

IN THE HOUSE

MARCH 5, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

SECOND READING, STATEMENT OF
INTENT ADOPTED.

MARCH 6, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

THIRD READING, STATEMENT OF
INTENT ADOPTED.

SENT TO ENROLLING.

1 HOUSE BILL NO. 68
 2 INTRODUCED BY KITSELMAN

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW ON
 5 SECURITY PATROLMEN AND INVESTIGATORS TO CLARIFY TERMS,
 6 DEFINITIONS, AND VIOLATIONS; PROVIDING FOR THE APPLICATION
 7 OF ADMINISTRATIVE FINES AND PENALTIES; AMENDING SECTIONS
 8 37-60-101, 37-60-105, 37-60-202, 37-60-301, 37-60-303,
 9 37-60-304, 37-60-307 THROUGH 37-60-310, 37-60-312,
 10 37-60-321, 37-60-322, 37-60-405, 37-60-407, AND 37-60-411,
 11 MCA; REPEALING SECTIONS 37-60-305, 37-60-306, AND 37-60-406,
 12 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

13
 14 WHEREAS, it is the intent of this bill to provide for
 15 effective enforcement of licensure laws by removing certain
 16 exemptions, to clarify violations, and to provide the
 17 licensing board with the means to impose penalties or cause
 18 prosecution for violations of licensure laws.

19
 20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

22 "37-60-101. Definitions. As used in this chapter, the
 23 following definitions apply:

24 (1) "Alarm response runner" means any individual
 25 employed by a contract security company or a proprietary

1 security organization to respond to security alarm system
 2 signals.

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

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

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

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

25 (6) "Board" means the board of private security

1 patrolmen and investigators provided for in 2-15-1891.

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

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

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

14 (10) "Insurance adjuster" means a person employed by an
15 insurance company, other than a private investigator, who
16 for any consideration whatsoever conducts investigations in
17 the course of adjusting or otherwise participating in the
18 disposal of any claims in connection with a policy of
19 insurance but who does not perform surveillance activities
20 or investigate crimes or wrongs committed or threatened
21 against the United States or any state or territory thereof.

22 (11) "Licensee" means a person licensed under this
23 chapter.

24 (12) "Person" includes any individual, firm, company,
25 association, organization, partnership, and corporation.

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

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

6 (b) the identity, habits, conduct, business,
7 occupation, honesty, integrity, trustworthiness, efficiency,
8 loyalty, activity, movement, whereabouts, affiliations,
9 associations, transactions, reputation, or character of any
10 person;

11 (c) the location, disposition, or recovery of lost or
12 stolen property;

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

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

17 (14) "Private security guard" means an individual
18 employed or assigned duties to protect a person or property
19 or both a person and property from criminal acts and whose
20 duties or any portion of whose duties include but are not
21 limited to the prevention of unlawful entry, theft, criminal
22 mischief, arson, or trespass on private property, or the
23 direction of the movements of the public in public areas.

24 (15) "Proprietary security organization" means any
25 person who employs a private security guard, an alarm

1 response runner, armored car service, street patrol service,
2 or armed carrier service on a routine basis solely for the
3 purposes of that person and exerts direction and control
4 over the performance of the details of the service rendered.

5 (16) "Qualifying agent" means, in the case of a
6 corporation, a corporate employee employed in a management
7 capacity or, in the case of a partnership, a general or
8 unlimited partner meeting the qualifications set forth in
9 this chapter for the operation of a contract security
10 company, proprietary security organization, or private
11 investigator, whichever is applicable.

12 (17) "Resident agent" means the person appointed to
13 exercise direct supervision, control, charge, management, or
14 operation of each branch office located in this state where
15 the business of the licensee is conducted.

16 ~~(17)~~(18) "Security alarm system" means an assembly of
17 equipment and devices or a single device such as a solid
18 state unit which plugs directly into a 110-volt AC line,
19 designed to detect or signal or to both detect and signal
20 unauthorized intrusion, movement, or criminal acts at a
21 protected premises, to which signals police, private
22 security guards, or alarm response runners are expected to
23 respond. Fire alarm systems and alarm systems that monitor
24 temperature, humidity, or any other atmospheric condition
25 not directly related to the detection of an unauthorized

1 intrusion or criminal act at a premises are not included
2 within the meaning of this definition.

3 ~~(18)~~(19) "Street patrol service" means any contract
4 security company or proprietary security organization that
5 uses foot patrols, motor vehicles, or any other means of
6 transportation to maintain public order or detect criminal
7 activities in public areas or thoroughfares.

8 ~~(19)~~(20) "Unarmed private investigator" means a private
9 investigator who does not wear, carry, possess, or have
10 access to a firearm in the performance of his duties.

11 ~~(20)~~(21) "Unarmed private security guard" means an
12 individual employed by a contract security company or a
13 proprietary security organization whose ~~principal~~ duty or
14 any portion of whose duty is that of a private security
15 guard, armored car service guard, or alarm response runner,
16 who does not wear, or carry, ~~possess, or have access to~~ a
17 firearm in the performance of those duties."

18 Section 2. Section 37-60-105, MCA, is amended to read:
19 "37-60-105. Exemptions. This chapter does not apply
20 to:

21 (1) any one person employed singly and exclusively by
22 any one employer in connection with the affairs of such
23 employer only and where there exists an employer-employee
24 relationship and the employee is unarmed, does not wear a
25 uniform, and is guarding inside a structure which at the

1 time is not open to the public;

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

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

11 (4) an attorney at law in performing his duties as
12 such attorney at law, ~~a paralegal or legal assistant~~
13 ~~employed by an attorney at law,~~ or a law student who is
14 ~~servng a legal internship~~ intern employed by a licensed
15 attorney;

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

24 (6) special agents employed by railroad companies,
25 provided the railroad company notifies the board that such

1 agents are operating in the state;

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

5 (8) an insurance adjuster, as defined by
6 37-60-101(10); or

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

10 Section 3. Section 37-60-202, MCA, is amended to read:

11 "37-60-202. Rulemaking power. The board shall adopt
12 and enforce reasonable rules:

13 (1) specifying the form of and procedure to be used in
14 granting, denying, suspending, or revoking any license,
15 registration, or identification card;

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

21 (3) establishing, in accordance with 37-1-134,
22 application and examination fees for original or renewal
23 licenses, ~~registrations,~~ and identification cards, and
24 providing for refunding of any such fees;

25 (4) prohibiting the establishment of branch offices of

1 any licensee, except a proprietary security organization,
2 without approval by the board, establishing qualification
3 requirements and license fees for those offices;

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

8 (6) for the approval of weapons;

9 (7) requiring the maintenance of records;

10 ~~{8}--requiring--licensees--to--maintain--such--insurance~~
11 ~~coverage--as--the--board--considers--necessary;~~

12 {9}{8} defining "unprofessional conduct" for the
13 purposes of removal from the board and suspension or
14 revocation of licenses, ~~registrations,~~ and identification
15 cards;

16 ~~{10}{9}~~ establishing the expiration and renewal
17 periods for licenses, ~~registrations,~~ and identification
18 cards;

19 ~~{11}{10}~~ for the temporary employment of persons
20 without the required registration licenses or identification
21 cards;

22 ~~{12}{11}~~ providing for the issuance of probationary and
23 temporary licenses for contract security companies and
24 private investigators; and

25 ~~{13}{12}~~ providing for the issuance of probationary

1 ~~registration---and~~ identification cards for private
2 investigators who do not meet the requirements for age,
3 employment experience, and written examination; and

4 (13) providing for the application of administrative
5 fines and penalties for minor infractions of this chapter
6 and supporting rules."

7 Section 4. Section 37-60-301, MCA, is amended to read:

8 "37-60-301. License required. (1) Except as provided
9 in 37-60-105, it is unlawful for any person to act as or
10 perform the duties as defined in 37-60-101 of a contract
11 security company or proprietary security organization or, a
12 private investigator within--this--state, or a private
13 security guard without having first obtained a license from
14 the board. Those persons licensed on April 18, 1983, shall
15 retain their current licensure status and must renew their
16 licenses on the renewal date as prescribed by the board.

17 (2) It is unlawful for any unlicensed person to act
18 as, pretend to be, or represent himself as being licensed as
19 a private investigator, a contract security company, a
20 proprietary security organization, or a private security
21 guard.

22 (3) A person who knowingly engages an unlicensed
23 private investigator, private security guard, or contract
24 security company is guilty of a misdemeanor punishable under
25 37-60-411."

1 Section 5. Section 37-60-303, MCA, is amended to read:

2 "37-60-303. License qualifications. (1) ~~An applicant~~
3 ~~for a license to act as a contract security company or a~~
4 ~~proprietary security organization~~ Except as otherwise
5 specified in this section, an applicant for licensure under
6 this chapter shall submit evidence under oath that he:

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

8 (b) is a citizen of the United States;

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

13 (d) has not been judicially declared incompetent by
14 reason of any mental defect or disease or, if so declared,
15 has been fully restored;

16 (e) is not suffering from habitual drunkenness or from
17 narcotics addiction or dependence;

18 (f) is of good moral character; and

19 (g) has complied with such other experience
20 qualifications as may be set by the rules of the board.

