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SENATE BILL 796

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

John T. L. Grubesi c

AN ACT

RELATING TO LICENSING; REVISING THE PRIVATE INVESTIGATORS AND  
POLYGRAPHERS ACT; PROVIDING PENALTIES; AMENDING AND ENACTING  
SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-27A-2 NMSA 1978 (being Laws 1993,  
Chapter 212, Section 2, as amended) is amended to read:

"61-27A-2. DEFINITIONS.--As used in the Private  
Investigators and Polygraphers Act:

~~[A. "alarm company" means a company that installs  
burglar or security alarms in a facility and responds with  
guards when the alarm is sounded;~~

~~B.]~~ A. "armored car company" means a company that  
knowingly and willingly transports money and other negotiables  
for a fee or other remuneration;

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1            B. "board" means the private investigators, private  
2 patrol operators and polygraph examiners board;

3            C. "bodyguard" means [~~a person~~] an individual who  
4 physically performs the mission of personal security [~~of~~] for  
5 another individual;

6            D. "branch office" means an office of a private  
7 investigation company or private patrol operator company  
8 physically located in New Mexico and managed, controlled or  
9 directed by [~~a~~] the owner or by a private investigator manager  
10 or private patrol operator manager;

11           E. "client" means an individual or legal entity  
12 having a contract that authorizes services to be provided in  
13 return for financial or other consideration;

14           F. "conviction" means any final adjudication of  
15 guilty, whether pursuant to a plea of guilty or nolo contendere  
16 or otherwise and whether or not the sentence is deferred or  
17 suspended;

18           [~~G. "department" means the regulation and licensing~~  
19 ~~department;~~]

20           G. "individual" means a single human being;

21           H. "legal business entity" means a sole  
22 proprietorship, corporation, partnership, limited liability  
23 company, limited liability partnership or entity formed for  
24 business purposes;

25           [~~H.~~] I. "licensee" means [~~a person~~] an individual

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1 licensed [~~as a:~~

2 ~~(1) private investigator;~~

3 ~~(2) private patrol operator; or~~

4 ~~(3) polygraph examiner;~~

5 I. ~~"manager" means an individual who:~~

6 ~~(1) has the qualifications required of a~~

7 ~~licensee; and~~

8 ~~(2) directs, controls or manages a private~~

9 ~~investigator or private patrol operator business for the owner~~  
10 ~~of the business when the owner does not qualify for a license~~  
11 ~~under the Private Investigators and Polygraphers Act;~~

12 J. ~~"person" means any individual, firm, company,~~  
13 ~~association, organization, partnership or corporation] pursuant~~  
14 ~~to the Private Investigators and Polygraphers Act;~~

15 J. "polygraph examiner" means an individual  
16 licensed by the board to engage in the practice of polygraphy;

17 K. "polygraphy" means the employment of an  
18 instrument designed to graphically record simultaneously the  
19 physiological changes in human respiration, cardiovascular  
20 activity, galvanic skin resistance or reflex for the purpose of  
21 lie detection and includes the reading and interpretation of  
22 polygraphic records and results;

23 L. "private investigation company" means a legal  
24 business entity that provides private investigation services,  
25 the location of which may be within or outside of the state,

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1 provided that the private investigation services are performed  
2 within New Mexico;

3 ~~[L.]~~ M "private investigator" means ~~[a person who~~  
4 ~~for any consideration whatsoever engages in business or accepts~~  
5 ~~employment to conduct an investigation for the purpose of~~  
6 ~~obtaining information with reference to]~~ an individual who is  
7 licensed to engage in business or who accepts employment to  
8 conduct an investigation to obtain information regarding:

9 (1) crime or wrongs done or threatened against  
10 the United States or ~~[any]~~ a state or territory of the United  
11 States;

12 (2) ~~[the identity, habits, conduct, business,~~  
13 ~~occupation, honesty, integrity, credibility, knowledge,~~  
14 ~~trustworthiness, efficiency, loyalty, activity, movement,~~  
15 ~~whereabouts, affiliation, association, transactions, acts,~~  
16 ~~reputation or character of]~~ any person;

17 (3) the location, disposition or recovery of  
18 lost or stolen property;

19 (4) the cause or responsibility for fires,  
20 losses, accidents or damage or injury to persons or properties;  
21 or

22 (5) the securing of evidence to be used before  
23 any court, board ~~[officer]~~ or investigating committee or for a  
24 law enforcement officer;

25 ~~[M "private investigator employee" means an~~

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1 ~~individual who is working under the license and bond of a~~  
2 ~~private investigator;~~]

3 N. "private investigator employee" means an  
4 individual who is registered to work under the direct control  
5 and supervision of a licensed private investigator;

6 0. "private investigator manager" means an  
7 individual who:

8 (1) is licensed as a private investigator and  
9 is issued a license as a private investigator manager by the  
10 board;

11 (2) directs, controls or manages a private  
12 investigation company for the owner of the company; and

13 (3) is assigned to and operates from the  
14 private investigation company or branch office location of  
15 which he is licensed to manage;

16 ~~[N.]~~ P. "private patrol operator" [or "operator of  
17 a private patrol service"] means [a person who for any  
18 consideration whatsoever agrees] an individual who is licensed  
19 to:

20 (1) [furnish or furnishes a] conduct uniformed  
21 or nonuniformed services that include watchman, security guard,  
22 patrolman or other person to protect property and any persons  
23 on or in the property;

24 (2) prevent the theft, unlawful taking, loss,  
25 embezzlement, misappropriation or concealment of any goods,

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1 wares, merchandise, money, bonds, stocks, notes, documents,  
2 papers or property of any kind; or

3 (3) perform the service of a security guard,  
4 armored car company or security dog ~~[company]~~ trainer; a  
5 "private patrol operator" may not make ~~[any investigation]~~  
6 investigations except those that are incidental to the theft,  
7 loss, embezzlement, misappropriation or concealment of ~~[any]~~  
8 property or ~~[any]~~ other item enumerated in the Private  
9 Investigators and Polygraphers Act that ~~[he]~~ the operator has  
10 been hired or engaged to protect, guard or watch;

11 ~~[0. "security dog company" means a company that~~  
12 ~~uses trained dogs with handlers to perform a security mission~~  
13 ~~at a location; and]~~

