

## CHAPTER 35. PRIVATE SECURITY

### SUBCHAPTER A. GENERAL PROVISIONS

#### 37 TAC §§35.1 - 35.7

##### *§35.1. Definitions.*

The terms in this section have the following meanings when used in this chapter unless the context clearly indicates otherwise:

(1) Act--Texas Occupations Code, Chapter 1702.

(2) Application--Includes an application for an original, renewal, duplicate or updated individual license, security officer ~~[registration, endorsement,]~~ commission, or company license issued under the Act.

(3) Company representative - An individual on the basis of whose qualifications a company license has been obtained.

~~[(3) Board--The Texas Private Security Board.]~~

(4) Department--The Texas Department of Public Safety.

(5) Licensee--An individual or [A] company currently licensed under the Act. The term includes those holding a commission as a security officer.

(6) Mechanical security device--Any device designed to control the opening or closing of a room, building, safe, vault, lockbox, safety deposit box, or motor vehicle, and which is not an electric access control device or alarm system as defined by the Act.

~~[(7) Registrant--An individual who holds a registration, endorsement, or commission under the Act.]~~

(7) ~~[(8)]~~ SOAH--The State Office of Administrative Hearings.

(8) ~~[(9)]~~ Television camera or still camera system--Any device or system of devices that produces a visual image or series of images either recorded, transmitted through an intranet or internet protocol based device, or monitored by security personnel, for the purposes of private security or surveillance. The phrase does not refer to a television camera or still camera system used exclusively:

- (A) To monitor traffic conditions on public roads;
- (B) To detect motor vehicle violations on public roads;
- (C) For telephone or video conferencing;
- (D) To monitor a manufacturing process;
- (E) For medical purposes by medical practitioners;
- (F) By a courtroom reporter or videographer to record depositions or testimony; or
- (G) By a licensed private investigator who installs, operates, and maintains ownership of the system for the purposes of an ongoing investigation.

*§35.2. Employment Requirements.*

- (a) Individuals licensed by [~~Those registered with~~] the department to perform a regulated service may only perform such services for companies licensed under the Act [~~for the employer with whom they are registered~~]. A person may not contract directly with a client to perform a regulated service unless licensed by the department as a company under [~~Subchapter F of~~] the Act.
- (b) The employment relationship between a licensed company and its individually licensed [~~registered~~] or commissioned employees must be such that the licensee's commercial liability insurance policy provides the statutorily required coverage for claims arising from the regulated services provided on behalf of the licensee by its [~~registered or commissioned~~] employees. The failure to maintain and provide current documentation of such coverage is a violation of the Act.

*§35.3. Individual License [~~Registration~~] Applicant Pre-Employment Check.*

- (a) Pursuant to §1702.230 of the Act, the pre-employment background check of the applicant described in subsection (c) of this section must be conducted when:
  - (1) An application meeting the requirements of §35.21 of this title (relating to Individual License [~~Registration~~] Applications) is [~~has been~~] submitted;
  - (2) The department's website does not indicate the application is complete within 48 hours after the submission of the applicant's fingerprints; and
  - (3) Regulated services are to be performed by the applicant prior to issuance of the license [~~registration~~].

(b) The ability to perform a noncommissioned [~~non-commissioned~~] regulated service prior to licensure is conditional on either:

(1) Department notification that a complete application has been received and:

(A) Performance of the pre-employment background check required under subsection (c) of this section;

(B) The determination that the applicant is not disqualified based on the background check; and

(C) The employer's retention of the search results in the employee's file, as required by subsection (e) of this section; or

(2) The absence of notification by the department that a complete application has been received, the passage of 48 hours since submission of the application materials required by §35.21 of this title, and:

(A) Performance of the pre-employment background check required under subsection (d) of this section;

(B) The determination that the applicant is not disqualified based on the background check; and

(C) The employer's retention of the search results in the employee's file, as required by subsection (e) of this section.

(c) For purposes of subsection (b)(1) of this section, the pre-employment background check must at a minimum include the review of either the department's publicly accessible criminal history website or a commercial criminal history website, review of the department's sex offender registry website, and confirmation the applicant is not disqualified for the license [~~registration or endorsement~~] based on either the applicant's criminal history or the requirement to register as a sex offender under Chapter 62, Code of Criminal Procedure. Nothing in this subsection precludes an employer from using a more stringent method of determining an applicant's eligibility.

(d) For purposes of subsection (b)(2) of this section, the pre-employment background check must at a minimum include the review of the department's publicly accessible criminal history and sex offender registry website(s), and confirmation the applicant is not disqualified for the license [~~registration or endorsement~~] based on either the applicant's criminal history or the requirement to register as a sex offender under

Chapter 62, Code of Criminal Procedure. Nothing in this subsection precludes an employer from using a more stringent method of determining an applicant's eligibility.

(e) The employer must maintain written documentation of the pre-employment check for at least two (2) years, regardless of the subsequent employment status of the applicant. The absence of such documentation constitutes a rebuttable presumption that the background check was not conducted.

*§35.4.Guidelines for Disqualifying Criminal Offenses.*

(a) The private security profession [~~industry~~] is in a position of trust; it provides services to members of the public that involve access to confidential information, to private property, and to the more vulnerable and defenseless persons within our society. By virtue of their licenses, security professionals are provided with greater opportunities to engage in fraud, theft, or related property crimes. In addition, licensure provides those predisposed to commit assaultive or sexual crimes with greater opportunities to engage in such conduct and to escape detection or prosecution.

(b) Therefore, the commission [~~board has~~] determined that offenses detailed in subsection (c) of this section [~~of the following types~~] directly relate to the duties and responsibilities of those who are licensed under the Act. Such offenses include crimes under the laws of another state or the United States, if the offense contains elements that are substantially similar to the elements of an offense under the laws of this state. Such offenses also include those "aggravated" or otherwise enhanced versions of the listed offenses.

(c) The list of offenses in this subsection is intended to provide guidance only and is not exhaustive of either the offenses that may relate to a particular regulated occupation or of those that are independently disqualifying under Texas Occupations Code, §53.021(a)(2) - (4). With the exception of those offenses listed in paragraphs (6)(A) - (6)(F) of this subsection, the [~~The listed~~] offenses listed in paragraphs (1) - (5) and (7) - (14) of this subsection are general categories that include all specific offenses within the corresponding chapter of the Texas Penal Code. In addition, after due consideration of the circumstances of the criminal act and its relationship to the position of trust involved in the particular licensed occupation, the commission [~~board~~] may find that an offense not described below also renders a person unfit to hold a license. In particular, an offense that is committed in one's capacity as a licensee [~~registrant~~] under the Act, or an offense that is facilitated by one's license [~~registration, endorsement, or commission~~] under the Act, will be considered related to the licensed occupation and may render the person unfit to hold the license.

- (1) Arson, damage to property--Any offense under the Texas Penal Code, Chapter 28.
- (2) Assault--Any offense under the Texas Penal Code, Chapter 22.
- (3) Bribery--Any offense under the Texas Penal Code, Chapter 36.
- (4) Burglary and criminal trespass--Any offense under the Texas Penal Code, Chapter 30.
- (5) Criminal homicide--Any offense under the Texas Penal Code, Chapter 19.
- (6) Disorderly conduct--Any of the offenses detailed in paragraphs (6)(A) - (6)(F), but only if committed by an applicant for, or holder of, a license as a security officer, personal protection officer, or private investigator: [offense under the Texas Penal Code, Chapter 42.]
  - (A) 42.01 (a)(7) and 42.01(a)(8) only - discharge of firearm in public place, and display of firearm or other deadly weapon in public place calculated to alarm.
  - (B) 42.06, False Alarm or Report.
  - (C) 42.062, Interference with Emergency Request for Assistance.
  - (D) 42.07, Harassment.
  - (E) 42.072, Stalking.
  - (F) 42.12, Discharge of Firearm in Certain Municipalities.
- (7) Fraud--Any offense under the Texas Penal Code, Chapter 32.
- (8) Kidnapping--Any offense under the Texas Penal Code, Chapter 20.
- (9) Obstructing governmental operation--Any offense under the Texas Penal Code, Chapter 38.
- (10) Perjury--Any offense under the Texas Penal Code, Chapter 37.
- (11) Robbery--Any offense under the Texas Penal Code, Chapter 29.
- (12) Sexual offenses--Any offense under the Texas Penal Code, Chapter 21.
- (13) Theft--Any offense under the Texas Penal Code, Chapter 31.