21 (2) In addition to meeting the qualifications in
22 subsection (1), an applicant for licensure as a private
23 security guard shall:

24 (a) complete the training requirements of a private
25 security guard training program certified by the board and

1 provide, on a form prescribed by the board, written notice
2 of satisfactory completion of such training; and

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

5 ~~(2)(3)~~ Every In addition to meeting the qualifications
6 in subsection (1), each applicant for a license to act as a
7 private investigator shall submit evidence under oath that
8 he:

9 ~~(a) is a citizen of the United States;~~

10 ~~(b)(a)~~ is at least 21 years of age;

11 ~~(c)(b)~~ has at least a high school education or its
12 equivalent;

13 ~~(d) has not been convicted of a felony or a crime~~
14 ~~involving moral turpitude;~~

15 ~~(e)(c)~~ has not been dishonorably discharged from any
16 branch of the United States military service;

17 ~~(f) is of good moral character; and~~

18 ~~(g)(d)~~ for a period of not less than 3 years:

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

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

24 (iii) has been an investigator, detective, special
25 agent, or peace officer of a city, county, or state

1 government or of the United States government;

2 (e) has completed the training requirements of a
3 private investigator training program certified by the board
4 and furnished, on a form prescribed by the board, written
5 notice of satisfactory completion of such training; and

6 (f) has fulfilled such other requirements as the board
7 may by rule prescribe.

8 ~~(3)~~(4) Up to one-half of the experience required by
9 ~~(2)~~(g) subsection (3)(d) may be met by a combination of
10 education and training as accepted by the board. All college
11 credits must be from an accredited college or university and
12 be verified by transcript.

13 (5) Applicants who will wear or carry firearms in
14 performance of their duties shall submit written notice of
15 satisfactory completion of a firearms training program
16 certified by or satisfactory to the board, as it may by rule
17 prescribe.

18 ~~(4)~~(6) A corporation applying for a license under this
19 section must be incorporated under the laws of this state or
20 be duly qualified to do business within this state.

21 ~~(5)~~(7) The board shall require an applicant to
22 demonstrate by written examination such additional
23 qualifications as the board may by rule require."

24 Section 6. Section 37-60-304, MCA, is amended to read:

25 "37-60-304. Licenses -- application form and content.

1 (1) Application for a license shall be made on a form
2 prescribed by the board and accompanied by the application
3 fee set by the board.

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

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

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

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

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

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

18 (f) a statement of his age and experience
19 qualifications;

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

23 (h) 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 (3) The board shall verify the statements in the
2 application and the applicant's moral character. The board
3 shall send written notification to the chief of police, the
4 sheriff, and the county attorney in whose jurisdiction the
5 principal office of the applicant is to be located that an
6 application has been submitted."

7 Section 7. Section 37-60-307, MCA, is amended to read:

8 "37-60-307. Action on application. (1) The board shall
9 grant the application for an original or renewal license or
10 identification card, ~~or registration~~ unless it finds that
11 the applicant, branch office manager, or qualifying agent
12 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 or
23 identification card, ~~or registration~~ is denied, the
24 applicant may request a hearing within 30 days after receipt
25 of notice of denial. The hearing shall be held in accordance

1 with the provisions of the Montana Administrative Procedure
2 Act and the rules of 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), ~~(16), (17),~~ (19), or (20), or (21), or any
7 combination of the foregoing."

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

9 "37-60-308. Temporary employment without ~~registration~~
10 ~~or~~ identification card -- authority of board. The board may,
11 under such conditions as it shall prescribe by rule,
12 authorize the employment by any licensee of any person for
13 not more than 90 30 days who, because of his failure to
14 ~~register~~ ~~or~~ obtain ~~a registration~~ ~~or~~ an identification card
15 in accordance with ~~37-60-305~~ ~~or~~ ~~37-60-306~~ 37-60-301 or
16 37-60-304, could otherwise not act as a private security
17 guard or private investigator."

18 Section 9. Section 37-60-309, MCA, is amended to read:

19 "37-60-309. Form of license, ~~registration~~, and
20 identification card. ~~(1)~~ The license, ~~registration~~, and
21 identification card shall be in such form as may be
22 determined by the board.

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

1 ~~{3}--A---registration---or---identification--card--shall~~
 2 ~~include-the-name-of-the-individual-the-card-is-issued-to,--a~~
 3 ~~photograph--of--the--individual,--the--name--of-the-licensee~~
 4 ~~employing-the-individual-the--card--is--issued--to,--a--card~~
 5 ~~number,--and-the-date-the-card-is-issued."~~

6 Section 10. Section 37-60-310, MCA, is amended to
 7 read:

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

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

18 Section 11. Section 37-60-312, MCA, is amended to
 19 read:

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

1 form prescribed by the board and pay the renewal fee
 2 prescribed by this chapter.

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

8 Section 12. Section 37-60-321, MCA, is amended to
 9 read:

10 "37-60-321. Suspension or revocation. The board may
 11 suspend or revoke a license,--registration, or identification
 12 card issued under this chapter if it determines that the
 13 licensee or its manager or qualifying agent or any of its
 14 officers, directors, or partners or any registrant-or holder
 15 of an identification card has:

16 (1) made any false statement or given any false
 17 information in connection with an application for a grant,
 18 renewal, or reinstatement of a license,--registration, or
 19 identification card;

20 (2) violated any provisions of this chapter;

21 (3) violated any rule of the board adopted pursuant to
 22 the authority contained in this chapter;

23 (4) been convicted of a felony or any crime involving
 24 moral turpitude or illegally using, carrying, or possessing
 25 a dangerous weapon and as a result of such conviction is

1 under state supervision;

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

6 (6) committed or permitted any employee to commit any
7 act, while the license~~7~~-~~registration7~~, or identification card
8 was expired, which would be cause for suspension,
9 revocation, or denial of an application;

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

14 (8) knowingly violated or advised, encouraged, or
15 assisted the violation of any court order or injunction in
16 the course of business as a licensee~~7~~-~~registrant7~~ or holder
17 of an identification card;

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

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

23 Section 13. Section 37-60-322, MCA, is amended to
24 read:

25 "37-60-322. Surrender of licenses~~7~~-~~registration7~~ and

1 identification cards. (1) Whenever a license is suspended or
2 revoked, the licensee shall within 24 hours after receiving
3 notification of the suspension or revocation by the board
4 surrender the license by mailing it or delivering it
5 personally to the board.

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

12 Section 14. Section 37-60-405, MCA, is amended to
13 read:

14 "37-60-405. Approval of weapons. The weapons to be
15 carried by registrants armed licensees or identification
16 card holders must be approved by the board."

17 Section 15. Section 37-60-407, MCA, is amended to
18 read:

19 "37-60-407. Regulation of uniforms, badges, and
20 equipment. (1) No licensee or officer, director, partner,
21 manager, or employee of a licensee may wear~~7~~-~~carry7~~ or
22 display a metal badge in connection with the activities of
23 the licensee's business. ~~However,--a person employed by a~~
24 ~~licensee who holds a--commission--as--a--peace--officer,--as~~
25 ~~defined in 46-1-201, is exempt from this provision.~~

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

5 Section 16. Section 37-60-411, MCA, is amended to
6 read:

7 "37-60-411. Penalty Penalties -- investigation --
8 enforcement -- review. (1) Any person who violates any of
9 the provisions of this chapter or who conspires with another
10 person to violate any of the provisions of this chapter
11 relating to licensure is guilty of a misdemeanor punishable
12 by a fine of not more than \$1,000 or by imprisonment of not
13 more than 1 year or by both such fine and imprisonment.

14 (2) The board shall:

15 (a) gather evidence of violations of this chapter, and
16 of any rule established pursuant to this chapter, by persons
17 engaged in a business subject to licensure under this
18 chapter who fail to obtain licenses; and

19 (b) furnish that evidence to prosecuting officers of
20 any county or city.

21 (3) The prosecuting officer of any county or city
22 shall prosecute all violations of this chapter occurring
23 within his jurisdiction.

24 (4) (a) If upon investigation the board considers it
25 appropriate, it may issue a citation to a licensee. The

1 citation may contain:

2 (i) an order of abatement fixing a reasonable time for
3 abatement of the violation; and

4 (ii) assessment of an administrative fine in an amount
5 not to exceed \$500 for each violation of this chapter.

6 (b) A citation or fine assessment must inform the
7 licensee that if he contests the finding of a violation, a
8 review by the board may be requested in accordance with the
9 Montana Administrative Procedure Act. If a review is not
10 requested pursuant to this section, payment of the fine does
11 not constitute an admission of the violation charged.

12 (c) If the licensee neither requests a review nor pays
13 the assessed fine within 20 days of notice of the citation,
14 the board shall suspend the license of such person 30 days
15 after the notice of citation.

16 (d) All fines collected pursuant to this section must
17 be deposited in the state special revenue fund for use of
18 the board."

19 NEW SECTION. Section 17. Repealer. Sections
20 37-60-305, 37-60-306, and 37-60-406, MCA, are repealed.

21 NEW SECTION. Section 18. Effective date. This act is
22 effective on passage and approval.

-End-

APPROVED BY COMM. ON
BUSINESS AND LABOR

HOUSE BILL NO. 68

INTRODUCED BY KITSELMAN

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WHEREAS, it is the intent of this bill to provide for effective enforcement of licensure laws by removing certain exemptions, to clarify violations, and to provide the licensing board with the means to impose penalties or cause prosecution for violations of licensure laws.

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

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

"37-60-101. 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.

(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, or, carries, ~~possesses,~~ or-has-access-to, POSSESSES, OR HAS ACCESS TO a concealed 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 or any portion of whose duty is that of a security guard, armored car service guard, carrier service guard, or alarm response runner and who at any time wears, or 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.



1 (6) "Board" means the board of private security
2 patrolmen and investigators provided for in 2-15-1891.

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

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

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

15 (10) "Insurance adjuster" means a person employed by an
16 insurance company, other than a private investigator, who
17 for any consideration whatsoever conducts investigations in
18 the course of adjusting or otherwise participating in the
19 disposal of any claims in connection with a policy of
20 insurance but who does not perform surveillance activities
21 or investigate crimes or wrongs committed or threatened
22 against the United States or any state or territory thereof.

23 (11) "Licensee" means a person licensed under this
24 chapter.

