOES NOT

ADVERTISE HIS SERVICES OR SOLICIT EMPLOYMENT AND FURTHER PROVIDED THAT THE CHIEF OF HIS DEPARTMENT PREVIOUSLY APPROVES THE OFF-DUTY EMPLOYMENT. A PEACE OFFICER OR RESERVE OFFICER SO ENGAGED IN CASUAL EMPLOYMENT IS EXEMPT FROM THE PROVISIONS OF [THIS ACT].

NEW SECTION. Section 30. Regulation of uniforms, badges, and equipment. (1) No licensee or officer, director, partner, manager, or employee of a licensee may wear, carry, or display a badge in connection with the activities of the licensee's business. However, a person employed by a licensee who holds a commission as a peace officer, as defined in 46-1-201, from a county sheriff of this state is exempt from this provision.

(2) The board is authorized to establish rules regulating uniforms and any emblems, patches, insignias, and devices that may be either worn or displayed on uniforms, vehicles, or equipment.

NEW SECTION. Section 31. Penalty. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor punishable by a fine of not more than \$1,000 or by imprisonment of not more than 1 year, or by both such fine and imprisonment.

NEW SECTION. Section 32. Application of act to existing businesses. A person engaged in the business of a contract security company, a proprietary security

1 organization, or a private investigator within this state on  
 2 October 1, 1983, shall within ~~30-days~~ 6 MONTHS of that date  
 3 apply to the board for a license to operate such business.  
 4 Any person filing a timely application for a license may  
 5 continue to engage in business pending a final determination  
 6 upon the application by the board.

7 NEW SECTION. Section 33. Codification instruction.  
 8 (1) Section 1 is intended to be codified as an integral part  
 9 of Title 2, chapter 15, part 18, and the provisions of Title  
 10 2, chapter 15, part 1, apply to section 1.

11 (2) Sections 8, 9, 19, 24, and 29 through 32 are  
 12 intended to be codified as an integral part of Title 37,  
 13 chapter 60, and the provisions of Title 37, chapter 60,  
 14 apply to sections 8, 9, 19, 24, and 29 through 32.

15 NEW SECTION. Section 34. Repealer. Sections  
 16 37-60-102, 37-60-311, and 37-60-313, MCA, are repealed.

17 SECTION 35. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON  
 18 PASSAGE AND APPROVAL.

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 523

3 House Business and Industry Committee  
4

5 A statement of intent is required for this bill because  
6 section 7 requires the board to adopt administrative rules.

7 Subsection (1) of 37-60-202 requires the board to adopt  
8 rules specifying the form of various documents granted by  
9 the board and the method of taking various licensing actions  
10 on the same. The minimum standards for the documents are set  
11 out in section 37-60-309 but may include such other matters  
12 of identification, such as finger prints, as the board  
13 determines to be necessary. The procedures and standards for  
14 suspension and revocation of a license, registration, or  
15 identification card are set out in 37-60-321. This section  
16 facially allows the board to suspend or revoke the  
17 registration of an individual for violations by his licensed  
18 employee or vice versa. As to those situations involving the  
19 suspension or revocation of the document of one party for  
20 the actions by another, it is the Legislature's intent that  
21 the board rules governing this matter should only require or  
22 allow the suspension or revocation of a document issued by  
23 the board if the person or entity whose document is in  
24 jeopardy had the right of control over the person or entity  
25 whose actions put the document in jeopardy and if the person

There are no changes in HB 523, and due to length will not  
be rerun. Please refer to yellow Second reading copy for complete text.

THIRD READING

HL 523

March 25, 1983

SENATE STANDING COMMITTEE REPORT  
(Business and Industry)

That House Bill No. 523 be amended as follows:

1. Page 2, line 18.

Following: "years."

Insert: "The terms of board members shall be staggered."

2. Page 10, line 17.

Following: Line 16.

Insert: "(7) Special agents employed by railroad companies, provided the railroad company notifies the board that such agents are operating in the State;"

Renumber: subsequent subsections.

3. Page 13, line 22.

Following: "board."

Insert: "Those persons licensed on [the effective date of this act] shall retain their current licensure status and must renew their licenses on the renewal date as prescribed by the board."

4. Page 16, line 4.

Strike: "has been"

Insert: "is"

Following: "States"

Strike: remainder of line 4 through "license" on line 6.

5. Page 17, line 20.

Strike: "may"

Insert: "shall"



## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 523

## 3 House Business and Industry Committee

4  
5 A statement of intent is required for this bill because  
6 section 7 requires the board to adopt administrative rules.

7 Subsection (1) of 37-60-202 requires the board to adopt  
8 rules specifying the form of various documents granted by  
9 the board and the method of taking various licensing actions  
10 on the same. The minimum standards for the documents are set  
11 out in section 37-60-309 but may include such other matters  
12 of identification, such as fingerprints, as the board  
13 determines to be necessary. The procedures and standards for  
14 suspension and revocation of a license, registration, or  
15 identification card are set out in 37-60-321. This section  
16 facially allows the board to suspend or revoke the  
17 registration of an individual for violations by his licensed  
18 employee or vice versa. As to those situations involving the  
19 suspension or revocation of the document of one party for  
20 the actions by another, it is the Legislature's intent that  
21 the board rules governing this matter should only require or  
22 allow the suspension or revocation of a document issued by  
23 the board if the person or entity whose document is in  
24 jeopardy had the right of control over the person or entity  
25 whose actions put the document in jeopardy and if the person

1 whose document is in jeopardy knew or should have known of  
2 the actions of that other person.