(14) In addition:

(A) An attempt to commit a crime listed in this subsection;

(B) Aiding and abetting in the commission of a crime listed in this subsection; and

(C) Being an accessory (before or after the fact) to a crime listed in this subsection.

(d) A felony conviction for an offense listed in subsection (c) of this section is disqualifying for ten (10) years from the date of conviction [~~the completion of the sentence, unless subject to this subsection~~].

(e) A Class A misdemeanor conviction for an offense listed in subsection (c) of this section is disqualifying for five (5) years from the date of conviction [~~completion of the sentence~~].

~~[(f) Conviction for a felony or Class A offense that does not relate to the occupation for which license is sought is disqualifying for five (5) years from the date of commission, pursuant to Texas Occupations Code, §53.021(a)(2).]~~

(f) [(g)] Independently of whether the offense is otherwise described or listed in subsection (c) of this section, a conviction for an offense listed in Texas Code of Criminal Procedure, Article 42.12 §3g, or Article 42A.054, or that is a sexually violent offense as defined by Texas Code of Criminal Procedure, Article 62.001, or a conviction for burglary of a habitation, is permanently disqualifying subject to the requirements of Texas Occupations Code, Chapter 53.

(g) [(h)] A Class B misdemeanor conviction for an offense listed in subsection (c) of this section is disqualifying for two (2) [~~five (5)~~] years from the date of conviction.

(h) [(i)] Any unlisted offense that is substantially similar in elements to an offense listed in subsection (c) of this section is disqualifying in the same manner as the corresponding listed offense.

(i) [(j)] A pending charge under an indictment or information [~~Class B misdemeanor charged~~] for an offense listed in subsection (c) of this section is grounds for summary suspension.

~~[(k) Any pending Class A misdemeanor charged by information or pending felony charged by indictment is grounds for summary suspension.]~~

(j) ~~[(4)]~~ In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person against whom disqualifying charges have been filed or who has been convicted of a disqualifying offense, the department will ~~[board shall]~~ consider:

- (1) The extent and nature of the person's past criminal activity;
- (2) The age of the person when the crime was committed;
- (3) The amount of time that has elapsed since the person's last criminal activity;
- (4) The conduct and work activity of the person before and after the criminal activity;
- (5) Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;
- (6) The date the person will be eligible; and
- (7) Any other evidence of the person's fitness, including letters of recommendation, ~~[from:]~~

~~[(A) Prosecutors or law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; or]~~

~~[(B) The sheriff or chief of police in the community where the person resides.]~~

(k) ~~[(m)]~~ In addition to the documentation listed in subsection (j) ~~[(4)]~~ of this section, the applicant or licensee ~~[or registrant]~~ shall furnish proof in the form required by the department that the person has:

- (1) Maintained a record of steady employment;
- (2) Supported the applicant's dependents;
- (3) Maintained a record of good conduct; and
- (4) Paid all outstanding court costs, supervision fees, fines and restitution ordered in any criminal case in which the applicant has been charged or convicted.

(l) ~~[(n)]~~ The failure to timely provide the information listed in subsection (j) ~~[(4)]~~ and subsection (k) ~~[(m)]~~ of this section may result in the proposed action being taken against the application or license.

(m) [(e)] The provisions of this section are authorized by the Act, §1702.004(b), and are intended to comply with the requirements of Texas Occupations Code, Chapter 53. All periods of disqualification provided in this section are subject to an analysis under subsection (j) of this section, and the requirements of Texas Occupations Code, Chapter 53.

*§35.5. Standards of Conduct.*

(a) The State Seal of Texas may not be displayed as part of a uniform or identification card, or markings on a motor vehicle, other than such items prepared or issued by the department.

(b) All licensees and company representatives [~~Licensees and registrants~~] shall cooperate fully with any investigation conducted by the department, including but not limited to the provision of employee records upon request by the department and compliance with any subpoena issued by the department. Commissioned security officers and personal protection officers shall cooperate fully with any request of the Medical Advisory Board made pursuant to Health and Safety Code, §12.095 relating to its determination of the officer's ability to exercise sound judgment with respect to the proper use and storage of a handgun. Violation of this subsection may result in the suspension of the license or commission for the duration of the noncompliance.

~~[(c) If arrested, charged, or indicted for a criminal offense above the level of Class C misdemeanor, a registrant shall within seventy-two (72) hours notify the employer, and the employer (when notified by the employee or otherwise informed) shall notify the department in writing (including by email) within seventy-two (72) hours of notification. The notification shall include the name of the arresting agency, the offense, court, and cause number of the charge or indictment. The registrant and employer must supplement their respective notifications as further information becomes available.]~~

(c) ~~[(d)]~~ An [Any] individual licensee [~~registrant who has been~~] issued a pocket card shall carry the pocket card on or about their [~~his~~] person while on duty and shall present same to [upon request from] a peace officer or to a representative of the department upon request.

*§35.6. Contract and Notification Requirements.*

(a) A company license holder [~~licensee~~] shall inform the client of the right to a written contract describing the fees to be charged and the services to be rendered.

(b) If requested, a written contract for regulated services shall be furnished to a client within seven (7) days.

(c) The written contract shall be dated and signed by the owner[~~manager~~,] or other individual expressly authorized to execute contracts on behalf of the licensee.

(d) Within seven (7) days of contracting for regulated services with another licensee, the licensee shall:

(1) Notify the recipient of those services of the name, address, and telephone number, and individual to contact at the company that purchased the contract;

(2) Notify the recipient of services at the time the contract is negotiated that another licensed company may provide any, all or part of the services requested by subcontracting or outsourcing those services; and

(3) Notify the recipient of services of the name, address, phone number, and license number of the company providing those services, if any of the services are subcontracted or outsourced to a licensed third party.

(e) The notice required under subsection (d) of this section shall:

(1) Be provided [~~mailed~~] to the recipient in a written form that emphasizes the required information; and

(2) If the services are those of an alarm system company, required notice shall include stickers or other materials to be affixed to the alarm system indicating the alarm system company's or alarm systems monitor's new telephone number.

(f) Subsection (e) of this section shall not apply to an alarm system company that subcontracts its monitoring services to another alarm system company if the conditions detailed in this subsection are met:

(1) The contract for monitoring is with another alarm systems company licensed under the Act;

(2) The contract between the original contracting licensee and the client remains in full force and effect, continues to govern all rights of the client with respect to the provision of alarm services, and remains in the control of the original contracting licensee;

(3) Neither the contact information provided to the client, nor the address and telephone numbers for alarm service, have changed as a result of the subcontracting arrangement; and

(4) The contact information provided to the client relating to the monitoring of the alarm system has not changed.

*§35.7.Firearm Standards.*

(a) Commissioned security officers and personal protection officers may only carry firearms of a category recognized in subsection (b) of this section, and only if: [~~a firearm of the category with which they have been formally trained as required under the Act and this chapter, and for which documentation of the training is on file with the department.~~]

(1) the officers have been formally trained as required under the Act and this chapter; and

(2) the officers have submitted documentation of the training to the department.

(b) The recognized firearm categories are:

(1) SA--Any handgun, whether semi-automatic or not;

(2) NSA--Handguns that are not semi-automatic; and

(3) STG--Shotgun.

(c) Commissioned security officers and personal protection officers must exercise care and sound judgment in the use and storage of their firearms.

(d) No security officer may carry an inoperative, unsafe, replica, or simulated firearm in the course and scope of employment or while in uniform.

(e) No commissioned security officer or personal protection officer may brandish, point, exhibit, or otherwise display a firearm at any time [~~anytime~~], except as authorized by law.