25 (12) "Person" includes any individual, firm, company,

1 association, organization, partnership, and corporation.

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

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

7 (b) the identity, habits, conduct, business,
8 occupation, honesty, integrity, trustworthiness, efficiency,
9 loyalty, activity, movement, whereabouts, affiliations,
10 associations, transactions, reputation, or character of any
11 person;

12 (c) the location, disposition, or recovery of lost or
13 stolen property;

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

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

18 (14) "Private security guard" means an individual
19 employed or assigned duties to protect a person or property
20 or both a person and property from criminal acts and whose
21 duties or any portion of whose duties include but are not
22 limited to the prevention of unlawful entry, theft, criminal
23 mischief, arson, or trespass on private property, or the
24 direction of the movements of the public in public areas.

25 (15) "Proprietary security organization" means any

1 person who employs a private security guard, an alarm
2 response runner, armored car service, street patrol service,
3 or armed carrier service on a routine basis solely for the
4 purposes of that person and exerts direction and control
5 over the performance of the details of the service rendered.

6 (16) "Qualifying agent" means, in the case of a
7 corporation, a corporate employee employed in a management
8 capacity or, in the case of a partnership, a general or
9 unlimited partner meeting the qualifications set forth in
10 this chapter for the operation of a contract security
11 company, proprietary security organization, or private
12 investigator, whichever is applicable.

13 (17) "Resident agent" means the person appointed to
14 exercise direct supervision, control, charge, management, or
15 operation of each branch office located in this state where
16 the business of the licensee is conducted.

17 ~~(17)~~(18) "Security alarm system" means an assembly of
18 equipment and devices or a single device such as a solid
19 state unit which plugs directly into a 110-volt AC line,
20 designed to detect or signal or to both detect and signal
21 unauthorized intrusion, movement, or criminal acts at a
22 protected premises, to which signals police, private
23 security guards, or alarm response runners are expected to
24 respond. Fire alarm systems and alarm systems that monitor
25 temperature, humidity, or any other atmospheric condition

1 not directly related to the detection of an unauthorized
2 intrusion or criminal act at a premises are not included
3 within the meaning of this definition.

4 ~~(18)~~(19) "Street patrol service" means any contract
5 security company or proprietary security organization that
6 uses foot patrols, motor vehicles, or any other means of
7 transportation to maintain public order or detect criminal
8 activities in public areas or thoroughfares.

9 ~~(19)~~(20) "Unarmed private investigator" means a private
10 investigator who does not wear, carry, possess, or have
11 access to a firearm in the performance of his duties.

12 ~~(20)~~(21) "Unarmed private security guard" means an
13 individual employed by a contract security company or a
14 proprietary security organization whose ~~principal~~ duty or
15 any portion of whose duty is that of a private security
16 guard, armored car service guard, or alarm response runner,
17 who does not wear, or ~~carry, possess, or have access to~~ a
18 firearm in the performance of those duties."

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

20 "37-60-105. Exemptions. This chapter does not apply
21 to:

22 (1) any one person employed singly and exclusively by
23 any one employer in connection with the affairs of such
24 employer only and where there exists an employer-employee
25 relationship and the employee is unarmed, does not wear a

1 uniform, and is guarding inside a structure which at the
2 time is not open to the public;

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

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

12 (4) an attorney at law in performing his duties as
13 such attorney at law ~~or a paralegal or legal assistant~~
14 ~~employed by an attorney at law~~ or a law student who is
15 servng-a legal internship intern employed by a licensed
16 attorney;

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

25 (6) special agents employed by railroad companies,

1 provided the railroad company notifies the board that such
2 agents are operating in the state;

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

6 (8) an insurance adjuster, as defined by
7 37-60-101(10); or

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

11 Section 3. Section 37-60-202, MCA, is amended to read:
12 "37-60-202. Rulemaking power. The board shall adopt
13 and enforce reasonable rules:

14 (1) specifying the form of and procedure to be used in
15 granting, denying, suspending, or revoking any license
16 registration, or identification card;

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

22 (3) establishing, in accordance with 37-1-134,
23 application and examination fees for original or renewal
24 licenses ~~registrations~~, and identification cards, and
25 providing for refunding of any such fees;

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

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

9 (6) for the approval of weapons;

10 (7) requiring the maintenance of records;

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

13 (8) REQUIRING LICENSEES TO FILE SUCH INSURANCE POLICY
14 OR PROOF OF FINANCIAL RESPONSIBILITY AS THE BOARD CONSIDERS
15 NECESSARY WITH THE BOARD;

16 ~~(9)~~ (9) defining "unprofessional conduct" for the
17 purposes of removal from the board and suspension or
18 revocation of licenses, ~~registrations,~~ and identification
19 cards;

20 ~~(10)~~ (10) establishing the expiration and renewal
21 periods for licenses, ~~registrations,~~ and identification
22 cards;

23 ~~(11)~~ (11) for the temporary employment of persons
24 without the required registration licenses or identification
25 cards;

1 ~~(12)~~ (12) providing for the issuance of probationary
2 and temporary licenses for contract security companies and
3 private investigators; and

4 ~~(13)~~ (13) providing for the issuance of probationary
5 ~~registration--and~~ identification cards for private
6 investigators who do not meet the requirements for age,
7 employment experience, and written examination; and

8 (13) (14) providing for the application of
9 administrative fines and penalties for minor infractions of
10 this chapter and supporting rules."

11 Section 4. Section 37-60-301, MCA, is amended to read:

12 "37-60-301. License required. (1) Except as provided
13 in 37-60-105, it is unlawful for any person to act as or
14 perform the duties as defined in 37-60-101 of a contract
15 security company or proprietary security organization or, a
16 private investigator within--this--state, or a private
17 security guard without having first obtained a license from
18 the board. Those persons licensed on April 18, 1983, shall
19 retain their current licensure status and must renew their
20 licenses on the renewal date as prescribed by the board.

21 (2) It is unlawful for any unlicensed person to act
22 as, pretend to be, or represent himself as being licensed as
23 a private investigator, a contract security company, a
24 proprietary security organization, or a private security
25 guard.

1 (3) A person who knowingly engages an unlicensed
 2 private investigator, private security guard, or contract
 3 security company is guilty of a misdemeanor punishable under
 4 37-60-411."

5 Section 5. Section 37-60-303, MCA, is amended to read:

6 "37-60-303. License qualifications. (1) ~~An applicant~~
 7 ~~for a license to act as a contract security company or a~~
 8 ~~proprietary security organization~~ Except as otherwise
 9 specified in this section, an applicant for licensure under
 10 this chapter shall submit evidence under oath that he:

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

12 (b) is a citizen of the United States;

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

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

20 (e) is not suffering from habitual drunkenness or from
 21 narcotics addiction or dependence;

22 (f) is of good moral character; and

23 (g) has complied with such other experience
 24 qualifications as may be set by the rules of the board.

25 (2) In addition to meeting the qualifications in

1 subsection (1), an applicant for licensure as a private
 2 security guard shall:

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

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

9 ~~(2)~~ (3) Every In addition to meeting the qualifications
 10 in subsection (1), each applicant for a license to act as a
 11 private investigator shall submit evidence under oath that
 12 he:

13 ~~(a) is a citizen of the United States;~~

14 ~~(b)~~ (a) is at least 21 years of age;

15 ~~(c)~~ (b) has at least a high school education or its
 16 equivalent;

17 ~~(d) has not been convicted of a felony or a crime~~
 18 ~~involving moral turpitude;~~

19 ~~(e)~~ (c) has not been dishonorably discharged from any
 20 branch of the United States military service;

21 ~~(f) is of good moral character; and~~

22 ~~(g)~~ (d) for a period of not less than 3 years:

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

25 (ii) has been lawfully employed as a private

1 investigator or been the holder of a certificate of
2 authority to conduct a private investigative business; or

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

6 (e) has completed the training requirements of a
7 private investigator training program certified by the board
8 and furnished, on a form prescribed by the board, written
9 notice of satisfactory completion of such training; and

10 (f) has fulfilled such other requirements as the board
11 may by rule prescribe.

12 ~~{3}~~{4} Up to one-half of the experience required by
13 ~~{2}~~~~{g}~~ subsection (3)(d) may be met by a combination of
14 education and training as accepted by the board. All college
15 credits must be from an accredited college or university and
16 be verified by transcript.

17 {5} Applicants who will wear or carry firearms in
18 performance of their duties shall submit written notice of
19 satisfactory completion of a firearms training program
20 certified by or satisfactory to the board, as it may by rule
21 prescribe.

22 ~~{4}~~{6} A corporation applying for a license under this
23 section must be incorporated under the laws of this state or
24 be duly qualified to do business within this state.

25 ~~{5}~~{7} The board shall require an applicant to

1 demonstrate by written examination such additional
2 qualifications as the board may by rule require."

3 Section 6. Section 37-60-304, MCA, is amended to read:

4 "37-60-304. Licenses -- application form and content.

5 (1) Application for a license shall be made on a form
6 prescribed by the board and accompanied by the application
7 fee set by the board.

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

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

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

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

15 (d) a statement as to whether the applicant desires to
16 be licensed as a contract security company, a proprietary
17 security organization, ~~or~~ a private investigator, or a
18 private security guard;

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

22 (f) a statement of his age and experience
23 qualifications;

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

1 and

2 (h) if the applicant is a person other than an
3 individual, the full name and residence address of each of
4 its partners, officers, and directors and its manager.