3 Subsection (4) of 37-60-202 also requires the board to  
4 adopt rules prohibiting the establishment of certain branch  
5 offices without approval by the board and establishing  
6 requirements for board approval. The qualifications that may  
7 be required by the board under this subsection may not apply  
8 to proprietary security organizations, and may concern such  
9 matters as the supervision and management of the office but  
10 must not prescribe requirements for office size, equipment,  
11 etc.

12 Subsection (5) requires the adoption of training  
13 program rules. It is the intention of the Legislature that  
14 these rules specify a minimum curriculum and minimum  
15 standards for instructors used in all phases of the program,  
16 including firearms instructors.

17 Board rules adopted under subsection (8) relating to  
18 insurance may not require schools to carry insurance to  
19 protect themselves against civil liability for negligent or  
20 inadequate training incurred after students graduate from  
21 the training program.

22 Board rules defining "unprofessional conduct" under  
23 subsection (9) may include only that conduct which has a  
24 direct relationship to the ability of the board member or  
25 the licensee, registrant, or identification cardholder to

1 perform official duties or acts taken in the capacity of a  
2 licensee, registrant, or cardholder.

3 Under subsection (11), the board must adopt rules  
4 which, at a minimum, provide for a maximum period of time in  
5 which employees may be considered to be "on probation" with  
6 an employer and for that period only, excused from the  
7 requirements for identification or registration cards which  
8 would otherwise apply.

## HOUSE BILL NO. 523

INTRODUCED BY KEYSER, MANUEL,

HAZELBAKER, VAN VALKENBURG

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE BOARD OF PRIVATE SECURITY PATROLMEN AND INVESTIGATORS; REQUIRING THE LICENSING OF PRIVATE SECURITY AND DETECTIVE BUSINESSES; REQUIRING THE REGISTRATION OF ARMED AND UNARMED PRIVATE DETECTIVES AND SECURITY GUARDS; AUTHORIZING THE BOARD TO ADOPT RULES; PROVIDING FOR THE SUSPENSION AND REVOCATION OF LICENSES, REGISTRATIONS, AND IDENTIFICATION CARDS; REQUIRING THE APPROVAL AND--REGISTRATION OF ALL WEAPONS USED BY REGISTRANTS; REGULATING THE UNIFORMS AND INSIGNIA WORN BY EMPLOYEES OF LICENSEES; PROVIDING A PENALTY; AMENDING SECTIONS 37-60-101, 37-60-103 THROUGH 37-60-105, 37-60-201, 37-60-202, 37-60-301 THROUGH 37-60-310, 37-60-312, 37-60-314, 37-60-321, AND 37-60-402 THROUGH 37-60-405, MCA; AND REPEALING SECTIONS 37-60-102, 37-60-311, AND 37-60-313, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Board of private security patrolmen and investigators. (1) There is a board of private security patrolmen and investigators.

(2) The board consists of seven voting members appointed by the governor with the consent of the senate.

The members shall represent:

(a) one contract security company, as defined by 37-60-101;

(b) one proprietary security organization, as defined by 37-60-101;

(c) one city police department;

(d) one county sheriff's department;

(e) one member of the public;

(f) one member of the peace officers' standards and training advisory council; and

(g) a licensed private investigator.

(3) Members of the board must be at least 25 years of age and have been residents of this state for more than 5 years.

(4) The appointed members of the board shall serve for a term of 3 years. ~~THE TERMS OF BOARD MEMBERS SHALL BE STAGGERED.~~

(5) The governor may remove a member for misconduct, incompetency, neglect of duty, or unprofessional or dishonorable conduct.

(6) A vacancy on the board must be filled in the same manner as the original appointment and may only be for the unexpired portion of the term.

(7) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

Section 2. Section 37-60-101, MCA, is amended to read:  
 "37-60-101. ~~General--definitions~~ Definitions. As used in this chapter, the following definitions apply:

(1) "Alarm response runner" means any individual employed by a contract security company or a proprietary security organization to respond to security alarm system signals. A person whose sole function is to maintain or repair a security alarm system is not included within the meaning of this definition.

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

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

(4) "Armed private security guard" means an individual employed by a contract security company or a proprietary security organization whose principal duty is that of a security guard, armored car service guard, carrier service guard, or alarm response runner and who, at any time wears, carries, possesses, or has access to a firearm in the

performance of his duties.

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

(6) "Board" means the board of private security patrolmen and investigators provided for in [section 1].

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

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

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

(10) "Director" means the director of the department of commerce or his designee.

(11) "Insurance adjuster" means a person employed by an insurance company, other than a private investigator, who for any consideration whatsoever conducts any of the

1 investigations enumerated in subsection (13) in the course  
2 of adjusting or otherwise participation in the disposal of  
3 any claims in connection with a policy of insurance but who  
4 does not perform surveillance activities.