14 Q. "private patrol operator company" means a legal  
15 business entity that provides private patrol operator services,  
16 including an independent or proprietary commercial organization  
17 whose activities include employment of licensed private patrol  
18 operators or security guards, the location of which may be  
19 within or outside of the state, provided that the private  
20 patrol operator services are performed within New Mexico;

21 R. "private patrol operator manager" means an  
22 individual who:

23 (1) is licensed as a private patrol operator  
24 or registered as a level three security guard and is issued a  
25 license as a private patrol operator manager by the board;

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1                   (2) directs, controls or manages a private  
2 patrol operator company for the owner of the company; and

3                   (3) is assigned to and operates from the  
4 private patrol operator company or branch office location that  
5 he is licensed to manage;

6                   S. "proprietary commercial organization" means an  
7 organization or department of an organization that provides  
8 full- or part-time security guard services solely for itself;

9                   T. "registrant" means an individual registered as a  
10 private investigator employee or a security guard at any level;

11                   U. "security dog trainer" means an individual who  
12 trains dogs to detect illegal substances;

13                   [~~P.~~] V. "security guard" means [any] an individual  
14 who is [an employee of a private patrol operator and employed]  
15 registered to engage in uniformed or nonuniformed services  
16 under the direct control and supervision of a licensed private  
17 patrol operator or a manager who is a private patrol operator  
18 to perform [~~such~~] security missions such as watchman, fixed  
19 post guard, dog handler, patrolman or other person to protect  
20 property or prevent thefts. "Security guard" includes loss  
21 prevention officers. The three levels of registration for  
22 security guard positions are as follows:

23                   (1) level one - entry level, unarmed;

24                   (2) level two - intermediate, armed but not  
25 with a firearm; and

1                                   (3) level three - advanced level position, may  
2 be armed with a firearm; and

3                                   W. "special event" means a parade or other short  
4 duration event. "

5                                   Section 2. Section 61-27A-3 NMSA 1978 (being Laws 1993,  
6 Chapter 212, Section 3) is amended to read:

7                                   "61-27A-3. LICENSE REQUIRED. --It is unlawful for [~~any~~  
8 ~~person~~] an individual to:

9                                   A. act as a private investigator, [~~a~~] private  
10 patrol operator, security guard, private investigator employee,  
11 private investigator manager or [~~a~~] private patrol operator  
12 manager or to represent himself to be a licensee or a [~~manager~~]  
13 registrant unless [~~he~~] the individual is licensed [~~under~~] or  
14 registered pursuant to the Private Investigators and  
15 Polygraphers Act;

16                                   B. render physical protection for remuneration as a  
17 bodyguard unless [~~he~~] the individual is licensed as a private  
18 investigator or a private patrol operator;

19                                   C. continue to act as a private investigator,  
20 private patrol operator, security guard, private investigator  
21 employee, private investigator manager or private patrol  
22 operator manager if [~~his~~] the individual's license or  
23 registration issued pursuant to [~~that~~] the Private  
24 Investigators and Polygraphers Act has expired;

25                                   D. falsely represent that [~~he~~] the individual is

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1 employed by a licensee; or

2 E. practice polygraphy for any remuneration without  
3 a license issued by the ~~[department]~~ board in accordance with  
4 the Private Investigators and Polygraphers Act. "

5 Section 3. Section 61-27A-4 NMSA 1978 (being Laws 1993,  
6 Chapter 212, Section 4) is amended to read:

7 "61-27A-4. PERSONS EXEMPTED. --The Private Investigators  
8 and Polygraphers Act does not apply to:

9 ~~[A. attorneys;~~

10 ~~B. a person employed exclusively and regularly by  
11 one employer in connection with the affairs of such employer  
12 only where there exists an employer-employee relationship;]~~

13 A. an attorney licensed in New Mexico conducting  
14 private investigations while engaged in the practice of law;

15 ~~[C.]~~ B. an officer or employee of the United States  
16 or this state or a political subdivision of the United States  
17 or this state while that officer or employee is engaged in the  
18 performance of his official duties;

19 ~~[D.]~~ C. a person engaged exclusively in the  
20 business of obtaining and furnishing information concerning the  
21 financial rating of persons;

22 ~~[E.]~~ D. a charitable philanthropic society or  
23 association duly incorporated under the laws of this state that  
24 is organized and maintained for the public good and not for  
25 private profit;

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1           ~~[F.]~~ E. a licensed collection agency or an employee  
2     ~~[thereof]~~ of the agency while acting within the scope of ~~[his]~~  
3     employment while making an investigation incidental to the  
4     business of the agency, including an investigation of the  
5     location of a debtor or his property;

6           ~~[G.]~~ F. admitted insurers, adjusters, agents and  
7     insurance brokers licensed by the state performing duties in  
8     connection with insurance transactions by them; or

9           ~~[H.—any]~~ G. an institution subject to the  
10    jurisdiction of the director of the financial institutions  
11    division of the regulation and licensing department or the  
12    comptroller of currency of the United States. "

13           Section 4. Section 61-27A-5 NMSA 1978 (being Laws 1993,  
14    Chapter 212, Section 5) is amended to read:

15           "61-27A-5. BOARD CREATED- - ADMINISTRATION OF ACT- - RULES  
16    ~~[AND REGULATIONS]~~. - -

17           A. The "private investigators, private patrol  
18    operators and polygraph examiners board" is created.

19           ~~[A.]~~ B. The ~~[department]~~ board shall enforce and  
20    administer the provisions of the Private Investigators and  
21    Polygraphers Act.

22           ~~[B. The department shall appoint an advisory board~~  
23    ~~to assist in the conduct of the examination process for~~  
24    ~~licensure and in any other manner to aid in the administration~~  
25    ~~of that act. The advisory board shall consist of two licensed~~

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1 ~~private investigators, one licensed private patrol operator,~~  
2 ~~one licensed polygraph examiner and one member of the public.~~  
3 ~~Members of the board shall be reimbursed as provided in the Per~~  
4 ~~Diem and Mileage Act.~~

5 ~~C. The department shall keep a record of each~~  
6 ~~licensee and each employee of a private investigator or private~~  
7 ~~patrol operator.]~~

8 C. The board is administratively attached to the  
9 regulation and licensing department.

10 D. The board shall consist of five members  
11 appointed by the governor who shall serve five-year terms;  
12 provided that at the time of initial appointment, the governor  
13 shall appoint two members to abbreviated terms to allow for  
14 staggering of terms of subsequent appointees. The governor  
15 shall fill vacancies by appointment to complete the unexpired  
16 term created by the vacancy. The governor shall appoint the  
17 following members to the board:

18 (1) two licensed private investigators;

19 (2) one licensed private patrol operator;

20 (3) one licensed polygraph examiner; and

21 (4) one member of the public.