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

11 Section 7. Section 37-60-307, MCA, is amended to read:

12 "37-60-307. Action on application. (1) The board shall
13 grant the application for an original or renewal license, or
14 identification card, ~~or registration~~ unless it finds that
15 the applicant, branch office manager, or qualifying agent
16 has:

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

18 (b) practiced fraud, deceit, or misrepresentation in
19 the application process;

20 (c) knowingly made a material misstatement in the
21 application for a license;

22 (d) violated any of the provisions of this chapter or
23 the rules of the board; or

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

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

7 (3) Licenses, registration, or identification cards
8 shall be granted by name for those categories of persons
9 listed in 37-60-101(1), (2), (3), (4), (5), (8), (13), (14),
10 (15), ~~(16), (17)~~, (19), or (20), or (21), or any
11 combination of the foregoing."

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

13 "37-60-308. Temporary employment without ~~registration~~
14 ~~or~~ identification card -- authority of board. The board may,
15 under such conditions as it shall prescribe by rule,
16 authorize the employment by any licensee of any person for
17 not more than ~~90~~ 30 days who, because of his failure to
18 ~~register~~ ~~or~~ obtain ~~a registration~~ ~~or~~ an identification card
19 in accordance with ~~37-60-305~~ ~~or~~ ~~37-60-306~~ 37-60-301 or
20 37-60-304, could otherwise not act as a private security
21 guard or private investigator."

22 Section 9. Section 37-60-309, MCA, is amended to read:

23 "37-60-309. Form of license, ~~or registration~~, and
24 identification card. ~~(1)~~ The license, ~~or registration~~, and
25 identification card shall be in such form as may be

1 determined by the board.

2 ~~{2}--A--license shall include the name of the licensee,~~
3 ~~the name under which the licensee is to operate, and the~~
4 ~~number and date of the license.~~

5 ~~{3}--A--registration or identification card shall~~
6 ~~include the name of the individual the card is issued to, a~~
7 ~~photograph of the individual, the name of the licensee~~
8 ~~employing the individual the card is issued to, a card~~
9 ~~number, and the date the card is issued."~~

10 Section 10. Section 37-60-310, MCA, is amended to
11 read:

12 "37-60-310. Display of license, registration, and
13 identification card. (1) A license shall at all times be
14 posted in a conspicuous place in the principal place of
15 business of the licensee.

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

22 Section 11. Section 37-60-312, MCA, is amended to
23 read:

24 "37-60-312. Annual renewal. (1) Licenses,
25 registrations, and identification cards issued under this

1 chapter expire at 12 midnight on the dates prescribed by the
2 board if not, in each instance, renewed. To renew an
3 unexpired license, the licensee shall, on or before the date
4 on which it would otherwise expire, apply for renewal on a
5 form prescribed by the board and pay the renewal fee
6 prescribed by this chapter.

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

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

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

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

24 (2) violated any provisions of this chapter;

25 (3) violated any rule of the board adopted pursuant to

1 the authority contained in this chapter;

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

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

10 (6) committed or permitted any employee to commit any
11 act, while the license~~7-registration7~~ or identification card
12 was expired, which would be cause for suspension,
13 revocation, or denial of an application;

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

18 (8) knowingly violated or advised, encouraged, or
19 assisted the violation of any court order or injunction in
20 the course of business as a licensee~~7-registrant7~~ or holder
21 of an identification card;

22 (9) resorted to fraud, misrepresentation, or
23 deception, in the course of business, which was not required
24 to perform a client service; or

25 (10) been guilty of unprofessional conduct as defined

1 by the rules of the board."

2 Section 13. Section 37-60-322, MCA, is amended to
3 read:

4 "37-60-322. Surrender of licenses~~7--registration7~~ and
5 identification cards. (1) Whenever a license is suspended or
6 revoked, the licensee shall within 24 hours after receiving
7 notification of the suspension or revocation by the board
8 surrender the license by mailing it or delivering it
9 personally to the board.

10 (2) Whenever any person to whom ~~a-registration--or an~~
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~~ by
15 mail or personally deliver the card to the board."

16 Section 14. Section 37-60-405, MCA, is amended to
17 read:

18 "37-60-405. Approval of weapons. The weapons to be
19 carried by registrants armed licensees or identification
20 card holders must be approved by the board."

21 SECTION 15. SECTION 37-60-406, MCA, IS AMENDED TO
22 READ:

23 "37-60-406. Peace officer's casual employment. A peace
24 officer, as defined in 46-1-201, or a reserve officer, as
25 defined in 7-32-201, is not prohibited or restricted from

1 accepting and engaging in employment as a security guard
 2 during his off-duty hours, provided that he does not
 3 advertise his services or solicit employment and further
 4 provided that the chief of his department previously
 5 approves the off-duty employment. A peace officer or reserve
 6 officer so engaged in casual employment is exempt from the
 7 provisions of this chapter only if the casual employment is
 8 authorized in writing by his sheriff or chief of police."

9 Section 16. Section 37-60-407, MCA, is amended to
 10 read:

11 "37-60-407. Regulation of uniforms, badges, and
 12 equipment. (1) No licensee or officer, director, partner,
 13 manager, or employee of a licensee may wear, ~~carry,~~ CARRY,
 14 or display a meta badge in connection with the activities
 15 of the licensee's business. ~~However, a person employed by a~~
 16 ~~licensee who holds a commission as a peace officer, as~~
 17 ~~defined in 46-1-201, is exempt from this provision.~~

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

22 Section 17. Section 37-60-411, MCA, is amended to
 23 read:

24 "37-60-411. Penalty Penalties -- investigation --
 25 enforcement -- review. (1) Any person who violates any of

1 the provisions of this chapter or who conspires with another
 2 person to violate any of the provisions of this chapter
 3 relating to licensure is guilty of a misdemeanor punishable
 4 by a fine of not more than \$1,000 or by imprisonment of not
 5 more than 1 year or by both such fine and imprisonment.

6 (2) The board shall:

7 (a) gather evidence of violations of this chapter, and
 8 of any rule established pursuant to this chapter, by persons
 9 engaged in a business subject to licensure under this
 10 chapter who fail to obtain licenses; and

11 (b) furnish that evidence to prosecuting officers of
 12 any county or city.

13 (3) The prosecuting officer of any county or city
 14 shall prosecute all violations of this chapter occurring
 15 within his jurisdiction.

16 (4) (a) If upon investigation the board considers it
 17 appropriate, it may issue a citation to a licensee. The
 18 citation may contain:

19 (i) an order of abatement fixing a reasonable time for
 20 abatement of the violation; and

21 (ii) assessment of an administrative fine in an amount
 22 not to exceed \$500 for each violation of this chapter.

23 (b) A citation or fine assessment must inform the
 24 licensee that if he contests the finding of a violation, a
 25 review by the board may be requested in accordance with the

1 Montana Administrative Procedure Act. If a review is not
2 requested pursuant to this section, payment of the fine does
3 not constitute an admission of the violation charged.

4 (c) If the licensee neither requests a review nor pays
5 the assessed fine within 20 days of notice of the citation,
6 the board shall suspend the license of such person 30 days
7 after the notice of citation.

8 (d) All fines collected pursuant to this section must
9 be deposited in the state special revenue fund for use of
10 the board."

11 NEW SECTION. Section 18. Repealer. Sections
12 37-60-305, AND 37-60-306, ~~and-37-60-406~~ MCA, are repealed.

13 NEW SECTION. Section 19. Effective date. This act is
14 effective on passage and approval.

-End-

1 HOUSE BILL NO. 68

2 INTRODUCED BY KITSELMAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW ON
5 SECURITY PATROLMEN AND INVESTIGATORS TO CLARIFY TERMS,
6 DEFINITIONS, AND VIOLATIONS; PROVIDING FOR THE APPLICATION
7 OF ADMINISTRATIVE FINES AND PENALTIES; AMENDING SECTIONS
8 37-60-101, 37-60-105, 37-60-202, 37-60-301, 37-60-303,
9 37-60-304, 37-60-307 THROUGH 37-60-310, 37-60-312,
10 37-60-321, 37-60-322, 37-60-405, THROUGH 37-60-407, AND
11 37-60-411, MCA; REPEALING SECTIONS 37-60-305, AND 37-60-306,
12 AND--37-60-406, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
13 DATE."

14
15 WHEREAS, it is the intent of this bill to provide for
16 effective enforcement of licensure laws by removing certain
17 exemptions, to clarify violations, and to provide the
18 licensing board with the means to impose penalties or cause
19 prosecution for violations of licensure laws.

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

23 "37-60-101. Definitions. As used in this chapter, the
24 following definitions apply:

25 (1) "Alarm response runner" means any individual

1 employed by a contract security company or a proprietary
2 security organization to respond to security alarm system
3 signals.

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

9 (3) "Armed private investigator" means a private
10 investigator who at any time wears, or, carries, possesses,
11 or-has-access-to, POSSESSES, OR HAS ACCESS TO a concealed
12 firearm in the performance of his duties.

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

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

1 (6) "Board" means the board of private security
2 patrolmen and investigators provided for in 2-15-1891.

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

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

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

15 (10) "Insurance adjuster" means a person employed by an
16 insurance company, other than a private investigator, who
17 for any consideration whatsoever conducts investigations in
18 the course of adjusting or otherwise participating in the
19 disposal of any claims in connection with a policy of
20 insurance but who does not perform surveillance activities
21 or investigate crimes or wrongs committed or threatened
22 against the United States or any state or territory thereof.

23 (11) "Licensee" means a person licensed under this
24 chapter.

25 (12) "Person" includes any individual, firm, company,

1 association, organization, partnership, and corporation.

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

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

7 (b) the identity, habits, conduct, business,
8 occupation, honesty, integrity, trustworthiness, efficiency,
9 loyalty, activity, movement, whereabouts, affiliations,
10 associations, transactions, reputation, or character of any
11 person;

12 (c) the location, disposition, or recovery of lost or
13 stolen property;

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

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

18 (14) "Private security guard" means an individual
19 employed or assigned duties to protect a person or property
20 or both a person and property from criminal acts and whose
21 duties or any portion of whose duties include but are not
22 limited to the prevention of unlawful entry, theft, criminal
23 mischief, arson, or trespass on private property, or the
24 direction of the movements of the public in public areas.