5 ~~(3)(11) "Licensee" means a person licensed under this~~  
6 ~~chapter and includes but is not limited to private~~  
7 ~~investigator and private patrol operator.~~

8 ~~(4) "Manager" means the individual under whose~~  
9 ~~direction, control, charge, or management the business of a~~  
10 ~~licensee is operated.~~

11 ~~(5)(12) "Person" includes any individual, firm,~~  
12 ~~company, association, organization, partnership, and~~  
13 ~~corporation.~~

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

17 ~~(a) crimes or wrongs done or threatened against the~~  
18 ~~United States or any state or territory thereof;~~

19 ~~(b) the identity, habits, conduct, business,~~  
20 ~~occupations, honesty, integrity, trustworthiness, efficiency,~~  
21 ~~loyalty, activity, movements, whereabouts, affiliations,~~  
22 ~~associations, transactions, reputation, or character of any~~  
23 ~~person;~~

24 ~~(c) the location, disposition, or recovery of lost or~~  
25 ~~stolen property;~~

1 ~~(d) the cause or responsibility for fires, libels,~~  
2 ~~losses, accidents, or injury to persons or property; or~~

3 ~~(e) securing evidence to be used before any court,~~  
4 ~~board, officers, or investigating committee.~~

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

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

18 ~~(16) "Qualifying agent" means, in the case of a~~  
19 ~~corporation, a corporate employee employed in a management~~  
20 ~~capacity or, in the case of a partnership, a general or~~  
21 ~~unlimited partner meeting the qualifications set forth in~~  
22 ~~this chapter for the operation of a contract security~~  
23 ~~company, proprietary security organization, or private~~  
24 ~~investigator, whichever is applicable.~~

25 ~~(17) "Security alarm system" means an assembly of~~

1 equipment and devices, or a single device such as a solid  
 2 state unit which plugs directly into a 110-volt AC line,  
 3 designed to detect or signal or to both detect and signal  
 4 unauthorized intrusions, movements, or criminal acts at a  
 5 protected premises, to which signals police, private  
 6 security guards, or alarm response runners are expected to  
 7 respond. Fire alarm systems and alarm systems that monitor  
 8 temperature, humidity, or any other atmospheric condition  
 9 not directly related to the detection of an unauthorized  
 10 intrusion or criminal act at a premises are not included  
 11 within the meaning of this definition.

12 (18) "Street patrol service" means any contract  
 13 security company or proprietary security organization that  
 14 uses foot patrols, motor vehicles, or any other means of  
 15 transportation to maintain public order or detect criminal  
 16 activities in public areas or thoroughfares.

17 (19) "Unarmed private investigator" means a private  
 18 investigator who does not wear, carry, possess, or have  
 19 access to a firearm in the performance of his duties.

20 (20) "Unarmed private security guard" means an  
 21 individual employed by a contract security company or a  
 22 proprietary security organization whose principal duty is  
 23 that of a private security guard, armored car service guard,  
 24 or alarm response runner, who does not wear, carry, possess,  
 25 or have access to a firearm in the performance of those

1 duties."

2 Section 3. Section 37-60-103, MCA, is amended to read:

3 "37-60-103. Definition--of--private--patrol--operator

4 PURPOSE. A private patrol operator or operator of a private  
 5 patrol service within the meaning of this chapter is a  
 6 person who, for any consideration whatsoever,

7 (1) agrees to furnish or furnishes a watchman, guard,  
 8 patrolman, or other person to protect persons or property or  
 9 to prevent the theft, unlawful taking, loss, embezzlement,  
 10 misappropriation, or concealment of any goods, wares,  
 11 merchandise, money, bonds, stocks, notes, documents, papers,  
 12 or property of any kind, or

13 (2) performs the service of such watchman, guard,  
 14 patrolman, or other person for any of said purposes. The  
 15 purpose of this chapter is to increase the levels of  
 16 integrity, competency, and performance of private security  
 17 personnel and private investigators in order to safeguard  
 18 the public health, safety, and welfare against illegal,  
 19 improper, or incompetent actions committed by private  
 20 security personnel or private investigators."

21 Section 4. Section 37-60-104, MCA, is amended to read:

22 "37-60-104. Restrictions on authority--of--licensed  
 23 private--patrol--operator contract security company and  
 24 proprietary security organization. A person licensed as a  
 25 private patrol operator only no employee of a contract

~~security company or proprietary security organization~~ may not make any investigation or investigations except those that are incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property or any other thing enumerated in 37-60-103 which he has been hired or engaged to protect, guard, or watch."

Section 5. Section 37-60-105, MCA, is amended to read:

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

~~(1) a person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship;~~

~~(1) ANY ONE PERSON EMPLOYED SINGLY AND EXCLUSIVELY BY ANY ONE EMPLOYER IN CONNECTION WITH THE AFFAIRS OF SUCH EMPLOYER ONLY AND WHERE THERE EXISTS AN EMPLOYER-EMPLOYEE RELATIONSHIP AND THE EMPLOYEE IS UNARMED, DOES NOT WEAR A UNIFORM, AND HAS LITTLE CONTACT WITH THE PUBLIC;~~

~~(2) an officer or employee of the United States of America or of this state or a political subdivision thereof while such officer or employee is engaged in the performance of his official duties;~~

~~(3) a person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons or as to the personal habits and financial~~

~~responsibility of applicants for insurance, indemnity bonds, or commercial credit;~~

~~(4) a charitable, philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit;~~

~~(5) an attorney at law in performing his duties as such attorney at law;~~

~~(6) a collection agency or finance company licensed to do business under the laws of this state, or an employee thereof while acting within the scope of his employment, while making an investigation incidental to the business of the agency or company, including an investigation of the location of a debtor or his property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof; or~~

~~(7) SPECIAL AGENTS EMPLOYED BY RAILROAD COMPANIES PROVIDED THE RAILROAD COMPANY NOTIFIES THE BOARD THAT SUCH AGENTS ARE OPERATING IN THE STATE;~~