(f) The discharge of a firearm by a security officer while on duty or otherwise acting or purporting to act under the authority of a security officer commission shall be immediately reported to the officer's employer. The employer must notify the department of the discharge of a firearm in writing within twenty-four (24) hours of the incident. The notification to the department must include:

- (1) The name of the person discharging the firearm;
- (2) The name of the employer;
- (3) The location of the incident;
- (4) A brief description of the incident;
- (5) A statement reflecting whether death, personal injury, or property damage resulted; and
- (6) The name of the investigating or arresting law enforcement agency, if applicable.

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### **37 TAC §35.10, §35.11**

The Texas Department of Public Safety (the department) proposes the repeal of §35.10 and §35.11, concerning General Provisions. These rule changes implement the 86th Legislative Session's Senate Bill 616, which amends Chapter 1702, Occupations Code (the Private Security Act). Specifically, the bill repeals Chapter 1702's provisions regulating private security salespersons and guard dog trainers, thus necessitating the repeal of rules relating to these licensees.

Texas Government Code, §411.004(3) and Texas Occupations Code, §1702.061(a), are affected by this proposal.

*§35.10. Residential Solicitation.*

*§35.11. Guard Dog Welfare Requirements.*

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## **SUBCHAPTER B. ~~[REGISTRATION AND]~~ LICENSING**

### **37 TAC §§35.21, 35.22, 35.24 - 35.26, 35.28 - 35.31**

*§35.21. Individual License ~~[Registration]~~ Applications.*

(a) It is the responsibility of the licensed company to ensure an application that meets the requirements of this section is ~~[has been]~~ submitted to the department by or on behalf of any employee who is required to be licensed ~~[register]~~ under the Act. An application must include all items required under subsection (b) of this section in order to comply with the requirements of §1702.230(c) of the Act.

(b) The items detailed in this subsection must be submitted in the manner prescribed by the department:

- (1) The required fee;
- (2) A copy of the applicant's Level II certificate of completion when applicable;
- (3) Fingerprints in the form and manner approved by the department; and
- (4) The criminal history check fee as provided in this chapter.

(c) As part of the department's criminal history check, additional court documents or related materials may be requested of the applicant. Failure to comply with such a request may result in the rejection of the application as incomplete.

*§35.22.Renewal Individual License Applications [~~for Registrations and Licenses~~].*

(a) An application for renewal must be submitted in the manner prescribed by the department. The application must include:

- (1) The required fee;
- (2) If the fingerprints on file do not meet current Federal Bureau of Investigation or the department's quality standards, applicants will be required to submit a new set of electronic fingerprints to complete the renewal application process [~~Fingerprints in the form and manner approved by the department~~]; and
- (3) The criminal history check fee as provided in this chapter.

(b) A complete renewal application must be submitted prior to expiration for the current [~~registration, endorsement or~~] license to remain in effect pending the approval of the renewal application. If the completed application is not received by the department prior to the expiration date, no regulated services may be performed until a complete renewal application is submitted in compliance with this chapter.

*§35.24.Photographs.*

If the applicant does not have a digital photograph on file with the department or the department is unable to access the photograph on file, the laminated pocket card will be issued without a photograph. When presenting such a pocket card to a peace officer or to a representative of the department, the licensee [~~registrant~~] shall also present a valid government issued identification card or driver [~~drivers~~] license.

*§35.25.Assumed Names; Corporations.*

(a) All individual applicants doing business under an assumed name shall submit an assumed name certificate from the county clerk of the county in which the applicant either:

(1) has or will maintain business or professional premises; or

(2) conducts business or renders a professional service, if the person does not or will not maintain business or professional premises in any county.

(b) Corporations and other entities permitted and governed by the Texas Business Organizations Code using an assumed name shall submit an assumed name certificate from the Texas Secretary of State. ~~[and the county clerk of the county in which the entity either:]~~

~~[(1) has or will maintain business or professional premises; or]~~

~~[(2) conducts business or renders a professional service, if the entity does not or will not maintain business or professional premises in any county.]~~

(c) Corporate applicants shall submit a current certificate of existence or a certificate of authority from the Texas Secretary of State.

(d) Licensees may not operate under any name not reflected in current department records as the name under which the licensee will be doing business.

*§35.26.Reclassification, Assignment, and Termination.*

(a) When a Class A or B license is reclassified as a Class C license, a fee in the amount of the difference in the cost of the licenses shall be paid. There shall be no refund when a Class C license is reclassified as a Class A or Class B license.

(b) The department may approve the assignment of a company license to the spouse or heir(s) of a deceased owner provided:

(1) A copy of the owner's death certificate is filed with the department; and

(2) A copy of the Will, Order Admitting Will to Probate, Letters of Testament, Affidavit of Heirship with two affiants' signatures, or Order of Heirship is filed with the department~~[; and]~~

~~[(3) In the case of the death of a qualified manager, that a replacement manager is qualified within ninety (90) days].~~

(c) Other assignments will be permitted only under one of the conditions detailed in this subsection:

(1) the ownership in the assignor and assignee will remain the same;

(2) the [registered] owners holding at least 25% ownership in the original license, and collectively holding a majority ownership interest, consent to the assignment; or

(3) if there is an insufficient number of [registered] owners holding at least 25% ownership in the original license to potentially hold a majority in ownership interest in the license, the license may be assigned by majority vote of the entity's board of directors or equivalent level decision making body of the licensee. The license holder must provide the department written documentation reflecting the vote and the intended date of assignment. ~~[written consent of the qualified manager or an individual designated and verified by affidavit by the qualified manager as authorized to assign the license.]~~

(d) The assignor must provide the department written documentation establishing the intended date of assignment and notarized statements establishing the consent of a majority of the owners of the current license~~[, or if applicable, the qualified manager, from the appropriate individuals]~~. The assignee must ensure any new owners ~~[required to register]~~ are in compliance with the requirement of the Act [currently approved by the department]. The assignee may not perform regulated services prior to the proposed date of assignment or the date of the department's approval of all required license [registration] applications or fingerprint submissions for new owners, whichever is later. The assignor must cease performance of all regulated services on the earlier of either the proposed date of assignment or the date of surrender or termination of any related owner licenses [registrations].

(e) An additional assignment fee will be assessed as provided by this chapter upon assignment of a license under subsection (b) or (c) of this section.

(f) A license may only be terminated by consent of the [registered] owners holding at least 25% in the licensed company and collectively holding a majority ownership interest, unless the ownership structure of the company has an insufficient number of such owners to potentially represent a majority, in which case the license may be terminated by majority vote of the entity's board of directors or equivalent level decision making body of the licensee ~~[written consent of the qualified manager or an individual designated by the qualified manager verified by affidavit by the manager as~~

~~authorized to terminate the license]. The license holder must provide the department written documentation reflecting the vote and the intended date of termination [and the consent of the appropriate individuals in the form of notarized statements].~~

~~[(g) An assignment or termination effected by written consent of the qualified manager may be overturned within thirty (30) calendar days of the department's receipt of the qualified manager's consent documentation by majority vote of the entity's board of directors or the equivalent level decision making body of the licensee. Documentation of the vote must be received by the department within ten (10) business days of the board's decision.]~~

*§35.28. Individual Licensee or Commissioned Security Officer [Registrant] Name Change.*

A change of name must be reported to the department within thirty (30) days of the effective date of change. The notice of the change shall be in writing, and shall include a certified copy of the legal document ordering the name change.

*§35.29. Employee [Registrant] Termination.*

When a licensed or commissioned ~~[registered]~~ employee of a company license holder ~~[licensee]~~ is terminated for any conduct in violation of the Act or this chapter, the licensee shall notify the department of such conduct within fourteen (14) days of termination. The notification shall be submitted in the manner prescribed by the department and must include any and all available documentation or evidence concerning the alleged offense. *§35.30. Company License Application Requirements.*

As provided in §1702.110(a)(6), as part of the company application an applicant for a company license that is an entity other than individual must submit fingerprints of each officer who is to oversee the security-related aspects of the business, or a partner or shareholder who owns at least a 25% interest in the applicant. All such individuals must satisfy the eligibility criteria provided in the Act and in §35.4 of this title (relating to Guidelines for Disqualifying Criminal Offenses). Should an individual fail to meet these requirements, the company application will be denied, or, if the license has been issued, the license will be subject to suspension or revocation, as applicable.