25 (15) "Proprietary security organization" means any

1 person who employs a private security guard, an alarm
 2 response runner, armored car service, street patrol service,
 3 or armed carrier service on a routine basis solely for the
 4 purposes of that person and exerts direction and control
 5 over the performance of the details of the service rendered.

6 (16) "Qualifying agent" means, in the case of a
 7 corporation, a corporate employee employed in a management
 8 capacity or, in the case of a partnership, a general or
 9 unlimited partner meeting the qualifications set forth in
 10 this chapter for the operation of a contract security
 11 company, proprietary security organization, or private
 12 investigator, whichever is applicable.

13 (17) "Resident agent" means the person appointed to
 14 exercise direct supervision, control, charge, management, or
 15 operation of each branch office located in this state where
 16 the business of the licensee is conducted.

17 ~~(17)~~(18) "Security alarm system" means an assembly of
 18 equipment and devices or a single device such as a solid
 19 state unit which plugs directly into a 110-volt AC line,
 20 designed to detect or signal or to both detect and signal
 21 unauthorized intrusion, movement, or criminal acts at a
 22 protected premises, to which signals police, private
 23 security guards, or alarm response runners are expected to
 24 respond. Fire alarm systems and alarm systems that monitor
 25 temperature, humidity, or any other atmospheric condition

1 not directly related to the detection of an unauthorized
 2 intrusion or criminal act at a premises are not included
 3 within the meaning of this definition.

4 ~~(18)~~(19) "Street patrol service" means any contract
 5 security company or proprietary security organization that
 6 uses foot patrols, motor vehicles, or any other means of
 7 transportation to maintain public order or detect criminal
 8 activities in public areas or thoroughfares.

9 ~~(19)~~(20) "Unarmed private investigator" means a private
 10 investigator who does not wear, carry, possess, or have
 11 access to a firearm in the performance of his duties.

12 ~~(20)~~(21) "Unarmed private security guard" means an
 13 individual employed by a contract security company or a
 14 proprietary security organization whose principal duty or
 15 any portion of whose duty is that of a private security
 16 guard, armored car service guard, or alarm response runner,
 17 who does not wear, or carry, possess, or have access to a
 18 firearm in the performance of those duties."

19 Section 2. Section 37-60-105, MCA, is amended to read:
 20 "37-60-105. Exemptions. This chapter does not apply
 21 to:

22 (1) any one person employed singly and exclusively by
 23 any one employer in connection with the affairs of such
 24 employer only and where there exists an employer-employee
 25 relationship and the employee is unarmed, does not wear a

1 uniform, and is guarding inside a structure which at the
2 time is not open to the public;

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

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

12 (4) an attorney at law in performing his duties as
13 such attorney at law, ~~a paralegal or legal assistant~~
14 ~~employed by an attorney at law, or a law student who is~~
15 ~~-serving a legal internship intern employed by a licensed~~
16 ~~attorney;~~

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

25 (6) special agents employed by railroad companies,

1 provided the railroad company notifies the board that such
2 agents are operating in the state;

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

6 (8) an insurance adjuster, as defined by
7 37-60-101(10); or

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

11 Section 3. Section 37-60-202, MCA, is amended to read:
12 "37-60-202. Rulemaking power. The board shall adopt
13 and enforce reasonable rules:

14 (1) specifying the form of and procedure to be used in
15 granting, denying, suspending, or revoking any license,
16 registration, or identification card;

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

22 (3) establishing, in accordance with 37-1-134,
23 application and examination fees for original or renewal
24 licenses, registrations, and identification cards, and
25 providing for refunding of any such fees;

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

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

9 (6) for the approval of weapons;

10 (7) requiring the maintenance of records;

11 ~~{8}--requiring-licensees--to--maintain--such--insurance~~
12 ~~coverage-as-the-board-considers-necessary;~~

13 {8} REQUIRING LICENSEES TO FILE SUCH INSURANCE POLICY
14 OR PROOF OF FINANCIAL RESPONSIBILITY AS THE BOARD CONSIDERS
15 NECESSARY WITH THE BOARD;

16 {9}{8}{9} defining "unprofessional conduct" for the
17 purposes of removal from the board and suspension or
18 revocation of licenses, ~~registrations,~~ and identification
19 cards;

20 {10}{9}{10} establishing the expiration and renewal
21 periods for licenses, ~~registrations,~~ and identification
22 cards;

23 {11}{10}{11} for the temporary employment of persons
24 without the required registration licenses or identification
25 cards;

1 ~~{12}{11}{12}~~ providing for the issuance of probationary
2 and temporary licenses for contract security companies and
3 private investigators; and

4 ~~{13}{12}{13}~~ providing for the issuance of probationary
5 registration--and identification cards for private
6 investigators who do not meet the requirements for age,
7 employment experience, and written examination; and

8 ~~{13}{14}~~ providing for the application of
9 administrative fines and penalties for minor infractions of
10 this chapter and supporting rules."

11 Section 4. Section 37-60-301, MCA, is amended to read:

12 "37-60-301. License required. {1} Except as provided
13 in 37-60-105, it is unlawful for any person to act as or
14 perform the duties as defined in 37-60-101 of a contract
15 security company or proprietary security organization or, a
16 private investigator within--this--state, or a private
17 security guard without having first obtained a license from
18 the board. Those persons licensed on April 18, 1983, shall
19 retain their current licensure status and must renew their
20 licenses on the renewal date as prescribed by the board.

21 {2} It is unlawful for any unlicensed person to act
22 as, pretend to be, or represent himself as being licensed as
23 a private investigator, a contract security company, a
24 proprietary security organization, or a private security
25 guard.

1 (3) A person who knowingly engages an unlicensed
 2 private investigator, private security guard, or contract
 3 security company is guilty of a misdemeanor punishable under
 4 37-60-411."

5 Section 5. Section 37-60-303, MCA, is amended to read:

6 "37-60-303. License qualifications. (1) ~~An applicant~~
 7 ~~for a license to act as a contract security company or a~~
 8 ~~proprietary security organization~~ Except as otherwise
 9 specified in this section, an applicant for licensure under
 10 this chapter shall submit evidence under oath that he:

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

12 (b) is a citizen of the United States;

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

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

20 (e) is not suffering from habitual drunkenness or from
 21 narcotics addiction or dependence;

22 (f) is of good moral character; and

23 (g) has complied with such other experience
 24 qualifications as may be set by the rules of the board.

25 (2) In addition to meeting the qualifications in

1 subsection (1), an applicant for licensure as a private
 2 security guard shall:

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

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

9 ~~(2)~~ (3) Every In addition to meeting the qualifications
 10 in subsection (1), each applicant for a license to act as a
 11 private investigator shall submit evidence under oath that
 12 he:

13 ~~(a) is a citizen of the United States;~~

14 ~~(b)~~ (a) is at least 21 years of age;

15 ~~(c)~~ (b) has at least a high school education or its
 16 equivalent;

17 ~~(d) has not been convicted of a felony or a crime~~
 18 ~~involving moral turpitude;~~

19 ~~(e)~~ (c) has not been dishonorably discharged from any
 20 branch of the United States military service;

21 ~~(f) is of good moral character; and~~

22 ~~(g)~~ (d) for a period of not less than 3 years:

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

25 (ii) has been lawfully employed as a private

1 investigator or been the holder of a certificate of
2 authority to conduct a private investigative business; or

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

6 (e) has completed the training requirements of a
7 private investigator training program certified by the board
8 and furnished, on a form prescribed by the board, written
9 notice of satisfactory completion of such training; and

10 (f) has fulfilled such other requirements as the board
11 may by rule prescribe.

12 ~~(3)~~(4) Up to one-half of the experience required by
13 ~~(2)~~(g) subsection (3)(d) may be met by a combination of
14 education and training as accepted by the board. All college
15 credits must be from an accredited college or university and
16 be verified by transcript.

17 (5) Applicants who will wear or carry firearms in
18 performance of their duties shall submit written notice of
19 satisfactory completion of a firearms training program
20 certified by or satisfactory to the board, as it may by rule
21 prescribe.

22 ~~(4)~~(6) A corporation applying for a license under this
23 section must be incorporated under the laws of this state or
24 be duly qualified to do business within this state.

25 ~~(5)~~(7) The board shall require an applicant to

1 demonstrate by written examination such additional
2 qualifications as the board may by rule require."

3 Section 6. Section 37-60-304, MCA, is amended to read:

4 "37-60-304, Licenses -- application form and content.

5 (1) Application for a license shall be made on a form
6 prescribed by the board and accompanied by the application
7 fee set by the board.

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

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

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

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

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

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

22 (f) a statement of his age and experience
23 qualifications;

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

1 and

2 (h) if the applicant is a person other than an
3 individual, the full name and residence address of each of
4 its partners, officers, and directors and its manager.

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

11 Section 7. Section 37-60-307, MCA, is amended to read:

12 "37-60-307. Action on application. (1) The board shall
13 grant the application for an original or renewal license, or
14 identification card, ~~or registration~~ unless it finds that
15 the applicant, branch office manager, or qualifying agent
16 has:

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

18 (b) practiced fraud, deceit, or misrepresentation in
19 the application process;

20 (c) knowingly made a material misstatement in the
21 application for a license;

22 (d) violated any of the provisions of this chapter or
23 the rules of the board; or

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

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

7 (3) Licenses, registration, or identification cards
8 shall be granted by name for those categories of persons
9 listed in 37-60-101(1), (2), (3), (4), (5), (8), (13), (14),
10 (15), ~~(16), (17)~~, (19), or (20), or (21), or any
11 combination of the foregoing."