~~(8) Insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them; or~~

~~(9) an insurance adjuster, as defined by 37-60-101(10)."~~

Section 6. Section 37-60-201, MCA, is amended to read:

"37-60-201. ~~Duty-to-administer-chapter Organization --~~  
~~meetings -- records.~~ ~~The--director--shall--administer-and~~  
~~enforce-the-provisions-of-this-chapter.~~ ~~The board shall meet~~  
~~annually and shall elect from among the seven members a~~  
~~president and a secretary. The board shall hold other~~  
~~meetings when necessary to transact its business. A majority~~  
~~of the board constitutes a quorum at any meeting. The~~  
~~department shall keep complete minutes and records of the~~  
~~meetings and rules and orders promulgated by the board.~~  
~~Copies of records and papers kept by the department,~~  
~~certified by the chairman and authenticated by the seal of~~  
~~the board, shall be received in evidence in courts with like~~  
~~effect as the original. Records of the board are open to~~  
~~public inspection under rules it prescribes."~~

Section 7. Section 37-60-202, MCA, is amended to read:

"37-60-202. Rulemaking power. ~~The director--may board~~  
~~shall adopt and enforce reasonable rules:~~

(1) ~~classifying--licensees--according--to--the-type-of~~  
~~business--regulated--by--this--chapter--in--which--they--are~~  
~~engaged,--including-but-not-limited-to-private-investigators~~  
~~and-private-patrol-operators,--and--limiting--the--field--and~~  
~~scope--of--the-operations-of-a-licensee-to-those-in-which-he~~  
~~is-classified-and-qualified-to-engage specifying the form of~~  
~~and procedure to be used in granting, denying, suspending,~~

~~or--revoking--any--license, registration, or identification~~  
~~card;~~

(2) ~~fixing the qualifications of resident managers,~~  
~~qualifying agents, licensees, registrants, and holders of~~  
~~identification cards, in addition to those prescribed in~~  
~~this chapter, necessary to promote and protect the public~~  
~~welfare; and~~

(3) ~~carryng-out--generally--the--provisions--of--this~~  
~~chapter establishing, in accordance with 37-1-134,~~  
~~application and examination fees for original or renewal~~  
~~licenses, registrations, and identification cards, and~~  
~~providing for refunding of any such fees;~~

(4) ~~prohibiting the establishment of branch offices of~~  
~~any licensee, except a proprietary security organization,~~  
~~without approval by the board, establishing qualification~~  
~~requirements and license fees for those offices;~~

(5) ~~for the certification of private investigator and~~  
~~private security guard training programs, including the~~  
~~certification of firearms training programs and firearms~~  
~~instructors;~~

(6) ~~for the registration and approval of weapons;~~

(7) ~~requiring the maintenance of records;~~

(8) ~~requiring licensees to maintain such insurance~~  
~~coverage as the board considers necessary;~~

(9) ~~defining "unprofessional conduct" for the purposes~~



1 ~~of removal from the board and suspension or revocation of~~  
2 ~~licenses, registrations, and identification cards;~~

3 ~~(10) establishing the expiration and renewal periods~~  
4 ~~for licenses, registrations, and identification cards; and~~

5 ~~(11) for the temporary employment of persons without~~  
6 ~~the required registration or identification cards."~~

7 **NEW SECTION.** Section 8. Compensation of members --  
8 expenses. Each member of the board shall receive  
9 compensation and travel expenses as provided for in  
10 37-1-133.

11 **NEW SECTION.** Section 9. Attorney general to act as  
12 attorney for the board. The attorney general shall act as  
13 attorney for the board in actions and proceedings brought by  
14 or against it under this chapter. Fees and expenses of the  
15 attorney general acting in this capacity shall be paid out  
16 of board money in the earmarked revenue fund.

17 Section 10. Section 37-60-301, MCA, is amended to  
18 read:

19 "37-60-301. License required. No person ~~shall engage~~  
20 ~~in a business regulated by this chapter unless he is~~  
21 ~~licensed under this chapter and no person shall falsely~~  
22 ~~represent that he is employed by a licensee.~~ Except as  
23 provided in 37-60-105, it is unlawful for any person to act  
24 as a contract security company or proprietary security  
25 organization or private investigator within this state

1 without having first obtained a license from the board.  
2 THOSE PERSONS LICENSED ON [THE EFFECTIVE DATE OF THIS ACT]  
3 SHALL RETAIN THEIR CURRENT LICENSURE STATUS AND MUST RENEW  
4 THEIR LICENSES ON THE RENEWAL DATE AS PRESCRIBED BY THE  
5 BOARD."

6 Section 11. Section 37-60-302, MCA, is amended to  
7 read:

8 "37-60-302. Application ~~form~~ Qualifying agent and  
9 resident manager required ~~substitution.~~ (1) An  
10 application applicant for a license under this chapter  
11 shall ~~be on a form prescribed by the director and~~  
12 ~~accompanied by the application fee provided by this chapter~~  
13 ~~other than an individual to operate as a contract security~~  
14 ~~company or a private investigator shall, upon or before~~  
15 ~~application to the board, appoint for the duration of the~~  
16 ~~license:~~

17 (a) a resident manager for each branch office located  
18 within this state, under whose direct supervision and  
19 control the business of the applicant shall be conducted;  
20 and

21 (b) a qualifying agent.

22 (2) Every qualifying agent and resident manager shall  
23 satisfy all of the appropriate licensing requirements of  
24 this chapter as though the applicant were an individual.