22 E. The public member or the public member's spouse  
23 shall not have been licensed pursuant to the Private  
24 Investigators and Polygraphers Act, or similar prior  
25 legislation, or have a financial interest, direct or indirect,

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1 in a private investigation company, private patrol operator  
2 company, polygraph examiner business or a related business.

3 F. Members of the board shall be reimbursed  
4 pursuant to the Per Diem and Mileage Act and shall receive no  
5 other compensation, perquisite or allowance for each day spent  
6 in the discharge of their duties.

7 G. The board shall keep a record of each individual  
8 licensee and registrant, including the private investigation  
9 company or private patrol operator company where each  
10 individual licensee or registrant is employed. The board shall  
11 keep a record of each private investigation company or private  
12 patrol operator company licensed by the board, including a  
13 record of the owners, officers and directors of each company.

14 ~~[D.]~~ H. The [department] board shall adopt and  
15 enforce rules [and regulations] necessary to carry out the  
16 provisions of the Private Investigators and Polygraphers Act,  
17 including [requirements for continuing education] establishing  
18 professional ethical standards.

19 I. The board shall adopt rules regarding the  
20 following:

21 (1) licensing and registering private  
22 investigators, private investigator employees, private  
23 investigator managers, private investigation companies, private  
24 patrol operators, security guards, private patrol operator  
25 managers, private patrol operator companies and polygraph

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1 examiners;

2 (2) establishing minimum training and  
3 educational standards for licensure and registration;

4 (3) continuing education requirements;

5 (4) establishing and operating a branch  
6 office;

7 (5) creating a policy on reciprocity with  
8 other states and territories of the United States;

9 (6) providing permits for security guards for  
10 special events; and

11 (7) conducting criminal history background  
12 checks. "

13 Section 5. Section 61-27A-6 NMSA 1978 (being Laws 1993,  
14 Chapter 212, Section 6, as amended) is amended to read:

15 "61-27A-6. PRIVATE INVESTIGATOR--REQUIREMENTS FOR  
16 LICENSURE. --

17 A. The department shall issue a license for a  
18 private investigator to [~~a person~~] an individual who files a  
19 completed application accompanied by the required fees and who  
20 submits satisfactory evidence that the applicant has met all  
21 requirements set forth by the board in rule, including that the  
22 applicant:

23 (1) is at least [~~eighteen~~] twenty-one years of  
24 age;

25 (2) is of good moral character;

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1                   ~~[(3) has passed a written examination as~~  
2 ~~prescribed by the department;~~

3                   ~~(4) has at least three years' experience~~  
4 ~~within the last five years in investigative work or a level of~~  
5 ~~experience determined to be sufficient by the department; and]~~

6                   (3) has successfully passed an examination as  
7 required by board rule;

8                   ~~[(5)]~~ (4) has not been convicted of a felony  
9 offense or [a] other criminal offense [~~involving moral~~  
10 ~~turpitude or the illegal use or possession of a deadly weapon.~~

11                   ~~B. The department shall issue a license for a~~  
12 ~~private investigator manager to a person who files a completed~~  
13 ~~application accompanied by the required fees and who submits~~  
14 ~~satisfactory evidence that the applicant:~~

15                   ~~(1) is at least eighteen years of age;~~

16                   ~~(2) has passed a written examination as~~  
17 ~~prescribed by the department;~~

18                   ~~(3) has at least three years' experience~~  
19 ~~within the last five years in investigative work or a level of~~  
20 ~~experience determined to be sufficient by the department;~~

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

22                   ~~(5) has not been convicted of a felony offense~~  
23 ~~or a criminal offense involving moral turpitude or the illegal~~  
24 ~~use or possession of a deadly weapon.~~

25                   ~~C. The department shall issue a license for a~~

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1 ~~private patrol operator to a person who files a completed~~  
2 ~~application accompanied by the required fees and who submits~~  
3 ~~satisfactory evidence that the applicant:~~

4 ~~(1) is at least eighteen years of age;~~

5 ~~(2) is of good moral character;~~

6 ~~(3) has passed a written examination as~~  
7 ~~prescribed by the department;~~

8 ~~(4) has at least three years' experience~~  
9 ~~within the last five years in security work or a level of~~  
10 ~~experience determined to be sufficient by the department; and~~

11 ~~(5) has not been convicted of a felony offense~~  
12 ~~or a criminal offense involving moral turpitude or the illegal~~  
13 ~~use or possession of a deadly weapon.~~

14 ~~D. The department shall issue a license for a~~  
15 ~~private patrol operator manager to a person who files a~~  
16 ~~completed application accompanied by the required fees and who~~  
17 ~~submits satisfactory evidence that the applicant:~~

18 ~~(1) is at least eighteen years of age;~~

19 ~~(2) has passed a written examination as~~  
20 ~~prescribed by the department;~~

21 ~~(3) has at least three years' experience~~  
22 ~~within the last five years in security work or a level of~~  
23 ~~experience determined to be sufficient by the department;~~

24 ~~(4) is of good moral character; and~~

25 ~~(5) has not been convicted of a felony offense~~

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1 ~~or a criminal offense involving moral turpitude or the illegal~~  
2 ~~use or possession of a deadly weapon.~~

3 ~~E. A manager's license is required when the owner~~  
4 ~~of a private investigator or private patrol operator business~~  
5 ~~does not qualify for a license under the Private Investigators~~  
6 ~~and Polygraphers Act.~~

7 ~~F. The department shall issue a security guard~~  
8 ~~pocket card to a person who files a completed application~~  
9 ~~accompanied by the required fees and who submits satisfactory~~  
10 ~~evidence that the applicant:~~

11 ~~(1) is at least eighteen years of age; and~~

12 ~~(2) is of good moral character.~~

13 ~~G. The department shall issue a license for~~  
14 ~~polygrapher to a person who files a completed application~~  
15 ~~accompanied by the required fees and who submits satisfactory~~  
16 ~~evidence that the applicant:~~