*§35.31. License Expiration.*

(a) All company licenses are valid for one (1) year from the date of issuance and expire on the first anniversary of the date of issuance.

(b) All individual licenses are valid for two (2) years from the date of issuance and expire on the second anniversary of the date of issuance.

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## **SUBCHAPTER C. MANAGER STANDARDS**

### **37 TAC §35.41**

The Texas Department of Public Safety (the department) proposes the repeal of §35.41, concerning Manager Standards. These rule changes implement the 86th Legislative Session's Senate Bill 616, which amends Chapter 1702, Occupations Code (the Private Security Act). Specifically, the bill repeals Chapter 1702's provisions regulating managers of private security companies, thus necessitating the repeal of rules relating to these licensees.

*§35.41. Manager Standards.*

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## **SUBCHAPTER C. COMPANY REPRESENTATIVE**

### **37 TAC §§35.41 - 35.43**

*§35.41. Company Representative.*

(a) The company representative is the individual to whom the department may direct all correspondence and on whom the department may rely to ensure the company's compliance with all requirements of this chapter and the Act. This individual must meet the applicable experience requirements for company licensure provided in the Act and this chapter, and must successfully complete the examination as provided in §1702.117 of the Act and §35.42 of this title (relating to Examination).

(b) An applicant for a company license who is an individual will be the company representative for all purposes relating to the administration of the Act.

(c) An applicant for a company license that is an entity other than individual must designate an individual to be the company representative. The individual must be an officer who is to oversee the security-related aspects of the business, or a partner or shareholder who owns at least a 25% interest in the applicant. Formal documentation reflecting the individual's status with the applicant must be submitted to the department in conjunction with the company license application. An applicant may appoint multiple company representatives if necessary to satisfy the experience

requirements for multiple licenses, so long as each individual meets the requirements of §1702.110(a)(6) of the Act and of this section.

*§35.42. ~~[Manager]~~ Examination.*

(a) All company representatives (as defined in §35.1 of this title (relating to Definitions) and as described in §35.41 of this title (relating to Company Representative)) ~~[applicants for registration as qualified manager of a licensee]~~ must pass the written examination administered by the department. The ~~[All applicants must pass the examination with a]~~ minimum passing score is ~~[of]~~ 70%.

(b) Good order and discipline will be maintained during the examination. Conduct which is disruptive is grounds for immediate removal.

(c) An oral examination may be given upon receipt of proof of dyslexia as defined by Texas Education Code, §51.970. Proof must be submitted in writing in a manner prescribed by the department.

(d) Any examination other than the single examination authorized by payment of the original license fee shall be considered a reexamination for which the reexamination fee shall be required.

*§35.43. Temporary Continuation of Business ~~[Operation Without Manager]~~.*

(a) Pursuant to §1702.122 of the Act, if a company representative ceases to be connected with a company license holder, ~~[When a qualified manager of a licensee has been terminated or is no longer employed as manager, and the department has been notified of the action in writing within fourteen (14) days,]~~ the business may be temporarily operated by an owner, officer, partner, or shareholder for a period not to exceed ninety (90) ~~[sixty (60)]~~ days following the date the company representative ceases to be connected with the company license holder ~~[of the manager's termination or cessation of managerial duties]~~.

(b) Continued operation of the company in a regulated capacity beyond the ninety (90) day period provided in subsection (a) of this section, without a qualified company representative, is a violation of the Act. ~~[In the event summary action has been taken against the manager, the manager must immediately cease all regulated functions as qualified manager. Any applicable period of temporary operation pursuant to subsection (a) of this section shall run from the effective date of the summary action].~~

(c) An individual whose registration as a qualified manager expires on September 1, 2019, under the provisions of the 86th Legislature, Senate Bill 616, may continue to

function as the company representative until the later of either September 1, 2020, or until the company license expires. Upon renewal of the company license, the company representative must meet the requirements of §35.41(c) of this title (relating to Company Representative).

(d) An individual may not continue to function as the company representative, and is deemed to no longer be connected with the company for purposes of this section, should the individual fail to meet the eligibility criteria provided in the Act and this chapter.

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## **SUBCHAPTER D. DISCIPLINARY ACTIONS**

### **37 TAC §35.52**

*§35.52.Administrative Penalties.*

The administrative penalties in this section are guidelines to be used in enforcement proceedings under the Act. The fines are to be construed as maximum penalties only, and are subject to application of the factors provided in Texas Government Code, §411.524 [~~§1702.402 of the Act~~].

[Figure: 37 TAC §35.52 \(.pdf\)](#)

[~~Figure: 37 TAC §35.52~~]

## **SUBCHAPTER E. ADMINISTRATIVE HEARINGS**

### **37 TAC §§35.62 - 35.65**

The Texas Department of Public Safety (the department) proposes the repeal of §§35.62 - 35.65, concerning Administrative Hearings. The repeal of these rules is necessary to reorganize the rules; the affected rules are being repealed and replaced, without substantive changes.

Texas Government Code, §411.004(3) and Texas Occupations Code, §1702.061(a), are affected by this proposal.

*§35.62.Default Judgments.*

*§35.63.Hearing Costs.*

*§35.64.Preliminary Hearings.*

*§35.65.Contested Cases Based On Sex Offender Registration Requirement.*

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### **37 TAC §35.62**

*§35.62.Preliminary Hearing; Settlement Conference.*

(a) A person who receives notice of the department's intention to deny an application for a license, to reprimand, suspend or revoke a license, or to impose an administrative penalty under §35.52 of this title (relating to Administrative Penalties), may appeal the decision by submitting a request to appeal by mail, facsimile, or electronic mail, to the department in the manner provided on the department's Private Security Program website within thirty (30) calendar days after receipt of notice of the department's proposed action. If a written request to appeal is not submitted within thirty (30) calendar days of the date notice was received, the right to an informal hearing or settlement conference, as applicable, under this section or §35.66 of this title (relating to Hearings Before The State Office Of Administrative Hearings) is waived, and the action becomes final.

(b) If the action is based on the person's criminal history, a preliminary, telephonic hearing will be scheduled. Following the hearing, the department will either dismiss the proceedings and withdraw the proposed action, or issue a written statement of findings to the respondent either upholding or modifying the original proposed action.

(c) If the proposed action is based on an administrative violation, a settlement conference will be scheduled. The settlement conference may be conducted in person or by telephone, by agreement of the parties. Following the settlement conference, the parties will execute an agreed order, or, if no agreement is reached, the department will issue a written determination either upholding or modifying the originally proposed action.

(d) The department's findings following an preliminary hearing, or its determination following a settlement conference, may be appealed to the State Office of Administrative Hearings by submitting a request by mail, facsimile, or electronic mail, to the department in the manner provided on the department's Private Security Program website, within thirty (30) calendar days after receipt of the findings or determination. If a written request is not submitted within thirty (30) calendar days of the date notice was received, the findings or determination shall become final.

(e) Requests for continuance must be submitted in writing at least three (3) business days prior to the scheduled hearing or conference. Requests must be based on good cause. Multiple requests may be presumed to lack good cause and may be denied on that basis.

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## **SUBCHAPTER G. PERSONAL PROTECTION OFFICERS**

### **37 TAC §§35.91 - 35.93**

#### *§35.91. Requirements for Personal Protection License [~~Endorsement~~].*

(a) An applicant for a personal protection license [~~endorsement~~] shall:

(1) Submit a written application for a personal protection license [~~endorsement~~] on a form prescribed by the department;

(2) Be at least twenty-one (21) years of age;

(3) Either possess a valid security officer commission issued prior to applying for a personal protection license [~~endorsement~~], or submit an application for security officer commission in conjunction with the application for a personal protection license [~~endorsement~~];

(4) Submit proof that the applicant has successfully completed the personal protection officer course taught by an approved personal protection officer instructor; and

(5) Submit proof of completion of the Minnesota Multiphasic Personality Inventory test or equivalent (proof of completion of the Minnesota Multiphasic Personality Inventory test shall be on the prescribed form Declaration of Psychological and Emotional Health and shall be signed by a licensed psychologist).