25 (3) If a qualifying agent or resident manager for any

1 reason ceases to perform the duties of a qualifying agent or  
 2 resident manager on a regular basis, the licensee shall  
 3 promptly notify the board by certified mail of that fact and  
 4 of the name of a substitute individual who shall make  
 5 application to the board for continuation of the license.  
 6 Pending application by and board action upon the application  
 7 of the substitute, the board may suspend the license or  
 8 extend it for a reasonable time."

9 Section 12. Section 37-60-303, MCA, is amended to  
 10 read:

11 "37-60-303. Application-----contains License  
 12 qualifications. An--application--shall--be--verified--and--shall  
 13 include:

14 (1)--the--full--name--and--business--address--of--the  
 15 applicant;

16 (2)--the--name--under--which--the--applicant--intends--to--do  
 17 business;

18 (3)--a--statement--as--to--the--general--nature--of--the  
 19 business--in--which--the--applicant--intends--to--engage;

20 (4)--a--statement--as--to--the--classification--or  
 21 classifications--under--which--the--applicant--desires--to--be  
 22 qualified;

23 (5)--if--the--applicant--is--a--person--other--than--an  
 24 individual--the--full--name--and--residence--address--of--each--of  
 25 its--partners--officers--and--directors--and--its--manager;

1 (6)--two--recent--photographs--of--the--applicant--of--a--type  
 2 prescribed--by--the--director--and--two--classifiable--sets--of--his  
 3 fingerprints;

4 (7)--a--verified--statement--of--his--experience  
 5 qualifications--and

6 (8)--such--other--information--evidence--statements--or  
 7 documents--as--may--be--required--by--the--director. (1) An  
 8 applicant for a license to act as a contract security  
 9 company or a proprietary security organization shall submit  
 10 evidence under oath that he:

11 (a) is at least 18 years of age;

12 (b) has been IS a citizen of the United States and  
 13 resident of the state of Montana for a period of 6 months  
 14 immediately prior to making application for the license;

15 (c) has not been convicted in any jurisdiction of any  
 16 felony or any crime involving moral turpitude or illegal use  
 17 or possession of a dangerous weapon, for which a full pardon  
 18 or similar relief has not been granted;

19 (d) has not been judicially declared incompetent by  
 20 reason of any mental defect or disease or, if so declared,  
 21 has been fully restored;

22 (e) is not suffering from habitual drunkenness or from  
 23 narcotics addiction or dependence;

24 (f) is of good moral character; and

25 (g) has complied with such other experience

1 qualifications as may be set by the rules of the board.

2 (2) Every applicant for a license to act as a private

3 investigator shall submit evidence under oath that he:

4 (a) is a citizen of the United States;

5 (b) is at least 25 years of age;

6 (c) has at least a high school education or its

7 equivalent;

8 (d) is a resident of this state;

9 (e) has not been convicted of a felony or a crime

10 involving moral turpitude;

11 (f) has not been dishonorably discharged from any

12 branch of the United States military service;

13 (g) is of good moral character; and

14 (h) for a period of not less than 1 year;

15 (i) has been lawfully engaged in the private

16 investigative business;

17 (ii) has been lawfully employed as a private

18 investigator or been the holder of a certificate of

19 authority to conduct a private investigative business;

20 (iii) has been an investigator, detective, special

21 agent, or peace officer of a city, county, or state

22 government or of the United States government; or

23 (iv) has been graduated from an accredited university

24 or college with a degree in police administration.

25 (3) A corporation applying for a license under this

1 section must be incorporated under the laws of this state or

2 be duly qualified to do business within this state.

3 (4) The board ~~may~~ SHALL require an applicant to

4 demonstrate by written examination such additional

5 qualifications as the board may by rule require."

6 Section 13. Section 37-60-304, MCA, is amended to

7 read:

8 "37-60-304. Qualifications of applicants licenses --

9 application form and content. Before a license is granted,

10 the applicant or his manager shall meet all of the

11 following:

12 (1) be at least 18 years of age;

13 (2) be a citizen of the United States and a resident

14 of the state of Montana;

15 (3) be of good moral character and temperate habits;

16 and

17 (4) comply with such other qualifications concerning

18 training, education, or experience as the director may fix

19 by rule. (1) Application for a license shall be made on a

20 form prescribed by the board and accompanied by the

21 application fee set by the board.

22 (2) An application shall be made under oath and shall

23 include:

24 (a) the full name and address of the applicant;

25 (b) the name under which the applicant intends to do

business:

(c) a statement as to the general nature of the business in which the applicant intends to engage;

(d) a statement as to whether the applicant desires to be licensed as a contract security company, a proprietary security organization, or a private investigator;

(e) two recent photographs of the applicant, of a type prescribed by the board, and two classifiable sets of his fingerprints;

(f) a statement of his experience/qualifications;

(g) such other information, evidence, statements, or documents as may be prescribed by the rules of the board; and

(h) if the applicant is a person other than an individual, the full name and residence address of each of its partners, officers, and directors and its manager, and, if the applicant is a corporation, a certified copy of its certificate of incorporation or certificate of authority issued by the secretary of state.

(i) The board shall verify the statements in the application and the applicant's moral character. The board shall send a copy of the application to the chief of police, the sheriff, and the county attorney in whose jurisdiction the principal office of the applicant is to be located."

Section 14. Section 37-60-305, MCA, is amended to

read:

"37-60-305. Examination Armed guards and investigators -- registration requirements. The director shall require an applicant or his manager to demonstrate his qualifications by a written examination. (1) Except as provided in 37-60-105 and 37-60-308, no person may perform the duties of an armed private security guard or an armed private investigator in this state without having first been registered with the board and issued a registration card in the manner prescribed by this section.