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

13 "37-60-308. Temporary employment without registration
14 or identification card -- authority of board. The board may,
15 under such conditions as it shall prescribe by rule,
16 authorize the employment by any licensee of any person for
17 not more than ~~90~~ 30 days who, because of his failure to
18 register ~~or obtain a registration or an~~ identification card
19 in accordance with ~~37-60-305 or 37-60-306~~ 37-60-301 or
20 37-60-304, could otherwise not act as a private security
21 guard or private investigator."

22 Section 9. Section 37-60-309, MCA, is amended to read:

23 "37-60-309. Form of license, ~~or registration,~~ and
24 identification card. ~~(1)~~ The license, ~~or registration,~~ and
25 identification card shall be in such form as may be

1 determined by the board.

2 ~~{2}--A--license shall include the name of the licensee,~~
3 ~~the name under which the licensee is to operate, and the~~
4 ~~number and date of the license.~~

5 ~~{3}--A--registration or identification card shall~~
6 ~~include the name of the individual the card is issued to, a~~
7 ~~photograph of the individual, the name of the licensee~~
8 ~~employing the individual the card is issued to, a card~~
9 ~~number, and the date the card is issued."~~

10 Section 10. Section 37-60-310, MCA, is amended to
11 read:

12 "37-60-310. Display of license, registration and
13 identification card. (1) A license shall at all times be
14 posted in a conspicuous place in the principal place of
15 business of the licensee.

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

22 Section 11. Section 37-60-312, MCA, is amended to
23 read:

24 "37-60-312. Annual renewal. (1) Licenses,
25 registrations, and identification cards issued under this

1' chapter expire at 12 midnight on the dates prescribed by the
2 board if not, in each instance, renewed. To renew an
3 unexpired license, the licensee shall, on or before the date
4 on which it would otherwise expire, apply for renewal on a
5 form prescribed by the board and pay the renewal fee
6 prescribed by this chapter.

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

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

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

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

24 (2) violated any provisions of this chapter;

25 (3) violated any rule of the board adopted pursuant to

1 the authority contained in this chapter;

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

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

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

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

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

22 (9) resorted to fraud, misrepresentation, or
23 deception, in the course of business, which was not required
24 to perform a client service; or

25 (10) been guilty of unprofessional conduct as defined

1 by the rules of the board."

2 Section 13. Section 37-60-322, MCA, is amended to
3 read:

4 "37-60-322. Surrender of licenses ~~registration~~ and
5 identification cards. (1) Whenever a license is suspended or
6 revoked, the licensee shall within 24 hours after receiving
7 notification of the suspension or revocation by the board
8 surrender the license by mailing it or delivering it
9 personally to the board.

10 (2) Whenever any person to whom ~~a registration~~ or an
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~~ by
15 mail or personally deliver the card to the board."

16 Section 14. Section 37-60-405, MCA, is amended to
17 read:

18 "37-60-405. Approval of weapons. The weapons to be
19 carried by registrants armed licensees or identification
20 card holders must be approved by the board."

21 SECTION 15. SECTION 37-60-406, MCA, IS AMENDED TO
22 READ:

23 "37-60-406. Peace officer's casual employment. A peace
24 officer, as defined in 46-1-201, or a reserve officer, as
25 defined in 7-32-201, is not prohibited or restricted from

1 accepting and engaging in employment as a security guard
 2 during his off-duty hours, provided that he does not
 3 advertise his services or solicit employment and further
 4 provided that the chief of his department previously
 5 approves the off-duty employment. A peace officer or reserve
 6 officer so engaged in casual employment is exempt from the
 7 provisions of this chapter only if the casual employment is
 8 authorized in writing by his sheriff or chief of police."

9 Section 16. Section 37-60-407, MCA, is amended to
 10 read:

11 "37-60-407. Regulation of uniforms, badges, and
 12 equipment. (1) No licensee or officer, director, partner,
 13 manager, or employee of a licensee may wear, ~~carry,~~ CARRY,
 14 or display a metal badge in connection with the activities
 15 of the licensee's business. ~~However, a person employed by a~~
 16 ~~licensee who holds a commission as a peace officer, as~~
 17 ~~defined in 46-1-201, is exempt from this provision.~~

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

22 Section 17. Section 37-60-411, MCA, is amended to
 23 read:

24 "37-60-411. Penalty Penalties -- investigation --
 25 enforcement -- review. (1) Any person who violates any of

1 the provisions of this chapter or who conspires with another
 2 person to violate any of the provisions of this chapter
 3 relating to licensure is guilty of a misdemeanor punishable
 4 by a fine of not more than \$1,000 or by imprisonment of not
 5 more than 1 year or by both such fine and imprisonment.

6 (2) The board shall:

7 (a) gather evidence of violations of this chapter, and
 8 of any rule established pursuant to this chapter, by persons
 9 engaged in a business subject to licensure under this
 10 chapter who fail to obtain licenses; and

11 (b) furnish that evidence to prosecuting officers of
 12 any county or city.

13 (3) The prosecuting officer of any county or city
 14 shall prosecute all violations of this chapter occurring
 15 within his jurisdiction.

16 (4) (a) If upon investigation the board considers it
 17 appropriate, it may issue a citation to a licensee. The
 18 citation may contain:

19 (i) an order of abatement fixing a reasonable time for
 20 abatement of the violation; and

21 (ii) assessment of an administrative fine in an amount
 22 not to exceed \$500 for each violation of this chapter.

23 (b) A citation or fine assessment must inform the
 24 licensee that if he contests the finding of a violation, a
 25 review by the board may be requested in accordance with the

1 Montana Administrative Procedure Act. If a review is not
2 requested pursuant to this section, payment of the fine does
3 not constitute an admission of the violation charged.

4 (c) If the licensee neither requests a review nor pays
5 the assessed fine within 20 days of notice of the citation,
6 the board shall suspend the license of such person 30 days
7 after the notice of citation.

8 (d) All fines collected pursuant to this section must
9 be deposited in the state special revenue fund for use of
10 the board."

11 NEW SECTION. Section 18. Repealer. Sections
12 37-60-305, AND 37-60-306, and-37-60-406, MCA, are repealed.

13 NEW SECTION. Section 19. Effective date. This act is
14 effective on passage and approval.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 68

3 Senate Business and Industry Committee

4

5 A statement of intent is required for this bill because
6 in section 3 it expands the authority of the board of
7 private security patrolmen and investigators to provide for
8 the application of administrative fines and penalties for
9 minor infractions of Title 37, chapter 60, and the
10 supporting rules.

11 It is the intent of the legislature that the board
12 adopt rules that conform with chapter 60 and other
13 applicable statutes. Administrative fines and penalties for
14 minor infractions of the chapter or of the board's rules
15 must be commensurate with the gravity of the infraction, and
16 the board may not suspend or revoke a license granted under
17 this chapter except upon indisputable evidence of violation
18 of this chapter, other applicable statutes, or the board's
19 rules.

REFERENCE BILL
HB-68



1 HOUSE BILL NO. 68

2 INTRODUCED BY KITSELMAN

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW ON
 5 SECURITY PATROLMEN AND INVESTIGATORS TO CLARIFY TERMS,
 6 DEFINITIONS, AND VIOLATIONS; PROVIDING FOR THE APPLICATION
 7 OF ADMINISTRATIVE FINES AND PENALTIES; AMENDING SECTIONS
 8 37-60-101, 37-60-105, 37-60-202, 37-60-301, 37-60-303,
 9 37-60-304, 37-60-307 THROUGH 37-60-310, 37-60-312,
 10 37-60-321, 37-60-322, 37-60-405, THROUGH 37-60-407, AND
 11 37-60-411, MCA; REPEALING SECTIONS 37-60-305, AND 37-60-306,
 12 ~~AND--37-60-406~~, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
 13 DATE."
 14

15 WHEREAS, it is the intent of this bill to provide for
 16 effective enforcement of licensure laws by removing certain
 17 exemptions, to clarify violations, and to provide the
 18 licensing board with the means to impose penalties or cause
 19 prosecution for violations of licensure laws.
 20

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

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

23 "37-60-101. Definitions. As used in this chapter, the
 24 following definitions apply:

25 (1) "Alarm response runner" means any individual

1 employed by a contract security company or a proprietary
 2 security organization to respond to security alarm system
 3 signals.

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

9 (3) "Armed private investigator" means a private
 10 investigator who at any time wears, or, carries, ~~possesses,~~
 11 ~~or-has-access-to~~, POSSESSES, OR HAS ACCESS TO a concealed
 12 firearm in the performance of his duties.

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

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

1 (6) "Board" means the board of private security
2 patrolmen and investigators provided for in 2-15-1891.

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

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

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

15 (10) "Insurance adjuster" means a person employed by an
16 insurance company, other than a private investigator, who
17 for any consideration whatsoever conducts investigations in
18 the course of adjusting or otherwise participating in the
19 disposal of any claims in connection with a policy of
20 insurance but who does not perform surveillance activities
21 or investigate crimes or wrongs committed or threatened
22 against the United States or any state or territory thereof.

23 (11) "Licensee" means a person licensed under this
24 chapter.

25 (12) "Person" includes any individual, firm, company,

1 association, organization, partnership, and corporation.

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

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

7 (b) the identity, habits, conduct, business,
8 occupation, honesty, integrity, trustworthiness, efficiency,
9 loyalty, activity, movement, whereabouts, affiliations,
10 associations, transactions, reputation, or character of any
11 person;

12 (c) the location, disposition, or recovery of lost or
13 stolen property;

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

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

18 (14) "Private security guard" means an individual
19 employed or assigned duties to protect a person or property
20 or both a person and property from criminal acts and whose
21 duties or any portion of whose duties include but are not
22 limited to the prevention of unlawful entry, theft, criminal
23 mischief, arson, or trespass on private property, or the
24 direction of the movements of the public in public areas.