17 ~~(1) is at least eighteen years of age;~~

18 ~~(2) possesses a high school diploma or its~~  
19 ~~equivalent;~~

20 ~~(3) has not been convicted of a felony or~~  
21 ~~misdemeanor involving moral turpitude; and~~

22 ~~(4) has graduated from a polygraph examiners~~  
23 ~~course approved by the department and:~~

24 ~~(a) has completed a probationary~~  
25 ~~operational competency period and passed an examination of~~

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1 ~~ability to practice polygraphy; or~~

2 ~~(b) has submitted proof of holding, for~~  
3 ~~a minimum of two years immediately prior to the date of~~  
4 ~~application, a current license to practice polygraphy in~~  
5 ~~another jurisdiction whose standards equal or surpass those of~~  
6 ~~New Mexico] and has not been found to have violated~~  
7 ~~professional ethical standards; and~~

8 (5) has at least three years' experience that  
9 has been acquired within the five years preceding the filing of  
10 the application with the board, consisting of not less than six  
11 thousand hours of actual work performed in:

12 (a) investigation for the purpose of  
13 obtaining information with reference to a crime or wrongs done  
14 or threatened against the United States;

15 (b) investigation of persons;

16 (c) the location, disposition or  
17 recovery of lost or stolen property;

18 (d) the cause or responsibility for  
19 fire, losses, accidents or damage or injury to persons or  
20 property; or

21 (e) securing evidence to be used before  
22 a court, board or investigating committee or for a law  
23 enforcement officer.

24 B. Years and hours of qualifying experience and the  
25 precise nature of that experience shall be substantiated by

1 written certification from employers and shall be subject to  
2 independent verification by the board as it determines is  
3 warranted. The burden of proving the necessary experience is  
4 on the applicant. "

5 Section 6. A new section of the Private Investigators and  
6 Polygraphers Act, Section 61-27A-6.1 NMSA 1978, is enacted to  
7 read:

8 "61-27A-6.1. [NEW MATERIAL] PRIVATE INVESTIGATION  
9 COMPANY--REQUIREMENTS FOR LICENSURE.--The board shall issue a  
10 license for a private investigation company to a person who  
11 files a completed application accompanied by the required fees  
12 and who submits satisfactory evidence that the applicant:

13 A. if an individual, is of good moral character, or  
14 if the applicant is a legal business entity, the owners,  
15 officers or directors are of good moral character;

16 B. if an individual, has not been convicted of a  
17 felony offense or other criminal offense and has not been found  
18 to have violated professional ethical standards, or if a legal  
19 business entity, the owners, officers or directors have not  
20 been convicted of felony offenses or other criminal offenses  
21 and have not been found to have violated professional ethical  
22 standards;

23 C. maintains general liability insurance as  
24 specified in the Private Investigators and Polygraphers Act;

25 D. has an owner or a licensed private investigator

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1 manager who is licensed as a private investigator and who  
2 manages the daily operations of the private investigation  
3 company;

4 E. maintains a physical location in New Mexico  
5 where records are maintained and made available for inspection  
6 by the board or one of its designees;

7 F. maintains a New Mexico registered agent, if the  
8 private investigation company is located outside of New Mexico;  
9 and

10 G. meets all other requirements set forth in the  
11 rules of the board. "

12 Section 7. A new section of the Private Investigators and  
13 Polygraphers Act, Section 61-27A-6.2 NMSA 1978, is enacted to  
14 read:

15 "61-27A-6.2. [NEW MATERIAL] PRIVATE INVESTIGATOR  
16 MANAGER-- REQUIREMENTS FOR LICENSURE-- NOTIFICATION OF BOARD IN  
17 EVENT OF TERMINATION OF EMPLOYMENT. --

18 A. The board shall issue a license for a private  
19 investigator manager to an individual who files a completed  
20 application accompanied by the required fees and who submits  
21 satisfactory evidence that the applicant:

22 (1) possesses a current license in good  
23 standing as a private investigator;

24 (2) has successfully passed an examination  
25 required by board rule;

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1 (3) is employed by the private investigation  
2 company that he will be managing and remains employed by the  
3 private investigation company under which authority the license  
4 of the private investigator manager is issued. Termination of  
5 employment with the private investigation company terminates  
6 the license of the private investigator manager; and

7 (4) meets other requirements set forth in  
8 rules of the board.

9 B. A private investigator manager who ceases to be  
10 employed by the private investigation company he is licensed to  
11 manage shall surrender his license to the owner, officer or  
12 director who will temporarily take over management of the  
13 company before the manager leaves the company. The owner,  
14 officer or director shall notify and submit the license to the  
15 board within thirty days of the termination of employment of  
16 the private investigator manager. If the private investigation  
17 company fails to notify the board within thirty days of the  
18 termination of the private investigator manager's termination  
19 from employment, the license of the private investigation  
20 company shall be subject to suspension or revocation and may  
21 only be reinstated upon the filing of an application for  
22 reinstatement and payment of the reinstatement fee.

23 C. The owner, officer or director of a private  
24 investigation company shall submit an application to the board  
25 naming a new private investigator manager within thirty days

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1 from the date that a manager ceases to be employed by the  
2 private investigation company. The newly named private  
3 investigator manager shall not start performing the duties of a  
4 manager until and unless the board grants the individual a  
5 license as a private investigation manager. "

6 Section 8. A new section of the Private Investigators and  
7 Polygraphers Act, Section 61-27A-6.3 NMSA 1978, is enacted to  
8 read:

9 "61-27A-6.3. [NEW MATERIAL] PRIVATE PATROL OPERATOR--  
10 REQUIREMENTS FOR LICENSURE. --The board shall issue a license  
11 for a private patrol operator to an individual who files a  
12 completed application accompanied by the required fees and who  
13 submits satisfactory evidence that the applicant:

- 14 A. is at least twenty-one years of age;
- 15 B. is of good moral character;
- 16 C. has successfully passed an examination as  
17 required by board rule;
- 18 D. has not been convicted of a felony offense or  
19 other criminal offense or has not been found to have violated  
20 professional ethical standards;
- 21 E. has at least three years' experience of not less  
22 than six thousand hours of actual work performed as a security  
23 guard, watchman or patrolman or the equivalent, one year of  
24 which shall have been in a supervisory capacity. The  
25 experience shall have been acquired within five years preceding