(b) A personal protection officer may transfer their license [~~his endorsement~~] to another employer if the personal protection officer:

(1) Has transferred their [~~his~~] security officer commission to the new employer; and

(2) Submits the appropriate form and transfer fee to the department within fourteen (14) days of the transfer of employment to the new employer.

#### *§35.92. Employer Requirements.*

Personal protection officer employers shall:

- (1) Issue the personal protection officer [~~endorsement~~] pocket card issued by the department to the personal protection officer;
- (2) Maintain on file for inspection all contracts for personal protection officer services; and
- (3) Maintain on file for inspection all current records on all persons issued a personal protection license [~~endorsement~~] including the personal protection officer's name, current residential address, and telephone number.

*§35.93. Personal Protection Officer Standards.*

(a) Personal protection officers must comply with all standards and requirements applicable to commissioned security officers, as provided in this chapter and the Act.

(b) In addition, a personal protection officer shall not:

- (1) Perform personal protection officer duties for any person(s) other than [~~the person(s)~~] the employer indicated in the department records;
- (2) Fail to timely surrender the personal protection officer pocket card upon written notice served by the department or their [~~his~~] employer;
- (3) While in the course and scope of employment as a personal protection officer, provide or engage in any other service regulated by the Act or this chapter other than providing personal protection from bodily harm to one (1) or more individuals;
- (4) Fail to conceal a firearm if providing the services as a commissioned personal protection officer in plain clothes;
- (5) Fail to carry on his or her person, the pocket card issued while performing the officer's duties as a personal protection officer; or
- (6) Fail to present the pocket card for security officer commission and personal protection license [~~endorsement~~] upon request made by a peace officer or representative of the department.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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**SUBCHAPTER H. SECURITY DEPARTMENT OF PRIVATE BUSINESSES  
AND POLITICAL SUBDIVISIONS**

## 37 TAC §35.101, §35.102

### §35.101. Security Department of Private Business [~~Letter of Authority~~].

(a) ~~To~~ [The security department of a private business, as defined in the Act, must obtain a letter of authority to] employ a commissioned security officer, a ~~personal protection officer, or a noncommissioned security officer,~~ a security department of a private business, as defined in the Act, must notify and register with the department as provided in §1702.181 of the Act.

~~[(b) To employ in a noncommissioned capacity an individual meeting the conditions of §1702.323(d) of the Act, a security department of a private business must obtain a letter of authority and register the individual with the department.]~~

(b) ~~[(e)]~~ A security department of a private business may ~~[shall]~~ not provide guard company services to a third party unless licensed as a guard company.

~~[(d) The holder of a private business letter of authority must qualify a manager who meets the requirements of the Act as they pertain to the manager of a security services contractor and maintain on file with the department the name of the individual responsible to ensure the commissioned security officer's compliance and ensure records are maintained in accordance with applicable laws and rules.]~~

~~[(e) A private business letter of authority is valid for one year and may be renewed by submitting the department approved renewal application and the required renewal fee no earlier than ninety (90) days prior to expiration.]~~

### §35.102. Security Department Of Political Subdivision [~~Governmental Letter of Authority~~].

To employ ~~[(a) A political subdivision that employs]~~ a commissioned private security officer or personal protection officer, a security department of a political subdivision must notify and register with the department as provided in §1702.181 of the Act ~~[must obtain a governmental letter of authority]~~.

~~[(b) The governmental letter of authority is valid for one (1) year and may be renewed by submitting the department approved renewal application and required renewal fee no earlier than ninety (90) days prior to expiration.]~~

~~[(c) The holder of the governmental letter of authority must designate and maintain on file with the department the name of the individual responsible for ensuring the~~

~~commissioned security officer's compliance with the Act and this chapter and for ensuring records are maintained in accordance with this chapter.]~~

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## SUBCHAPTER I. COMPANY RECORDS

### 37 TAC §35.111, §35.112

#### *§35.111.Employee Records.*

Licensees and security departments of private businesses or political subdivisions registered with the department shall keep records of all employees licensed ~~[registered]~~ or commissioned under the Act. The employee records, detailed in this section, shall be maintained for a period of two (2) years from the last date of employment:

- (1) Full name, date of employment, position, and address;
- (2) Social security number;
- (3) Last date of employment;
- (4) Date and place of birth;
- (5) One ~~[color]~~ photograph;
- (6) The results of any drug tests;
- (7) Documentation of a ~~[the]~~ pre-employment check if required under §35.3 of this title ~~[chapter]~~ (relating to Individual License ~~[Registration]~~ Applicant Pre-employment Check); and
- (8) All training certificates earned by the employee while employed by the private business or political subdivision ~~[licensee]~~.

#### *§35.112.Business Records.*

(a) Licensees shall maintain copies of the records detailed in this section, or otherwise required under this chapter, for two (2) years from the later of the date the related service was provided or the date the contract was completed:

- (1) All contracts for regulated service and related documentation reflecting the actual provision of the regulated service; and

(2) Copies of any timesheets, invoices, or scheduling records reflecting the employment dates of any licensed or commissioned ~~[registered]~~ employees.

(b) If the company has no physical place of business within the State of Texas, the records shall be maintained:

(1) At the office of the registered agent within the State of Texas; or

(2) At any physical location within the State of Texas of an agent or employee of the company.

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## **SUBCHAPTER J. SPECIAL COMPANY LICENSE QUALIFICATIONS**

### **37 TAC §§35.121 - 35.123**

#### *§35.121. Investigations Company License.*

(a) Pursuant to the Act, the department has determined ~~[that]~~ an applicant for licensure as a private investigations company or the prospective company representative ~~[manager]~~ of the applicant company, must meet one of the qualifications detailed in this section:

(1) Three (3) consecutive years of investigation related experience;

(2) A bachelor's degree in criminal justice or related course of study;

(3) A bachelor's degree with twelve (12) months of investigation related experience;

(4) An associate degree in criminal justice or related course of study, with twenty-four (24) months of investigation related experience;

(5) A specialized course of study directly designed for and related to the private investigation profession, taught and presented through affiliation with a four (4) year college or university accredited and recognized by the State of Texas. This course of study must be endorsed by the four (4) year college or university's department of criminal justice program and include a departmental faculty member(s) on its instructional faculty. This course of study must consist of a minimum of two hundred (200) instructional hours including coverage of ethics, the Act, and this chapter; or

(6) Other combinations of education and investigation related experience may be substituted for the above at the discretion of the department or its designated representative.

(b) The degrees referenced in subsection (a) of this section must be affiliated with a college or university recognized by the Texas Higher Education Coordinating Board, Southern Association of Colleges and Schools, or other accreditation organization recognized by the State of Texas.

*§35.122. Guard Company License.*

Pursuant to the Act, the department has determined ~~[that]~~ an applicant for licensure as a guard company or the prospective company representative ~~[manager]~~ of the applicant company must meet the qualifications detailed in this section:

- (1) Must be at least twenty one (21) years of age at the time of application;
- (2) Must have at least three (3) years accumulated employment experience in the field in which the company is licensed; and
- (3) Must have at least one (1) year of experience in a managerial or supervisory position.

*§35.123. Locksmith Company License.*

Pursuant to the Act, the department has determined that an applicant for licensure as a locksmith company, ~~[(as owner)]~~ or the prospective company representative ~~[manager]~~ of the applicant company, must meet one of the qualifications detailed in this section:

- (1) Qualification option one. Two (2) consecutive years of full-time locksmith-related experience; or
- (2) Qualification option two.
  - (A) Successful completion of a department approved forty-eight (48) hour basic locksmith course and a six hundred (600) hour fundamentals of locksmith course, with the curriculum content detailed in this subparagraph:
    - (i) Introduction to locksmithing.
    - (ii) The Act and this chapter.
    - (iii) State of Texas and United States Government business requirements.
    - (iv) Key blank identification.