(2) Applicants for registration shall file a sworn application on a form prescribed by the board, including the same information as required of applicants for licensure in 37-60-304(2)(a) through (g), accompanied by the application fee prescribed by the board.

(3) Applicants for registration as armed private security guards shall meet the same qualifications required of applicants for licensure in 37-60-303(1)(a) through (g) and in addition to those requirements shall:

(a) complete the training requirements of a private security guard training program certified by the board and furnish the board, on a form prescribed by the board, written notice of satisfactory completion of such training; and

(b) fulfill such other requirements as the board may

by rule prescribe.

(4) Applicants for registration as armed private investigators shall meet the same qualifications required of applicants for licensure in 37-60-303(2)(a) through (b) and in addition to those requirements shall:

(a) complete the training requirements of a private investigator training program certified by the board and furnish the board, on a form prescribed by the board, written notice of satisfactory completion of such training; and

(b) fulfill such other requirements as the board may by rule prescribe."

Section 15. Section 37-60-306, MCA, is amended to read:

"37-60-306. ~~Denial of license hearing~~ Unarmed guards and investigators -- identification cards required -- qualifications. If a license is denied, the applicant for such license or for renewal thereof may request a hearing within 30 days after notice of denial. Such hearing shall be held in accordance with the provisions of the Montana Administrative Procedure Act and the rules of the department of commerce. (1) Except as provided in 37-60-105 and 37-60-308, no person may perform the duties of an unarmed private security guard or an unarmed private investigator in this state without first making application to the board and

being issued an identification card in the manner prescribed by this section.

(2) Applicants for identification cards shall file a sworn application on a form prescribed by the board, including the same information as required of licensees in 37-60-304(2)(a) through (g), accompanied by the application fee prescribed by the board.

(3) Applicants for identification cards shall meet such qualifications as may be prescribed by the board."

Section 16. Section 37-60-307, MCA, is amended to read:

"37-60-307. ~~Manager of a licensee~~ Action on application. ~~The business of each licensee shall be operated under the direction, control, charge, or management in this state of either the licensee or a manager, but no licensee shall be required to employ more than one manager.~~

~~(2) No person shall act as a manager of a licensee until he has complied with each of the following:~~

~~(a) demonstrated his qualifications by a written examination, if required by the director; and~~

~~(b) made a satisfactory showing to the director that he has the qualifications prescribed by 37-60-304. (1) The board shall grant the application for an original or renewal license, identification card, or registration unless it finds that the applicant, branch office manager, or~~

1 qualifying agent basis

2 (a) not met the qualifications of 37-60-303;

3 (b) practiced fraud, deceit, or misrepresentation in

4 the application process;

5 (c) knowingly made a material misstatement in the

6 application for a license;

7 (d) violated any of the provisions of this chapter or

8 the rules of the board; or

9 (e) taken any action warranting suspension or

10 revocation under 37-60-321.

11 (2) If an original or renewal license, identification

12 card, or registration is denied, the applicant may request a

13 hearing within 30 days after receipt of notice of denial.

14 The hearing shall be held in accordance with the provisions

15 of the Montana Administrative Procedure Act and the rules of

16 the department of commerce.

17 (3) Licenses, registration, or identification cards

18 shall be granted by name for those categories of persons

19 listed in 37-60-101(1), (2), (3), (4), (5), (8), (13), (14),

20 (15), (18), (19), or (20), or any combination of the

21 foregoing."

22 Section 17. Section 37-60-308, MCA, is amended to

23 read:

24 "37-60-308. Temporary operation employment without

25 individual license registration or identification card --

1 authority of board. Where the individual on the basis of

2 whose qualifications a license under this chapter has been

3 obtained ceases to be connected with the licensee for any

4 reason whatever the business may be carried on for such

5 temporary period and under such terms and conditions as the

6 director shall provide by regulation. The board may, under

7 such conditions as it shall prescribe by rules, authorize the

8 employment by any licensee of any person for not more than

9 90 days who, because of his failure to register or obtain a

10 registration or identification card in accordance with

11 37-60-305 or 37-60-306, could otherwise not act as a private

12 security guard or private investigator."

13 Section 18. Section 37-60-309, MCA, is amended to

14 read:

15 "37-60-309. Form of license, registration, and

16 identification card. (1) The license, when issued

17 registration, and identification cards shall be in such form

18 as may be determined by the director and shall include

19 boards

20 (1) the name of the licensee;

21 (2) A license shall include the name of the licensee,

22 the name under which the licensee is to operate, and the

23 number and date of the license.

24 (3) the number and date of the license A registration

25 or identification card shall include the name of the

1 individual the card is issued to, a photograph of the  
2 individual, the name of the licensee employing the  
3 individual, the card is issued to, a card number, and the  
4 date the card is issued."

5 NEW SECTION. Section 19. Fees. (1) The fees  
6 prescribed by the board must be charged AND COLLECTED by the  
7 department and MUST BE paid DEPOSITED into the earmarked  
8 revenue fund for the use of the board, subject to  
9 37-1-101(6).

10 (2) THE DEPARTMENT SHALL KEEP AN ACCURATE ACCOUNT OF  
11 FUNDS RECEIVED AND VOUCHERS ISSUED BY THE DEPARTMENT.