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1 the filing of an application with the board. Years and hours  
2 of qualifying experience and the precise nature of that  
3 experience shall be substantiated by written certification from  
4 employers and shall be subject to independent verification by  
5 the board as it determines is warranted. The burden of proving  
6 the necessary experience is on the applicant;

7 F. is firearm certified, if the practice will  
8 require being armed with a firearm; and

9 G. meets other requirements set forth in rules of  
10 the board. "

11 Section 9. A new section of the Private Investigators and  
12 Polygraphers Act, Section 61-27A-6.4 NMSA 1978, is enacted to  
13 read:

14 "61-27A-6.4. [NEW MATERIAL] PRIVATE PATROL OPERATOR  
15 COMPANY--REQUIREMENTS FOR LICENSURE.--The board shall issue a  
16 license for a private patrol operator company to a person who  
17 files a completed application accompanied by the required fees  
18 and who submits satisfactory evidence that the applicant:

19 A. if an individual, is of good moral character, or  
20 if the applicant is a legal business entity, the owners,  
21 officers or directors are of good moral character;

22 B. if an individual, has not been convicted of a  
23 felony offense or other criminal offense or has not been found  
24 to have violated professional ethical standards, or if the  
25 applicant is a legal business entity, the owners, officers or

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1 directors have not been convicted of a felony or other criminal  
2 offense and have not been found to have violated professional  
3 ethical standards;

4 C. maintains general liability insurance as  
5 specified in the Private Investigators and Polygraphers Act;

6 D. has an owner or a licensed private patrol  
7 operator manager who is a private patrol operator or a level  
8 three security guard who manages the daily operations of the  
9 private patrol operator company;

10 E. maintains a physical location in New Mexico  
11 where records are maintained and made available for inspection  
12 by the board or one of its designees;

13 F. maintains a New Mexico registered agent, if the  
14 private patrol operator company is located outside of New  
15 Mexico; and

16 G. meets all other requirements set forth in the  
17 rules of the board."

18 Section 10. A new section of the Private Investigators  
19 and Polygraphers Act, Section 61-27A-6.5 NMSA 1978, is enacted  
20 to read:

21 "61-27A-6.5. [NEW MATERIAL] PRIVATE PATROL OPERATOR  
22 MANAGER-- REQUIREMENTS FOR LICENSURE-- NOTIFICATION OF BOARD IN  
23 EVENT OF TERMINATION OF EMPLOYMENT. --

24 A. The board shall issue a license for a private  
25 patrol operator manager to an individual who files a completed

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1 application accompanied by the required fees and who submits  
2 satisfactory evidence that the applicant:

3 (1) possesses a current license in good  
4 standing as a private patrol operator or a registration as a  
5 level three security guard;

6 (2) has successfully passed an examination as  
7 required by board rule;

8 (3) is employed by the private patrol operator  
9 company that the applicant will be managing and remains  
10 employed by the private patrol operator company under which  
11 authority the license of the private patrol operator manager is  
12 issued. Termination of employment with the private patrol  
13 operator company terminates the license of the private patrol  
14 operator manager; and

15 (4) meets other requirements set forth in the  
16 rules of the board.

17 B. A private patrol operator manager who ceases to  
18 be employed by the private patrol operator company he is  
19 licensed to manage shall surrender his license to the owner,  
20 officer or director who will temporarily take over management  
21 of the company before the manager leaves the company. The  
22 owner, officer or director shall notify and submit the license  
23 to the board within thirty days of the termination of  
24 employment of the private patrol operator manager. If the  
25 private patrol operator company fails to notify the board

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1 within thirty days of the private patrol operator manager's  
2 termination from employment, the license of the private patrol  
3 operator company shall be subject to suspension or revocation  
4 and may only be reinstated upon the filing of an application  
5 for reinstatement and payment of the reinstatement fee.

6 C. The owner, officer or director of a private  
7 patrol operator company shall submit an application to the  
8 board naming a new private patrol operator manager within  
9 thirty days from the date that a manager ceases to be employed  
10 by the private patrol operator company. The newly named  
11 private patrol operator manager shall not start performing the  
12 duties of a manager until and unless the board grants the  
13 individual a license as a private patrol operator manager. "

14 Section 11. A new section of the Private Investigators  
15 and Polygraphers Act, Section 61-27A-6.6 NMSA 1978, is enacted  
16 to read:

17 "61-27A-6.6. [NEW MATERIAL] POLYGRAPH EXAMINER--  
18 REQUIREMENTS FOR LICENSURE.--The board shall issue a license as  
19 a polygraph examiner to an individual who files a completed  
20 application accompanied by the required fees and who submits  
21 satisfactory evidence that the applicant:

- 22 A. is at least eighteen years of age;  
23 B. is of good moral character;  
24 C. possesses a high school diploma or its  
25 equivalent;

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1 D. has not been convicted of a felony or other  
2 criminal offense and has not been found to have violated  
3 professional ethical standards;

4 E. has graduated from an accredited polygraph  
5 examiners course approved by the board;

6 F. has:

7 (1) completed a probationary operational  
8 competency period and passed an examination of ability to  
9 practice polygraphy; or

10 (2) submitted proof of holding, for a minimum  
11 of two years immediately preceding the date of application, a  
12 current license to practice polygraphy in another jurisdiction  
13 whose standards are equal to or greater than those in New  
14 Mexico; and

15 G. meets other requirements set forth in the rules  
16 of the board. "

17 Section 12. A new section of the Private Investigators  
18 and Polygraphers Act, Section 61-27A-6.7 NMSA 1978, is enacted  
19 to read:

20 "61-27A-6.7. [NEW MATERIAL] PRIVATE INVESTIGATOR  
21 EMPLOYEE--REQUIREMENTS FOR REGISTRATION. --

22 A. On or after July 1, 2005, every individual who  
23 seeks employment or is currently employed as a private  
24 investigator employee shall file an application for  
25 registration with the board.

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1           B. The board shall issue a registration for a  
2 private investigator employee to an individual who files a  
3 completed application accompanied by the required fees and who  
4 submits satisfactory evidence that the applicant:

5                   (1) is at least eighteen years of age;

6                   (2) is of good moral character;

7                   (3) possesses a high school diploma or its  
8 equivalent;

9                   (4) has successfully completed an examination  
10 as required by board rule;

11                   (5) has not been convicted of a felony or  
12 other criminal offense and has not been found to have violated  
13 professional ethical standards;

14                   (6) shall be employed by a private  
15 investigation company, under the direct control and supervision  
16 of a licensed private investigator; and

17                   (7) meets other requirements as set forth in  
18 the rules of the board.