25 (15) "Proprietary security organization" means any

1 person who employs a private security guard, an alarm
2 response runner, armored car service, street patrol service,
3 or armed carrier service on a routine basis solely for the
4 purposes of that person and exerts direction and control
5 over the performance of the details of the service rendered.

6 (16) "Qualifying agent" means, in the case of a
7 corporation, a corporate employee employed in a management
8 capacity or, in the case of a partnership, a general or
9 unlimited partner meeting the qualifications set forth in
10 this chapter for the operation of a contract security
11 company, proprietary security organization, or private
12 investigator, whichever is applicable.

13 (17) "Resident agent" means the person appointed to
14 exercise direct supervision, control, charge, management, or
15 operation of each branch office located in this state where
16 the business of the licensee is conducted.

17 (17)(18) "Security alarm system" means an assembly of
18 equipment and devices or a single device such as a solid
19 state unit which plugs directly into a 110-volt AC line,
20 designed to detect or signal or to both detect and signal
21 unauthorized intrusion, movement, or criminal acts at a
22 protected premises, to which signals police, private
23 security guards, or alarm response runners are expected to
24 respond. Fire alarm systems and alarm systems that monitor
25 temperature, humidity, or any other atmospheric condition

1 not directly related to the detection of an unauthorized
2 intrusion or criminal act at a premises are not included
3 within the meaning of this definition.

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

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

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

19 Section 2. Section 37-60-105, MCA, is amended to read:
20 "37-60-105. Exemptions. This chapter does not apply
21 to:

22 (1) (A) any one person employed singly and exclusively
23 by any one employer in connection with the affairs of such
24 employer only and where there exists an employer-employee
25 relationship and the employee is unarmed, does not wear a

1 uniform, and is guarding inside a structure which at the
 2 time is not open to the public;

3 (B) A PERSON:

4 (I) EMPLOYED SINGLY AND EXCLUSIVELY BY A RETAIL
 5 MERCHANT;

6 (II) PERFORMING AT LEAST SOME OF HIS WORK FOR THE
 7 RETAIL MERCHANT AS A PRIVATE SECURITY GUARD; AND

8 (III) WHO HAS RECEIVED TRAINING AS A PRIVATE SECURITY
 9 GUARD FROM THE EMPLOYER OR AT THE EMPLOYER'S DIRECTION;

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

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

19 (4) an attorney at law in performing his duties as
 20 such attorney at law, ~~or a paralegal or legal assistant~~
 21 ~~employed by an attorney at law,~~ or a law student who is
 22 servng a legal internship intern employed by a licensed
 23 attorney;

24 (5) a collection agency or finance company licensed to
 25 do business under the laws of this state, or an employee

1 thereof while acting within the scope of his employment,
 2 while making an investigation incidental to the business of
 3 the agency or company, including an investigation of the
 4 location of a debtor or his property where the contract with
 5 an assignor creditor is for the collection of claims owed or
 6 due or asserted to be owed or due or the equivalent thereof;

7 (6) special agents employed by railroad companies,
 8 provided the railroad company notifies the board that such
 9 agents are operating in the state;

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

13 (8) an insurance adjuster, as defined by
 14 37-60-101(10); or

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

18 Section 3. Section 37-60-202, MCA, is amended to read:
 19 "37-60-202. Rulemaking power. The board shall adopt
 20 and enforce reasonable rules:

21 (1) specifying the form of and procedure to be used in
 22 granting, denying, suspending, or revoking any license,
 23 registration, or identification 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;

4 (3) establishing, in accordance with 37-1-134,
 5 application and examination fees for original or renewal
 6 licenses,--registrations, and identification cards, and
 7 providing for refunding of any such fees;

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

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

16 (6) for the approval of weapons;

17 (7) requiring the maintenance of records;

18 ~~{8}--requiring-licensees--to--maintain--such--insurance~~
 19 ~~coverage-as-the-board-considers-necessary;~~

20 {8} REQUIRING LICENSEES TO FILE SUCH INSURANCE POLICY
 21 OR PROOF OF FINANCIAL RESPONSIBILITY AS THE BOARD CONSIDERS
 22 NECESSARY WITH THE BOARD;

23 {9}{8}{9} defining "unprofessional conduct" for the
 24 purposes of removal from the board and suspension or
 25 revocation of licenses,--registrations, and identification

1 cards;

2 ~~{10}{9}{10}~~ establishing the expiration and renewal
 3 periods for licenses,--registrations, and identification
 4 cards;

5 ~~{11}{10}{11}~~ for the temporary employment of persons
 6 without the required registration licenses or identification
 7 cards;

8 ~~{12}{11}{12}~~ providing for the issuance of probationary
 9 and temporary licenses for contract security companies and
 10 private investigators; and

11 ~~{13}{12}{13}~~ providing for the issuance of probationary
 12 ~~registration---~~and identification cards for private
 13 investigators who do not meet the requirements for age,
 14 employment experience, and written examination; and

15 ~~{13}{14}~~ providing for the application of
 16 administrative fines and penalties for minor infractions of
 17 this chapter and supporting rules."

18 Section 4. Section 37-60-301, MCA, is amended to read:

19 "37-60-301. License required. (1) Except as provided
 20 in 37-60-105, it is unlawful for any person to act as or
 21 perform the duties as defined in 37-60-101 of a contract
 22 security company or proprietary security organization or, a
 23 private investigator within--this--state, or a private
 24 security guard without having first obtained a license from
 25 the board. Those persons licensed on April 18, 1983, shall

1 retain their current licensure status and must renew their
 2 licenses on the renewal date as prescribed by the board.

3 (2) It is unlawful for any unlicensed person to act
 4 as, pretend to be, or represent himself as being licensed as
 5 a private investigator, a contract security company, a
 6 proprietary security organization, or a private security
 7 guard.

8 (3) A person who knowingly engages an unlicensed
 9 private investigator, private security guard, or contract
 10 security company is guilty of a misdemeanor punishable under
 11 37-60-411."

12 Section 5. Section 37-60-303, MCA, is amended to read:

13 "37-60-303. License qualifications. (1) ~~An applicant~~
 14 ~~for a license to act as a contract security company or a~~
 15 ~~proprietary security organization~~ Except as otherwise
 16 specified in this section, an applicant for licensure under
 17 this chapter shall submit evidence under oath that he:

- 18 (a) is at least 18 years of age;
- 19 (b) is a citizen of the United States;
- 20 (c) has not been convicted in any jurisdiction of any
 21 felony or any crime involving moral turpitude or illegal use
 22 or possession of a dangerous weapon, for which a full pardon
 23 or similar relief has not been granted;
- 24 (d) has not been judicially declared incompetent by
 25 reason of any mental defect or disease or, if so declared,

1 has been fully restored;

2 (e) is not suffering from habitual drunkenness or from
 3 narcotics addiction or dependence;

4 (f) is of good moral character; and

5 (g) has complied with such other experience
 6 qualifications as may be set by the rules of the board.

7 (2) In addition to meeting the qualifications in
 8 subsection (1), an applicant for licensure as a private
 9 security guard shall:

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

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

16 ~~(2)(3)~~ Every In addition to meeting the qualifications
 17 in subsection (1), each applicant for a license to act as a
 18 private investigator shall submit evidence under oath that
 19 he:

- 20 ~~(a) is a citizen of the United States;~~
- 21 ~~(b)~~ (a) is at least 21 years of age;
- 22 ~~(c)~~ (b) has at least a high school education or its
 23 equivalent;
- 24 ~~(d) has not been convicted of a felony or a crime~~
 25 ~~involving moral turpitude;~~

1 ~~f~~e(c) has not been dishonorably discharged from any
2 branch of the United States military service;

3 ~~f~~f--is-of-good-moral-character;-and

4 ~~f~~g(d) for a period of not less than 3 years:

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

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

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

13 (e) has completed the training requirements of a
14 private investigator training program certified by the board
15 and furnished, on a form prescribed by the board, written
16 notice of satisfactory completion of such training; and

17 (f) has fulfilled such other requirements as the board
18 may by rule prescribe.

19 ~~f~~3(4) Up to one-half of the experience required by
20 ~~f~~2~~f~~g subsection (3)(d) may be met by a combination of
21 education and training as accepted by the board. All college
22 credits must be from an accredited college or university and
23 be verified by transcript.

24 (5) Applicants who will wear or carry firearms in
25 performance of their duties shall submit written notice of

1 satisfactory completion of a firearms training program
2 certified by or satisfactory to the board, as it may by rule
3 prescribe.

4 ~~f~~4(6) A corporation applying for a license under this
5 section must be incorporated under the laws of this state or
6 be duly qualified to do business within this state.

7 ~~f~~5(7) The board shall require an applicant to
8 demonstrate by written examination such additional
9 qualifications as the board may by rule require."

10 Section 6. Section 37-60-304, MCA, is amended to read:

11 "37-60-304. Licenses -- application form and content.

12 (1) Application for a license shall be made on a form
13 prescribed by the board and accompanied by the application
14 fee set by the board.

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

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

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

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

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

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

4 (f) a statement of his age and experience
5 qualifications;

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

9 (h) 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 (3) The board shall verify the statements in the
13 application and the applicant's moral character. The board
14 shall send written notification to the chief of police, the
15 sheriff, and the county attorney in whose jurisdiction the
16 principal office of the applicant is to be located that an
17 application has been submitted."