- (v) Key machine and key duplication.
  - (vi) Codes and code cutting.
  - (vii) Basic lock types.
  - (viii) Basic picking.
  - (ix) Rim and mortise cylinders.
  - (x) Key in knob/key in lever locks.
  - (xi) Deadbolts and mortise locks.
  - (xii) Installations.
  - (xiii) Impressioning.
  - (xiv) Basic master-keying.
  - (xv) Basic safe servicing.
  - (xvi) Small format interchangeable core.
  - (xvii) High security and key control cylinders.
  - (xviii) Automotive opening.
  - (xix) Automotive key generation and programming.
  - (xx) Exit/panic device servicing, replacement, and installation.
  - (xxi) Door closer servicing, replacement, and installation.
  - (xxii) Cabinet and drawer lock servicing, replacement, and installation.
  - (xxiii) Safe installation, moving, and anchoring.
  - (xxiv) Single door access control service and installation.
- (B) Successful completion of a basic locksmith proficiency exam that covers a minimum of twelve (12) locksmith subjects and is approved by the department; and

(C) One (1) year of full-time locksmith related experience.

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## SUBCHAPTER K. FEES

### 37 TAC §35.131, §35.132

#### *§35.131.Licensing and Examination Fees.*

(a) Pursuant to the Act, the figure in this subsection details the fee schedule:

[Figure: 37 TAC §35.131\(a\) \(.pdf\)](#)

[~~Figure: 37 TAC §35.131(a)~~]

(b) ~~An~~ [Upon completion of development and production of the department's new laminated pocket card, an] additional fee of \$5.00 will be charged for any new application or renewal requiring the issuance of a new pocket card.

(c) Fees collected are non-refundable and non-transferable.

(d) Payment of fees shall be made in a manner approved by the department.

(e) If payment is dishonored or reversed prior to issuance, the application will be abandoned as incomplete. If the [~~registration, endorsement,~~] commission[;] or license is [~~has been~~] issued prior to being dishonored or reversed, revocation proceedings will be initiated pursuant to the Act, §1702.361. The department may dismiss a pending revocation proceeding upon receipt of payment of the full amount due, including any additional processing fees.

(f) Original fees shall not be prorated. The full fee shall accompany all original applications.

#### *§35.132.Subscription Fees.*

The subscription fees detailed in this section are authorized under Texas Government Code, §2054.252.

(1) Each individual licensee[~~, registrant, or commissioned security officer~~] shall pay the following subscription fee for occupational license renewal: \$2 for a \$30 to \$50 renewal and \$3 for a \$100 renewal. This fee is in addition to the renewal fee.

(2) Each company licensee shall pay the following subscription fee for occupational license renewal: \$7 for a \$225 renewal; \$11 for a \$300 to \$350 renewal; \$12 for a \$400 renewal; and \$16 for a \$540 renewal. This fee is in addition to the renewal fee.

(3) Each individual applicant for a license~~[, registration or security officer commission]~~ shall pay the following subscription fee upon application: \$2 for a \$30 to \$50 application; and \$3 for a \$100 application. This fee is in addition to the application fee.

(4) Each company license applicant shall pay the following subscription fee upon application: \$11 for a \$300 to \$350 application; \$12 for a \$400 application; and \$16 for a \$540 application. This fee is in addition to the application fee.

(5) Each individual licensee ~~[registrant or commissioned security officer]~~ shall pay a \$2 subscription fee for an employee information update. This fee is in addition to the employee information update fee.

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## SUBCHAPTER L. TRAINING

### 37 TAC §§35.141 - 35.143, 35.145, 35.147

#### *§35.141. Training Requirements.*

##### (a) Security and Personal Protection Officer Training.

(1) The Level II training course shall be completed by all applicants for a security officer commission or for a license ~~[registration]~~ as a noncommissioned security officer. The course material shall be prepared or approved by the department. A certificate indicating completion of Level II training shall be submitted to the department with the required application. Level II training may be taught by the licensee's ~~[manager, the manager's]~~ designee, or a department ~~[board]~~ approved school and department ~~[board]~~ approved instructor using the most current version of the respective department ~~[Board]~~ Level II training course manuals.

(2) The Level III training course shall be completed by all applicants for a security officer commission and a personal protection officer license ~~[endorsement]~~. The course material shall be prepared by and obtained from the department. A certificate indicating completion of Level III training shall be submitted to the department along with the application to license ~~[register]~~ the individual. Level III training must be taught by a department approved school and a department approved instructor.

(3) The Level IV training course shall be completed by all applicants for a personal protection officer license [~~endorsement~~]. The course material shall consist of a minimum of fifteen (15) classroom hours and shall be offered by department approved personal protection officer training schools and taught by department approved personal protection training instructors. All training shall be conducted with a department approved instructor present during all instruction. All students of a personal protection officer training course shall be tested with an examination prepared by and obtained from the department.

(b) Peace Officer Exemption.

(1) Applicants for either a security officer commission or a personal protection officer license [~~endorsement~~] who are full-time peace officers, certified by the Texas Commission on Law Enforcement (TCOLE), may be exempted from the Level III training requirements upon submission to the department of a sworn affidavit attesting to the applicant's review of and familiarity with the Act and the related administrative rules.

(2) Applicants for either a security officer commission or a personal protection officer license [~~endorsement~~] who have honorably retired as Texas peace officers within the preceding two (2) years may be exempted from the Level II and III training requirements upon submission to the department of proof of their honorably retired status (in the form of documentation from the employing agency or TCOLE), and of a sworn affidavit attesting to the applicant's review of and familiarity with the Act and this chapter. For purposes of the above exemption, "honorably retired" means that the applicant:

(A) Did not retire in lieu of a disciplinary action;

(B) Was eligible to retire from the law enforcement agency or was ineligible to retire only as a result of an injury received in the course of the applicant's employment with the agency; and

(C) Is entitled to receive a pension or annuity for service as a law enforcement officer or is not entitled to receive a pension or annuity only because the law enforcement agency that employed the applicant does not offer a pension or annuity to its employees.

(c) Alarm Systems Training.

(1) The Level I alarm systems training course shall be successfully completed, and the certification submitted to the department, by any licensee ~~[registrant]~~ employed as an alarm systems installer ~~[or a security alarm salesperson,]~~ in order to renew an original license ~~[registration]~~.

(2) Alarm systems Level I training must be taught by a department approved alarm systems training school and a department approved alarm instructor.

(d) An inactive or expired licensee ~~[registrant]~~ who has not been employed in the investigation or security services industry in the past three (3) years or more must submit current training certificate(s) to the department.

*§35.142.Training School Approval.*

(a) An application for training school approval shall be submitted in the manner prescribed by the department.

(b) To be approved, the school must:

(1) Use the department's most current training manual;

(2) Obtain ~~[Register and obtain]~~ approval of all instructors as provided under §35.143 ~~[§35.133]~~ of this title ~~[chapter]~~ (relating to Training Instructor Approval);

(3) Ensure that all owners, officers, partners, or shareholders are in compliance with the fingerprint submission requirement and individual license requirements of the Act, §1702.110 and §1702.221, respectively.

~~[(3) Register a qualified manager;]~~

~~[(4) Register all owners, officers, partners, or shareholders, as provided in the Act, §1702.110.]~~

(c) The letter of approval ~~[or license certificate]~~ shall be valid for one (1) year and may be renewed by submitting an application for renewal thirty (30) days prior to the expiration date.

(d) An entity having a private business letter of authority or a governmental letter of authority may seek approval as a training school by meeting requirements of this chapter where applicable. A training school approved under this section may only train employees of the entity.

(e) The department may deny an application for approval for any reason relating to the failure to satisfy the requirements of this section, or for prior violations of the Act or this chapter on the part of the owners or instructors associated with the applicant.