19           C. If the employment of a private investigator  
20 employee with a private investigation company terminates for  
21 any reason, the registration of the individual as a private  
22 investigator employee immediately terminates. The private  
23 investigator employee shall turn over his registration to the  
24 private investigation company upon termination.

25           D. A private investigation company has thirty days

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1 in which to notify the board of the employment termination of a  
2 private investigator employee and to return the private  
3 investigator employee's registration to the board. "

4 Section 13. A new section of the Private Investigators  
5 and Polygraphers Act, Section 61-27A-6.8 NMSA 1978, is enacted  
6 to read:

7 "61-27A-6.8. [NEW MATERIAL] SECURITY GUARD--LEVEL ONE--  
8 REQUIREMENTS FOR REGISTRATION. --

9 A. On or after July 1, 2005, every individual  
10 seeking employment or employed as a level one security guard  
11 shall file an application for registration with the board.

12 B. The board shall issue a registration for a level  
13 one security guard to an individual who files a completed  
14 application accompanied by the required fees and who submits  
15 satisfactory evidence that the applicant:

- 16 (1) is at least eighteen years of age;
- 17 (2) is of good moral character;
- 18 (3) possesses a high school diploma or its  
19 equivalent;
- 20 (4) has successfully completed an examination  
21 as required by board rule;
- 22 (5) has not been convicted of a felony or  
23 other criminal offense and has not been found to have violated  
24 professional ethical standards;
- 25 (6) has completed a curriculum approved in

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1 board rule consisting of at least forty hours of security  
2 officer training provided by an educational institution  
3 licensed by the commission on higher education pursuant to the  
4 Post-Secondary Educational Institution Act or a public  
5 institution;

6 (7) will be employed by a private patrol  
7 operator company under the direct control and supervision of a  
8 licensed private patrol operator; and

9 (8) meets other requirements as set forth in  
10 board rules.

11 C. A private patrol operator company has thirty  
12 days in which to notify the board of the employment termination  
13 of a level one security guard. "

14 Section 14. A new section of the Private Investigators  
15 and Polygraphers Act, Section 61-27A-6.9 NMSA 1978, is enacted  
16 to read:

17 "61-27A-6.9. [NEW MATERIAL] SECURITY GUARD--LEVEL TWO--  
18 REQUIREMENTS FOR REGISTRATION. --

19 A. On or after July 1, 2005, every individual  
20 seeking employment or employed as a level two security guard  
21 shall file an application for registration with the board.

22 B. The board shall issue a registration for a level  
23 two security guard to an individual who files a completed  
24 application accompanied by the required fees and who submits  
25 satisfactory evidence that the applicant:

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- 1 (1) is at least eighteen years of age;
- 2 (2) is of good moral character;
- 3 (3) possesses a high school diploma or its
- 4 equivalent;
- 5 (4) maintains a current registration in good
- 6 standing as a level one security guard;
- 7 (5) has successfully completed an examination
- 8 as required by board rule;
- 9 (6) has not been convicted of a felony or
- 10 other criminal offense and has not been found to have violated
- 11 professional ethical standards;
- 12 (7) has completed a curriculum approved in
- 13 board rule consisting of at least forty hours of training above
- 14 that required for a level one security guard registration,
- 15 including handcuffing, patrol tactics, baton and use of
- 16 paralyzing spray provided by an educational institution
- 17 licensed by the commission on higher education pursuant to the
- 18 Post-Secondary Educational Institution Act or a public
- 19 institution;
- 20 (8) is employed by a private patrol operator
- 21 company under the direct control and supervision of a licensed
- 22 private patrol operator; and
- 23 (9) meets other requirements as set forth in
- 24 board rules.

25 C. A private patrol operator company has thirty

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1 days in which to notify the board of the employment termination  
2 of a level two security guard. "

3 Section 15. A new section of the Private Investigators  
4 and Polygraphers Act, Section 61-27A-6.10 NMSA 1978, is enacted  
5 to read:

6 "61-27A-6.10. ~~[NEW MATERIAL]~~ SECURITY GUARD-- LEVEL  
7 THREE-- REQUIREMENTS FOR REGISTRATION. --

8 A. On or after July 1, 2005, every individual  
9 seeking employment or employed as a level three security guard  
10 shall file an application for registration with the board.

11 B. The board shall issue a registration for a level  
12 three security guard to an individual who files a completed  
13 application accompanied by the required fees and who submits  
14 satisfactory evidence that the applicant:

- 15 (1) is at least twenty-one years of age;
- 16 (2) is of good moral character;
- 17 (3) possesses a high school diploma or its  
18 equivalent;
- 19 (4) maintains a current registration in good  
20 standing as a level two security guard;
- 21 (5) has successfully completed an examination  
22 as required by board rule;
- 23 (6) has not been convicted of a felony or  
24 other criminal offense and has not been found to have violated  
25 professional ethical standards;

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1 (7) has completed a curriculum approved in  
2 board rule consisting of at least forty hours of training above  
3 that required for a level two security guard registration  
4 provided by an educational institution licensed by the  
5 commission on higher education pursuant to the Post-Secondary  
6 Educational Institution Act or a public institution;

7 (8) is firearm certified;

8 (9) is employed by a private patrol operator  
9 company under the direct control and supervision of a licensed  
10 private patrol operator; and

11 (10) meets other requirements as set forth in  
12 board rules.

13 C. A private patrol operator company has thirty  
14 days in which to notify the board of the employment termination  
15 of a level three security guard. "

16 Section 16. A new section of the Private Investigators  
17 and Polygraphers Act, Section 61-27A-6.11 NMSA 1978, is enacted  
18 to read:

19 "61-27A-6.11. [NEW MATERIAL] SPECIAL EVENT PERMIT--  
20 PROCEDURE--QUALIFICATIONS. --

21 A. The board may issue a temporary special event  
22 permit to a private patrol operator company for each security  
23 guard that the company intends to employ for a special event.

24 B. To be issued a special event permit, a private  
25 patrol operator company shall provide the board with a

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1 description of the special event, its location and the dates on  
2 which the temporary security guards will be employed to provide  
3 services at the special event. The special event permit shall  
4 bear the name of the private patrol operator company and  
5 contact information, the name of the security guard, the name  
6 of the special event for which it is issued, the dates of the  
7 special event and other pertinent information required by the  
8 board.