18 Section 7. Section 37-60-307, MCA, is amended to read:

19 "37-60-307. Action on application. (1) The board shall
20 grant the application for an original or renewal license, or
21 identification card, ~~or registration~~ unless it finds that
22 the applicant, branch office manager, or qualifying agent
23 has:

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

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

1 the application process;

2 (c) knowingly made a material misstatement in the
3 application for a license;

4 (d) violated any of the provisions of this chapter or
5 the rules of the board; or

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

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

14 (3) Licenses, ~~registration~~, or identification cards
15 shall be granted by name for those categories of persons
16 listed in 37-60-101(1), (2), (3), (4), (5), (8), (13), (14),
17 (15), ~~(16), (17)~~, (19), or (20), or (21), or any
18 combination of the foregoing."

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

20 "37-60-308. Temporary employment without ~~registration~~
21 or identification card -- authority of board. The board may,
22 under such conditions as it shall prescribe by rule,
23 authorize the employment by any licensee of any person for
24 not more than ~~90~~ 30 days who, because of his failure to
25 register ~~or obtain a registration or an~~ identification card

1 in accordance with ~~37-60-305~~ ~~or~~ ~~37-60-306~~ 37-60-301 or
 2 37-60-304, could otherwise not act as a private security
 3 guard or private investigator."

4 Section 9. Section 37-60-309, MCA, is amended to read:
 5 "37-60-309. Form of license, ~~registration~~, and
 6 identification card. ~~{1}~~ The license, ~~registration~~, and
 7 identification card shall be in such form as may be
 8 determined by the board.

9 ~~{2}--A--license--shall--include--the--name--of--the--licensee,
 10 the--name--under--which--the--licensee--is--to--operate,
 11 and--the--number--and--date--of--the--license.~~

12 ~~{3}--A--registration--or--identification--card--shall
 13 include--the--name--of--the--individual--the--card--is--issued--to,
 14 a--photograph--of--the--individual,
 15 the--name--of--the--licensee
 16 employing--the--individual--the--card--is--issued--to,
 17 and--the--date--the--card--is--issued."~~

17 Section 10. Section 37-60-310, MCA, is amended to
 18 read:

19 "37-60-310. Display of license, ~~registration~~, and
 20 identification card. (1) A license shall at all times be
 21 posted in a conspicuous place in the principal place of
 22 business of the licensee.

23 (2) Any ~~registrant~~ or holder of an identification card
 24 must carry the card on his person while performing his
 25 duties ~~and while going to and from work~~. Any peace officer

1 of this state or any of its political subdivisions may
 2 request to see the card at any reasonable time, and the card
 3 must be shown."

4 Section 11. Section 37-60-312, MCA, is amended to
 5 read:

6 "37-60-312. Annual renewal. (1) Licenses,
 7 ~~registrations~~, and identification cards issued under this
 8 chapter expire at 12 midnight on the dates prescribed by the
 9 board if not, in each instance, renewed. To renew an
 10 unexpired license, the licensee shall, on or before the date
 11 on which it would otherwise expire, apply for renewal on a
 12 form prescribed by the board and pay the renewal fee
 13 prescribed by this chapter.

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

19 Section 12. Section 37-60-321, MCA, is amended to
 20 read:

21 "37-60-321. Suspension or revocation. The board may
 22 suspend or revoke a license, ~~registration~~, or identification
 23 card issued under this chapter if it determines that the
 24 licensee or its manager or qualifying agent or any of its
 25 officers, directors, or partners or any ~~registrant~~ or holder

1 of an identification card has:

2 (1) made any false statement or given any false
3 information in connection with an application for a grant,
4 renewal, or reinstatement of a license~~7--registration7~~, or
5 identification card;

6 (2) violated any provisions of this chapter;

7 (3) violated any rule of the board adopted pursuant to
8 the authority contained in this chapter;

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

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

17 (6) committed or permitted any employee to commit any
18 act, while the license~~7--registration7~~, or identification card
19 was expired, which would be cause for suspension,
20 revocation, or denial of an application;

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

25 (8) knowingly violated or advised, encouraged, or

1 assisted the violation of any court order or injunction in
2 the course of business as a licensee~~7--registrant7~~ or holder
3 of an identification card;

4 (9) resorted to fraud, misrepresentation, or
5 deception, in the course of business, which was not required
6 to perform a client service; or

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

9 Section 13. Section 37-60-322, MCA, is amended to
10 read:

11 "37-60-322. Surrender of licenses~~7--registration7~~ and
12 identification cards. (1) Whenever a license is suspended or
13 revoked, the licensee shall within 24 hours after receiving
14 notification of the suspension or revocation by the board
15 surrender the license by mailing it or delivering it
16 personally to the board.

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

23 Section 14. Section 37-60-405, MCA, is amended to
24 read:

25 "37-60-405. Approval of weapons. The weapons to be

1 carried by registrants armed licensees or identification
 2 card holders must be approved by the board."

3 SECTION 15. SECTION 37-60-406, MCA, IS AMENDED TO
 4 READ:

5 "37-60-406. Peace officer's casual employment. A peace
 6 officer, as defined in 46-1-201, or a reserve officer, as
 7 defined in 7-32-201, is not prohibited or restricted from
 8 accepting and engaging in employment as a security guard
 9 during his off-duty hours, provided that he does not
 10 advertise his services or solicit employment and further
 11 provided that the chief of his department previously
 12 approves the off-duty employment. A peace officer or reserve
 13 officer so engaged in casual employment is exempt from the
 14 provisions of this chapter only if the casual employment is
 15 authorized in writing by his sheriff or chief of police."

16 Section 16. Section 37-60-407, MCA, is amended to
 17 read:

18 "37-60-407. Regulation of uniforms, badges, and
 19 equipment. (1) No licensee or officer, director, partner,
 20 manager, or employee of a licensee may wear, ~~carry,~~ CARRY,
 21 or display a metal badge in connection with the activities
 22 of the licensee's business. ~~However, a person employed by a~~
 23 ~~licensee who holds a commission as a peace officer, as~~
 24 ~~defined in 46-1-201, is exempt from this provision:~~

25 (2) The board is authorized to establish rules

1 regulating uniforms and any emblems, patches, insignias, and
 2 devices that may be either worn or displayed on uniforms,
 3 vehicles, or equipment."

4 Section 17. Section 37-60-411, MCA, is amended to
 5 read:

6 "~~37-60-411. Penalty Penalties -- investigation --~~
 7 ~~enforcement -- review. (1) Any person who violates any of~~
 8 ~~the provisions of this chapter or who conspires with another~~
 9 ~~person to violate any of the provisions of this chapter~~
 10 ~~relating to licensure is guilty of a misdemeanor punishable~~
 11 ~~by a fine of not more than \$1,000 or by imprisonment of not~~
 12 ~~more than 1 year or by both such fine and imprisonment.~~

13 (2) The board shall:

14 (a) gather evidence of violations of this chapter, and
 15 of any rule established pursuant to this chapter, by persons
 16 engaged in a business subject to licensure under this
 17 chapter who fail to obtain licenses; and

18 (b) furnish that evidence to prosecuting officers of
 19 any county or city.

20 (3) The prosecuting officer of any county or city
 21 shall prosecute all violations of this chapter occurring
 22 within his jurisdiction.

23 (4) (a) If upon investigation the board considers it
 24 appropriate, it may issue a citation to a licensee. The
 25 citation may contain:

1 (i) an order of abatement fixing a reasonable time for
2 abatement of the violation; and

3 (ii) assessment of an administrative fine in an amount
4 not to exceed \$500 for each violation of this chapter.

5 (b) A citation or fine assessment must inform the
6 licensee that if he contests the finding of a violation, a
7 review by the board may be requested in accordance with the
8 Montana Administrative Procedure Act. If a review is not
9 requested pursuant to this section, payment of the fine does
10 not constitute an admission of the violation charged.

11 (c) If the licensee neither requests a review nor pays
12 the assessed fine within 20 days of notice of the citation,
13 the board shall suspend the license of such person 30 days
14 after the notice of citation.

15 (d) All fines collected pursuant to this section must
16 be deposited in the state special revenue fund for use of
17 the board."

18 NEW SECTION. Section 18. Repealer. Sections
19 37-60-305, AND 37-60-306, and ~~37-60-406~~, MCA, are repealed.

20 NEW SECTION. Section 19. Effective date. This act is
21 effective on passage and approval.

-End-

STANDING COMMITTEE REPORT

SENATE

FEBRUARY 10, 1987

February 10, 1987

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 68

THIRD reading copy (BLUE color)

KITSELMAN (MEYER)

REVISING SECURITY PATROLMEN AND INVESTIGATORS LAW

Respectfully report as follows: That HOUSE BILL No. 68

be amended as follows:

- 1. Page 6, line 22. Following: "(1)" Insert: "(a)"
2. Page 7, following line 2. Insert: "(b) a person: (i) employed singly and exclusively by a retail merchant; (ii) performing at least some of his work for the retail merchant as a private security guard; and (iii) who has received training as a private security guard from the employer or at the employer's direction;"
3. Page 16, line 7. Strike: ", registration,"

And as amended, BE CONCURRED IN

STATEMENT OF INTENT ADOPTED AND ATTACHED

XXXXXXXX

Signature of Allen C. Kolstad, Chairman

MR. PRESIDENT:

WE, YOUR COMMITTEE ON BUSINESS & INDUSTRY HAVING HAD UNDER CONSIDERATION HOUSE BILL NO. 68, ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT

HB Bill No. 68

A statement of intent is required for this bill because in section 3 it expands the authority of the board of private security patrolmen and investigators to provide for the application of administrative fines and penalties for minor infractions of Title 37, chapter 60, and the supporting rules.

It is the intent of the legislature that the board adopt rules that conform with chapter 60 and other applicable statutes. Administrative fines and penalties for minor infractions of the chapter or of the board's rules must be commensurate with the gravity of the infraction, and the board may not suspend or revoke a license granted under this chapter except upon indisputable evidence of violation of this chapter, other applicable statutes, or the board's rules.

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