(f) The department may withdraw or suspend approval of a training school upon evidence the school has operated in violation of the Act or this chapter, or upon notification that an owner, officer, partner or shareholder has been charged with or convicted of a disqualifying offense as provided in §35.4 of this title (relating to Guidelines For Disqualifying Criminal Offenses). Certificates of completion or proficiency submitted for courses taught subsequent to notification of withdrawal or suspension of the school's approval will be rejected.

*§35.143. Training Instructor Approval.*

(a) An application for approval as a training instructor shall contain evidence of qualification as required by the department. Instructors may be approved for classroom or firearm training, or both. An individual may apply for approval for one or both of these categories. To qualify for classroom or firearm instructor approval, the applicant must submit acceptable certificates of training for each category. The classroom instructor and firearm certificates shall represent a combined minimum of forty (40) hours of department approved instruction.

(b) The items detailed in this subsection may constitute proof of qualification as a classroom instructor for security officers:

(1) An instructor's certificate issued by Texas Commission on Law Enforcement (TCOLE);

(2) An instructor's certificate issued by federal, state, or political subdivision law enforcement agency approved by the department;

(3) An instructor's certificate issued by the Texas Education Agency (TEA);

(4) An instructor's certificate relating to law enforcement, private security, or industrial security issued by a junior college, college, or university; or

(5) A license to carry [~~concealed~~] handgun instructor certificate issued by the department.

(c) The items listed in this subsection may constitute proof of qualification as a firearm training instructor, if reflecting training completed within two (2) years of the date of the application:

- (1) A handgun instructor's certificate issued by the National Rifle Association;
- (2) A firearm instructor's certificate issued by TCOLE; or
- (3) A firearm instructor's certificate issued by a federal, state, or political subdivision law enforcement agency approved by the department.
- (d) Proof of qualification as an alarm systems training instructor shall include proof of completion of an approved training course on alarm installation.
- (e) Proof of qualification as a personal protection officer instructor shall include, but not be limited to:

(1) A firearm instructor's certificate issued by TCOLE along with proof that the individual has instructed nonlethal self-defense or nonlethal defense of a third party for three (3) or more years. Evidence may include:

(A) Affidavit from employer; or

(B) A copy of curriculum taught.

(2) An instructor's certificate issued by federal, state, or political subdivision law enforcement academy along with proof that the individual has instructed nonlethal self defense or nonlethal defense of a third party for three (3) or more years. Evidence may include:

(A) Affidavit from employer; or

(B) A copy of curriculum taught.

(3) An instructor's certificate issued by TEA along with proof that the individual has instructed nonlethal self-defense [~~self-defense~~] or nonlethal defense of a third party for three (3) or more years. Evidence may include:

(A) Affidavit from employer; or

(B) A copy of curriculum taught.

(4) An instructor's certificate relating to law enforcement, private security or industrial security issued by a junior college, college or university along with proof that the individual has instructed nonlethal self-defense [~~self-defense~~] or nonlethal defense of a third party for three (3) or more years. Evidence may include:

(A) An affidavit from an employer; or

(B) A copy of curriculum taught.

(5) Evidence of successful completion of a department approved training course for personal protection officer instructors.

~~[(f) A letter of approval from the department shall be issued to each approved instructor and shall be valid for a period of one (1) year. The instructor's approval may be renewed for a period of one (1) year, upon application to the department and payment of the renewal fee.]~~

(f) ~~[(g)]~~ Notice shall be given in writing to the department within fourteen (14) days after a change in address of the approved instructor.

~~[(h) A letter of approval from the department shall be issued to each approved instructor and shall be valid for a period of one (1) year. The instructor's approval may be renewed at any time up to one (1) year after expiration, upon application to the department and payment of the renewal fee.]~~

(g) ~~[(i)]~~ In addition to summary actions under the Act, based on criminal history disqualifiers, the department may revoke or suspend an instructor's approval or deny the application or renewal thereof upon evidence that:

(1) The instructor or applicant has violated any provisions of the Act or this chapter;

(2) The qualifying instructor's certificate has been revoked or suspended by the issuing agency;

(3) A material false statement was made in the application; or

(4) The instructor does not meet the qualifications set forth in the provisions of the Act and this chapter.

#### *§35.145.Handgun Course.*

(a) In addition to the firearm qualification requirements as set forth in the Act, a department approved firearm training instructor may qualify a student by using:

(1) The Texas Department of Public Safety Primary Issued Handgun Qualification Course; or

(2) The Texas Department of Public Safety Approved License to Carry [~~Concealed~~] Handgun License Course.

(b) All individuals qualifying with a firearm to satisfy the requirements of the Act shall qualify with an actual demonstration by the individual of the ability to safely and proficiently use the category of firearm for which the individual seeks qualification.

(c) The categories of handguns are:

(1) SA--Semi-automatic; and

(2) NSA--Non semi-automatic.

(d) The SA qualification authorizes the carrying of either semi-automatic [~~semi automatic~~] or non semi-automatic handguns.

*§35.147. Certificates of Completion, Training Records, and Notifications.*

(a) A department approved training school shall:

(1) Issue an original certificate of completion to each qualifying student within seven (7) days after the student qualifies;

(2) Maintain adequate records to show attendance, progress and grades of students and maintain on file a copy of each certificate issued to students at the department approved training school;

(3) Make all required records available to investigators employed by the department for inspection during reasonable business hours; and

(4) Retain all training records for twenty-four (24) months from the date of completion of training.

(5) Notify each applicant or enrollee of the potential ineligibility of an individual who has been convicted of an offense, the current guidelines provided in §35.4 of this title (relating to Guidelines for Disqualifying Criminal Offenses), and the right to request a criminal history evaluation letter under Occupations Code, §53.102. As provided in Occupations Code, §53.153, failure to comply with this subsection may result in an order to refund tuition paid and reimburse the individual's application and training fees. Failure to comply with an order to refund tuition or reimburse fees may result in suspension of the school license until payment is made, pursuant to §1702.361 of the Act. The figure in this paragraph provides the recommended text of the notice. Direct

communication of this text to the prospective applicant, whether by email or other correspondence, or on the application for admission to a course, is sufficient to establish compliance with this section.

[Figure: 37 TAC §35.147\(a\)\(5\) \(.pdf\)](#)

[~~Figure: 37 TAC §35.147(a)(5)~~]

(b) The certificate of completion shall reflect the particular course or courses completed by a student during the training period.

(1) Certificates of completion for Level II shall contain the:

(A) Name and approval number of the school;

(B) Date of completion;

(C) Name, signature, and approval number of training instructor; and

(D) Full name of student, and the student's Texas Driver License number, Texas Identification Card number or, the last four (4) [six (6)] digits of the student's social security number [of student].

(2) Certificates of completion for Level III and IV shall contain the:

(A) Name and approval number of the school;

(B) Date of firearm training completion of Level III [~~(Level III only)~~];

(C) Name, signature, and approval number of classroom and/or firearm training instructor;

(D) Full name of student, and the student's Texas Driver License number, Texas Identification Card number or the [and] last four (4) [six (6)] digits of the student's social security number [of student]; and

(E) The specific date of firearm qualification along with the name and approval number of the firearms instructor on those certificates designating completion of Level III.

(3) Certificate of completion for firearms qualification (firearm proficiency) shall contain the:

- (A) Name and approval number of the school;
- (B) Name, signature, and approval number of firearms training instructor;
- (C) Full name of student, and the student's Texas Driver License number, Texas Identification Card number or the last four (4) [six (6)] digits of the student's social security number [of student];
- (D) Firearms completion date;
- (E) Note the category of firearm as defined in this chapter; and
- ~~[(F) Note the caliber of firearm; and]~~
- (F) [(G)] Be on a certificate form designed or approved by the department.
- (4) Certificates of completion for alarm systems installation ~~[or sales]~~ training shall contain:
- (A) Name ~~[The name]~~ and approval number of the school;
- (B) Name ~~[The name]~~, signature and approval number of training instructor;
- (C) Full ~~[The full]~~ name of student, and the student's Texas Driver License number, Texas Identification Card number or the last four (4) [six (6)] digits of the student's social security number [of student];
- (D) Date ~~[The date]~~ of final completion of the entire course; and
- (E) The words "Has successfully completed the alarm installation ~~[installers or alarm systems salespersons alarm]~~ training school approved by the Texas Department of Public Safety."