12 Section 20. Section 37-60-310, MCA, is amended to  
13 read:

14 "37-60-310. Display of license, registration, and  
15 identification card. (1) The A license shall at all times be  
16 posted in a conspicuous place in the principal place of  
17 business of the licensee.

18 (2) Any registrant or holder of an identification card  
19 must carry the card on his person while performing his  
20 duties and while going to and from work. Any peace officer  
21 of this state or any of its political subdivisions may  
22 request to see the card at any reasonable time, and the card  
23 must be shown."

24 Section 21. Section 37-60-312, MCA, is amended to  
25 read:

1 "37-60-312. Annual renewal. (1) Licenses,  
2 registrations, and identification cards issued under this  
3 chapter and the pocket cards issued pursuant thereto shall  
4 expire at 12 midnight on June 30 of each year the dates  
5 prescribed by the board if not, in each instance, renewed.  
6 To renew an unexpired license, the licensee shall, on or  
7 before the date on which it would otherwise expire, apply  
8 for renewal on a form prescribed by the director board and  
9 pay the renewal fee prescribed by this chapter.

10 (2) The board may refuse to renew a license,  
11 registration, or identification card for any reason for  
12 which it could refuse to grant an original application or  
13 suspend or revoke any license, registration, or  
14 identification card under 37-60-321."

15 Section 22. Section 37-60-314, MCA, is amended to  
16 read:

17 "37-60-314. Notice to department of change of name or  
18 address Nontransferability of license record changes. A  
19 licensee shall notify the department of any and all changes  
20 of his address or of the name under which he does business  
21 and of any change in its officers or partners within 30 days  
22 after such change. (1) No license issued under this chapter  
23 is transferable.

24 (2) A licensee shall notify the board within 5 days of  
25 any change in its officers or directors or other material

1 ~~change in the information previously furnished or required~~  
 2 ~~to be furnished to the board or any other material change or~~  
 3 ~~occurrence that could reasonably be expected to affect the~~  
 4 ~~licensee's right to a license. Upon such change or~~  
 5 ~~occurrence, the board may suspend or revoke the license or~~  
 6 ~~may allow the business to be carried on for a temporary~~  
 7 ~~period under terms and conditions as the board may require.~~

8 ~~(3) This section may not be applied to restrict the~~  
 9 ~~sale of a business if the buyer qualifies for a license~~  
 10 ~~under the provisions of this chapter."~~

11 Section 23. Section 37-60-321, MCA, is amended to  
 12 read:

13 "37-60-321. Suspension or revocation. The director  
 14 board may suspend or revoke a license, ~~registration, or~~  
 15 ~~identification card~~ issued under this chapter if he it  
 16 determines that the licensee or his its manager or  
 17 ~~qualifying agent, if an individual, or if the licensee is a~~  
 18 ~~person other than an individual, that~~ any of its officers,  
 19 directors, ~~or partners, or its manager or any registrant or~~  
 20 ~~holder of an identification card~~ has:

21 (1) made any false statement or given any false  
 22 information in connection with an application for ~~a license~~  
 23 ~~or a grant, renewal, or reinstatement of a license,~~  
 24 ~~registration, or identification card;~~

25 (2) violated any provisions of this chapter;

1 (3) violated any rule of the ~~director board~~ adopted  
 2 pursuant to the authority contained in this chapter;

3 (4) been convicted of a felony or any crime involving  
 4 moral turpitude or illegally using, carrying, or possessing  
 5 a dangerous weapon and as a result of such conviction is  
 6 under state supervision;

7 (5) impersonated or permitted or aided and abetted an  
 8 employee to impersonate a law enforcement officer or  
 9 employee of the United States of America or of any state or  
 10 political subdivision thereof;

11 (6) committed or permitted any employee to commit any  
 12 act, while the license, ~~registration, or identification card~~  
 13 ~~was expired, which would be cause for the suspension, or~~  
 14 ~~revocation, of a license or grounds for the denial of an~~  
 15 ~~application for a license;~~

16 (7) willfully failed or refused to render to a client  
 17 services or a report as agreed between the parties and for  
 18 which compensation has been paid or tendered in accordance  
 19 with the agreement of the parties; or

20 (8) knowingly violated or advised, encouraged, or  
 21 assisted the violation of any court order or injunction in  
 22 the course of business as a licensee, ~~registrant, or holder~~  
 23 ~~of an identification card;~~

24 (9) ~~resorted to fraud, misrepresentation, or~~  
 25 ~~deception in the course of business, which was not required~~



1 to perform a client service; or

2 (10) been guilty of unprofessional conduct as defined  
3 by the rules of the board."

4 NEW SECTION. Section 24. Surrender of licenses,  
5 registration, and identification cards. (1) Whenever a  
6 license is suspended or revoked, the licensee shall within  
7 24 hours after receiving notification of the suspension or  
8 revocation by the board surrender the license by mailing it  
9 or delivering it personally to the board.

10 (2) Whenever any person to whom a registration or  
11 identification card has been issued ceases employment for  
12 which the card was issued or has his card revoked or  
13 suspended by the board, he shall surrender the card to the  
14 licensee and within 5 days thereafter the licensee shall  
15 mail or personally deliver the card to the board.

16 Section 25. Section 37-60-402, MCA, is amended to  
17 read:

18 "37-60-402. Confidentiality of information -- false  
19 reports -- badges and uniforms -- illegal entry. (1) A  
20 licensee or officer, director, partner, or manager of a  
21 licensee may divulge to any law enforcement officer or  
22 county attorney or his representative any information he may  
23 acquire as to any criminal offense, but he may not divulge  
24 to any other person, except as required by law, any  
25 information acquired by him except at the direction of the

1 employer or client for whom the information was obtained.