9 C. A special event permit shall be issued only to  
10 an individual who qualifies for any level security guard  
11 registration and who:

12 (1) is not a resident of New Mexico;

13 (2) does not hold a registration as a security  
14 guard in New Mexico; and

15 (3) meets other requirements set forth in  
16 board rules.

17 D. The private patrol operator company seeking a  
18 special event permit shall provide documentation required by  
19 the board that verifies the qualifications of the temporary  
20 security guards who are to be issued the special event  
21 permits. "

22 Section 17. Section 61-27A-7 NMSA 1978 (being Laws 1993,  
23 Chapter 212, Section 7) is amended to read:

24 "61-27A-7. [LICENSE] FEES. -- [~~Each applicant for licensure~~  
25 ~~shall pay a fee set by the department not to exceed the~~

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1 following:

2 A. ~~private investigator, initial license or~~  
3 ~~renewal, two hundred dollars (\$200);~~

4 B. ~~private investigator manager, initial license or~~  
5 ~~renewal, one hundred dollars (\$100);~~

6 C. ~~private investigator employee, initial~~  
7 ~~registration or renewal, fifty dollars (\$50.00);~~

8 D. ~~private patrol operator, initial license or~~  
9 ~~renewal, two hundred dollars (\$200);~~

10 E. ~~private patrol operator manager, initial license~~  
11 ~~or renewal, one hundred dollars (\$100);~~

12 F. ~~private patrol operator employee, initial~~  
13 ~~registration or renewal, twenty-five dollars (\$25.00);~~

14 G. ~~branch office, initial license or renewal fee,~~  
15 ~~seventy-five dollars (\$75.00);~~

16 H. ~~change in license status, one hundred dollars~~  
17 ~~(\$100);~~

18 I. ~~polygraph examiner, initial license or renewal,~~  
19 ~~three hundred dollars (\$300);~~

20 J. ~~polygraph applicant examination, fifty dollars~~  
21 ~~(\$50.00); and~~

22 K. ~~late fee for failure to renew a license within~~  
23 ~~the allotted time period, fifty dollars (\$50.00)] The board~~

24 shall establish a schedule of reasonable fees not to exceed the

25 following:

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- 1           A. application fee, not to exceed one hundred  
2 dollars (\$100);  
3           B. license fee, not to exceed five hundred dollars  
4 (\$500);  
5           C. registration fee, not to exceed two hundred  
6 fifty dollars (\$250);  
7           D. renewal or reinstatement fee, not to exceed five  
8 hundred dollars (\$500);  
9           E. late fee, not to exceed one hundred dollars  
10 (\$100); and  
11           F. administrative fee, not to exceed two hundred  
12 dollars (\$200). "

13           Section 18. Section 61-27A-8 NMSA 1978 (being Laws 1993,  
14 Chapter 212, Section 8) is amended to read:

15           "61-27A-8. LICENSE AND REGISTRATION RENEWAL. - - [~~On or~~  
16 ~~before June 30 of each odd-numbered year, every person licensed~~  
17 ~~or registered under the Private Investigators and Polygraphers~~  
18 ~~Act shall remit to the department, together with the prescribed~~  
19 ~~fee for the class of license desired, an application for~~  
20 ~~license or registration renewal on a form that is prescribed~~  
21 ~~and furnished by the department. Information required on the~~  
22 ~~renewal form shall include the licensee's current address,~~  
23 ~~state tax identification number and proof of compliance with~~  
24 ~~continuing education requirements promulgated by the~~  
25 ~~department. Failure to renew a license by June 30 of each~~

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1 ~~renewal year shall cause the license to be suspended until a~~  
2 ~~late fee, together with the unpaid renewal fee, is received by~~  
3 ~~the department. Any license that is not renewed within one~~  
4 ~~year from the date the license expired shall be automatically~~  
5 ~~revoked.]~~

6 A. A license or registration granted pursuant to  
7 the provisions of the Private Investigators and Polygraphers  
8 Act shall be renewed by the board annually unless the term of  
9 the license is set by the board by rule to be for a longer  
10 period. The term of a license or registration shall not exceed  
11 two years.

12 B. A licensee or registrant with an expired license  
13 or registration shall not perform an activity regulated by the  
14 Private Investigators and Polygraphers Act until the license or  
15 registration has been renewed or reinstated.

16 C. The board may require proof of continuing  
17 education credits or other proof of competency as a requirement  
18 of renewal or reinstatement of a license or registration."

19 Section 19. Section 61-27A-9 NMSA 1978 (being Laws 1993,  
20 Chapter 212, Section 9) is amended to read:

21 "61-27A-9. DISPLAY OF LICENSE AND REGISTRATION- -  
22 NOTIFICATION OF CHANGES. - -

23 A. A license shall at all times be posted in a  
24 conspicuous place in the principal place of business in New  
25 Mexico of the licensee.

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1                   ~~[B. A licensee shall notify the department within~~  
2 ~~thirty days after any change in his address, in the name under~~  
3 ~~which he does business or in the officers or partners of the~~  
4 ~~business.]~~

5                   B. A registration card shall at all times be in the  
6 possession of and located on the person of a registrant.

7                   C. Registered security guards shall wear their  
8 registration card on the outside of their uniform so that the  
9 card is visible to others.