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## SUBCHAPTER M. CONTINUING EDUCATION

### 37 TAC §35.161, §35.162

#### *§35.161. Continuing Education Requirements.*

- (a) An application to renew an individual [a] license~~[, registration, endorsement, or commission]~~ may not be submitted until the required minimum hours of department approved continuing education credits have been earned in accordance with the Act

and this chapter. Proof of the required continuing education must be maintained by the employer and contained in the employee's personnel file ~~[of the registrant's employing company]~~. All individual licensees ~~[registrants]~~ shall indicate they have completed the required minimum hours of department approved continuing education credits on their application for renewal. ~~[A renewal application shall also include the name of the school, school number, date of attendance, number of hours attended, and courses of instruction attended.]~~

(b) Owners ~~[Participating owners, partners, and shareholders, who perform services regulated under the Act on behalf of the licensed company, shall comply with the continuing education requirements of this section applicable to the regulated service provided. Participating owners]~~, partners, and shareholders who hold individual licenses as owners only, ~~[, do not otherwise perform services regulated under the Act,]~~ shall complete a total of eight (8) hours of continuing education, including seven (7) hours in the subject matter that relates to the type of regulated service provided by their company ~~[the licensee]~~, and one (1) hour of ethics. Noncommissioned ~~[For purposes of this section, participating refers to involvement in decisions governing the operation of the regulated company. Nonparticipating owners, partners, or shareholders; noncommissioned]~~ security officers, and all individuals not required to obtain a ~~[registration, endorsement,]~~ commission or license under the Act are specifically exempted from the continuing education requirements.

(c) All individual license holders ~~[registrants]~~ not otherwise ~~[specifically]~~ addressed in this section shall complete a total of eight (8) hours of continuing education, seven (7) hours of which must be in subject matter that relates to the type of individual license ~~[registration]~~ held, and one (1) hour of which must cover ethics. ~~[Following the initial registration period, qualified managers of Class B licensed companies may take a one (1) hour course devoted to changes in laws and rules applicable to the security industry, as a substitute for the above one (1) hour ethics requirement.]~~

(d) Private investigators ~~[and managers of Class A and Class C licenses]~~ with more than fifteen (15) years of continued licensure ~~[registration]~~ as a private investigator ~~[or manager of a Class A or Class C license]~~ shall complete a total of twelve (12) hours of continuing education, eight (8) hours of which must relate to investigations ~~[be in subject matter that relates to the type of registration held]~~, two (2) hours of which must cover ethics, and two (2) hours of which must involve the review of the Act and the rules of this chapter.

(e) Private investigators ~~[Investigators and managers of Class A and Class C licenses]~~ with less than fifteen (15) years of continued licensure ~~[registration]~~ as a private investigator ~~[or manager of a Class A or Class C license]~~ shall complete a total of eighteen (18) hours of continuing education, fourteen (14) of which must relate to

investigations ~~[be in subject matter that relates to the type of registration held]~~, two (2) hours of which must cover ethics, and two (2) hours of which must involve the review of the Act and the rules of this chapter.

(f) Any individual licensed ~~[person registered]~~ as a private investigator who fails to complete the required continuing education during the twenty-four (24) months of ~~[an]~~ initial licensure ~~[registration]~~ is not eligible to make a new or renewal application until such time as the training requirement for the previous licensure ~~[registration]~~ period has been satisfied.

(g) Commissioned security officers and personal protection officers shall complete six (6) hours of continuing education. Continuing education for commissioned security officers and personal protection officers must be taught by department approved schools and instructors ~~[approved by the department to instruct commissioned security officers as defined in the Act]~~. Commissioned security officers shall submit a firearms proficiency certificate along with the renewal application.

(h) During the first twelve (12) months of initial licensure, ~~[registration, each person employed as an]~~ alarm system installers ~~[installer or alarm systems salesperson]~~ must complete the Alarm Level I training. This training consists ~~[, consisting]~~ of sixteen (16) hours of classroom instruction or equivalent online course as approved by the department, with two (2) hours covering the National Electrical Code (NEC) as it applies to low voltage. Alarm ~~[Any person employed as an alarm]~~ systems installer or alarm systems salesperson must earn ~~[earned]~~ eight (8) hours of continuing education credits in an alarm related field, with one (1) hour covering the National Electrical Code (NEC) as it applies to low voltage, during each subsequent twenty-four (24) month period. This requirement must be satisfied prior to the expiration date of the license and before renewal ~~[registration in order to renew the registration]~~.

(i) For the protection of the installer and the general public, the work of an alarm system installer who has not completed the required sixteen (16) hours of instruction must be overseen by an installer who has completed the required sixteen (16) hours of instruction. The oversight required under this section need not involve direct physical supervision, but the overseeing installer is responsible for ensuring the installation complies with all applicable requirements and regulations.

(j) Any licensed ~~[person registered as an]~~ alarm systems installer ~~[or salesperson]~~ who fails to complete sixteen (16) hours of training during the twenty-four (24) months of initial licensure, or who fails to complete eight (8) hours of continuing education during any subsequent licensing period is not eligible to renew ~~[make a new or renewal application]~~ until ~~[such time as]~~ all training requirements for the previous license period have been satisfied.

(k) Alarm monitors shall complete four (4) hours of continuing education relating ~~in~~ ~~subject matter that relates~~ to the duties and responsibilities of an alarm monitor.

(l) All individuals ~~[persons registered or]~~ licensed as locksmiths must complete sixteen (16) hours of continuing education every two (2) years.

(m) Attendees of continuing education courses shall maintain certificates of completion furnished by the school director in their files for a period of two (2) years. Attendees shall furnish the department with copies of all certificates of completion upon request.

*§35.162. Continuing Education Schools.*

(a) Except as otherwise provided by this subchapter, all continuing education credits must be earned through department approved continuing education schools.

(b) All department approved continuing education schools shall comply with subsection (b)(1) - subsection (b)(7):

(1) Each school must identify to the department a school director as its agent responsible for ensuring the school's compliance with this subchapter, including the maintenance of attendance records, the provision of such records to department personnel upon request, and the verification of curricula and instructors' qualifications. The failure of this individual to perform these duties or to otherwise comply with this subchapter may result in the cancellation of the school's certificate of approval and the rejection of claims for continuing education credit obtained from that school.

(2) School attendance records shall include:

(A) Subjects taught in each course of instruction;

(B) Total hours of each course of instruction and the hours instructed on each subject;

(C) Date of instruction;

(D) Name, license number, and date(s) of attendance for each individual that attended a course of instruction; and

(E) Name and qualifications of instructor.

(3) Schools shall issue certificates of attendance to ~~[registrants or]~~ licensees attending a course of instruction. The certificates of attendance shall contain the name and

license number of the attendee, the date of attendance, the number of hours of attendance, and the course(s) of instruction attended. Each certificate shall be signed and dated by the school director.

(4) Schools shall maintain all records required by this section for a period of two (2) years.

(5) The school shall provide copies of all records required under this subchapter to the department upon request.

(6) The school director shall verify that the curriculum of each continuing education course offered is in compliance with this chapter.

(7) The school director shall verify the qualifications of each instructor.

(c) Attendees of courses of continuing education shall maintain certificates of completion furnished by the school director in their files for a period of two (2) years. Attendees shall furnish the department with copies of all certificates of completion upon request.

(d) Licensed companies with ten (10) or more licensed [~~registered~~] employees may make a written request for a letter of exemption allowing them to provide continuing education to those employees registered under the requesting company's license. Such requests shall be addressed to the department. A letter of exemption granted under this section shall be valid for two (2) years. To qualify for a letter of exemption, the company must appoint a training director, assure that all training is in compliance with all related administrative rules, maintain proof of all training, and provide each licensed employee with a certificate of training as required by this section. There is no annual fee associated with a letter of exemption issued under this subsection. The exemption provided in this subsection does not apply to commissioned security officers or personal protection officers.