2 (2) No licensee or officer, director, partner,  
3 manager, or employee of a licensee may knowingly make any  
4 false report to his employer or client for whom information  
5 was being obtained.

6 (3) No written report may be submitted to a client  
7 except by the licensee, qualifying manager, or a person  
8 authorized by either of them, and the person submitting the  
9 report shall exercise diligence in ascertaining whether or  
10 not the facts and information in the report are true and  
11 correct.

12 ~~(4) No licensee or officer, director, partner,~~  
13 ~~manager or employee of a private investigator may use a~~  
14 ~~badge in connection with the official activities of the~~  
15 ~~licensee's business.~~

16 ~~(5) No private patrol licensee or officer, director,~~  
17 ~~partner, manager or employee of a private patrol licensee~~  
18 ~~may use a badge except while engaged in guard or patrol work~~  
19 ~~and while wearing a uniform.~~

20 ~~(6)~~ (4) No licensee or officer, director, partner,  
21 manager, or employee of a licensee may use a title, wear a  
22 uniform, use an identification card, or make any statement  
23 with the intent to give an impression that he is connected  
24 in any way with the federal government, a state government,  
25 or any political subdivision of a state government.

~~§ 77(5)~~ No licensee or officer, director, partner, manager, or employee of a licensee may enter any private building or portion thereof without the consent of the owner or of the person in legal possession thereof."

Section 26. Section 37-60-403, MCA, is amended to read:

"37-60-403. Licensee advertising. Every advertisement by a licensee soliciting or advertising business shall contain his name and address as they appear in the records of the department board."

Section 27. Section 37-60-404, MCA, is amended to read:

"37-60-404. Duty to maintain employee records. Each licensee ~~EMPLOYER~~ shall maintain a record containing such information relative to his employees as may be prescribed by the director board."

Section 28. Section 37-60-405, MCA, is amended to read:

"37-60-405. Penalty Approval of weapons. ~~Any person who violates any of the provisions of this chapter is guilty of a misdemeanor punishable by fine not to exceed \$500 or by imprisonment in the county jail not to exceed 6 months or by both such fine and imprisonment. His weapons to be carried by registrants must be approved by the board.~~

NEW SECTION. Section 29. ~~Compliance required of peace~~

~~officers.~~ PEACE OFFICER'S CASUAL EMPLOYMENT. Any individual employed in this state as a peace officer, as defined in 46-1-201, shall comply with the provisions of this chapter in the same manner as any other person not so employed. A PEACE OFFICER, AS DEFINED IN 46-1-201, OR A RESERVE OFFICER, AS DEFINED IN 7-32-201, IS NOT PROHIBITED OR RESTRICTED FROM ACCEPTING AND ENGAGING IN EMPLOYMENT AS A SECURITY GUARD DURING HIS OFF-DUTY HOURS PROVIDED THAT HE DOES NOT ADVERTISE HIS SERVICES OR SOLICIT EMPLOYMENT AND FURTHER PROVIDED THAT THE CHIEF OF HIS DEPARTMENT PREVIOUSLY APPROVES THE OFF-DUTY EMPLOYMENT. A PEACE OFFICER OR RESERVE OFFICER SO ENGAGED IN CASUAL EMPLOYMENT IS EXEMPT FROM THE PROVISIONS OF [THIS ACT].

NEW SECTION. Section 30. Regulation of uniforms, badges, and equipment. (1) No licensee or officer, director, partner, manager, or employee of a licensee may wear, carry, or display a badge in connection with the activities of the licensee's business. However, a person employed by a licensee who holds a commission as a peace officer, as defined in 46-1-201, from a county sheriff of this state is exempt from this provision.

(2) The board is authorized to establish rules regulating uniforms and any emblems, patches, insignias, and devices that may be either worn or displayed on uniforms, vehicles, or equipment.

1        NEW SECTION. Section 31. Penalty. Any person who  
 2        violates any of the provisions of this chapter is guilty of  
 3        a misdemeanor punishable by a fine of not more than \$1,000  
 4        or by imprisonment of not more than 1 year, or by both such  
 5        fine and imprisonment.

6        NEW SECTION. Section 32. Application of act to  
 7        existing businesses. A person engaged in the business of a  
 8        contract security company, a proprietary security  
 9        organization, or a private investigator within this state on  
 10       October 1, 1983, shall within ~~30 days~~ 6 MONTHS of that date  
 11       apply to the board for a license to operate such business.  
 12       Any person filing a timely application for a license may  
 13       continue to engage in business pending a final determination  
 14       upon the application by the board.

15       NEW SECTION. Section 33. Codification instruction.  
 16       (1) Section 1 is intended to be codified as an integral part  
 17       of Title 2, chapter 15, part 18, and the provisions of Title  
 18       2, chapter 15, part 1, apply to section 1.

19       (2) Sections 8, 9, 19, 24, and 29 through 32 are  
 20       intended to be codified as an integral part of Title 37,  
 21       chapter 60, and the provisions of Title 37, chapter 60,  
 22       apply to sections 8, 9, 19, 24, and 29 through 32.

23       NEW SECTION. Section 34. Repealer.       Sections  
 24       37-60-102, 37-60-311, and 37-60-313, MCA, are repealed.

25       SECTION 35. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON

1       PASSAGE AND APPROVAL.

-End-