10                  D. A licensee, including owners, officers or  
11 directors of a private investigation company or a private  
12 patrol operator company, or a registrant shall notify the board  
13 immediately in writing of a change in the address of the  
14 licensee or registrant. Failure to notify the board of changes  
15 required to be reported to the board pursuant to this section  
16 within thirty days is grounds for suspension of a license or  
17 registration. "

18                  Section 20. Section 61-27A-10 NMSA 1978 (being Laws 1993,  
19 Chapter 212, Section 10, as amended) is amended to read:

20                  "61-27A-10. OPERATION OF [BUSINESS] COMPANY--MANAGER  
21 REQUIRED--EMPLOYEES--UNLICENSED EMPLOYEES--TERMINATION.--

22                  ~~[A. Each business providing private investigator or~~  
23 ~~private patrol operator services in New Mexico shall be~~  
24 ~~operated under the direction, control, charge or management of~~  
25 ~~a licensee; provided that the business shall be under the~~

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1 ~~direction, control, charge or management of a manager if the~~  
2 ~~owner of the business does not qualify for a license under the~~  
3 ~~Private Investigators and Polygraphers Act.~~

4 ~~B. A licensee shall not conduct a business under a~~  
5 ~~fictitious name until he has obtained the written authorization~~  
6 ~~of the department. The department shall not authorize the use~~  
7 ~~of a fictitious name that is so similar to the name of a public~~  
8 ~~officer or agency or to the name used by another licensee that~~  
9 ~~the public may be confused or misled by it.~~

10 ~~C. A licensee shall at all times be legally~~  
11 ~~responsible for the good business conduct of each of his~~  
12 ~~employees, including his manager.~~

13 ~~D. Each licensee shall maintain a record containing~~  
14 ~~information relative to his employees as may be prescribed by~~  
15 ~~the department, and the records may be subject to inspection.~~

16 ~~E. Except as otherwise provided by the Private~~  
17 ~~Investigators and Polygraphers Act, every employee of a~~  
18 ~~licensee shall be registered by the licensee with the~~  
19 ~~department within seven days of employment; provided, however,~~  
20 ~~a licensee may hire temporary employees for periods of time not~~  
21 ~~to exceed five days for special celebrations, parades or~~  
22 ~~similar events without those employees being registered. The~~  
23 ~~provisions of this subsection shall not be used to circumvent~~  
24 ~~the registration of long-term employees.~~

25 ~~F. A person registered under the Private~~

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1 ~~Investigators and Polygraphers Act shall notify the department~~  
2 ~~in writing within thirty days of each change in his employment.~~

3 ~~If a person ceases to be employed by a licensee, the person~~  
4 ~~shall notify the department in writing within thirty days and~~  
5 ~~shall surrender his registration card to the department.~~

6 ~~G. A manager duly licensed under the Private~~  
7 ~~Investigators and Polygraphers Act need not register as an~~  
8 ~~employee.~~

9 ~~H. Employees of a licensee who are engaged~~  
10 ~~exclusively in stenographic, typing, filing, clerical or other~~  
11 ~~activities that do not constitute the work of a private~~  
12 ~~investigator or private patrol officer are not required to~~  
13 ~~register.~~

14 ~~I. A person shall not act as a manager until he is~~  
15 ~~licensed under the Private Investigators and Polygraphers Act.~~  
16 ~~If a manager ceases to be connected with a licensee, the~~  
17 ~~licensee shall notify the department in writing within thirty~~  
18 ~~days from the cessation. If the licensee fails to notify the~~  
19 ~~department within the thirty-day period, his license shall be~~  
20 ~~subject to suspension or revocation and may be reinstated only~~  
21 ~~upon the filing of an application for reinstatement and payment~~  
22 ~~of the reinstatement fee.]~~

23 A. A private investigation company providing  
24 services in New Mexico shall be operated under the direction,  
25 control, charge or management of the owner of the private

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1 investigation company if the owner is licensed as a private  
2 investigator or of a private investigator manager.

3 B. A private patrol operator company providing  
4 services in New Mexico shall be operated under the direction,  
5 control, charge or management of the owner of the private  
6 patrol operator company if the owner is licensed or registered  
7 as a private patrol operator or a level three security guard or  
8 of a private patrol operator manager.

9 C. A private investigation company or a private  
10 patrol operator company shall not conduct business under a  
11 fictitious name until the company has obtained the  
12 authorization for use of the name from the board. The board  
13 shall not authorize the use of a fictitious name that may  
14 generate public confusion with the name of a public officer or  
15 agency or the name used by another private investigation  
16 company or private patrol operator company.

17 D. A private investigation company is liable for  
18 the conduct of the company's employees, including the conduct  
19 of a private investigator manager. A private patrol operator  
20 company is liable for the conduct of the company's employees,  
21 including the conduct of a private patrol operator manager.

22 E. A private investigation company or a private  
23 patrol operator company shall maintain records of the  
24 qualifications, performance and training of all of its current  
25 and former employees as required by the board. The records are

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1 subject to inspection by the board upon reasonable notice to  
2 the owner or private investigator manager or private patrol  
3 operator manager.

4 F. Except as otherwise provided in the Private  
5 Investigators and Polygraphers Act, every employee of a  
6 licensed private investigation company or private patrol  
7 operator company shall be licensed or registered by the board  
8 as employees of the company with which they are employed;  
9 provided, however, that a licensee or registrant may work for  
10 more than one company.

11 G. Each temporary security guard employed by a  
12 private patrol operator company for a special event shall be  
13 issued a special event permit for each special event. The  
14 private patrol operator company employing the temporary  
15 security guard for a special event shall obtain the special  
16 event permits necessary for the temporary employees that are  
17 employed. The provisions of this subsection shall not be used  
18 to circumvent the registration process for permanent or part-  
19 time, long-term employees.

20 H. A person licensed or registered by the board  
21 shall notify the board in writing within thirty days of each  
22 change in his employment by filing an application as required  
23 by the board. If a person ceases to be employed by a private  
24 investigation company or a private patrol operator company, the  
25 person shall notify the board in writing within thirty days.

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1           I. Employees of a private investigation company or  
2 private patrol operator company who are engaged exclusively to  
3 perform stenographic, typing, filing, clerical, secretarial,  
4 receptionist, accounting, bookkeeping, information technology  
5 or other business or support functions that do not perform the  
6 work of a private investigator, a private patrol operator or a  
7 security guard, are not required to be licensed or registered  
8 by the board.

9           J. An individual who is not licensed or qualified  
10 to be employed as a private investigator manager or a private  
11 patrol operator manager shall not be employed to perform the  
12 duties required of those managers."

13           Section 21. Section 61-27A-11 NMSA 1978 (being Laws 1993,  
14 Chapter 212, Section 11) is amended to read:

15           "61-27A-11. [~~BOND~~] GENERAL LIABILITY INSURANCE  
16 REQUIRED. --

17           A. A private investigation company or a private  
18 patrol operator company license [~~except a manager's license and~~  
19 ~~polygraph examiner's license~~] shall not be issued under the  
20 Private Investigators and Polygraphers Act unless the applicant  
21 files [~~with the department:~~

22                   ~~(1) a surety bond executed by a surety company~~  
23 ~~authorized to do business in this state; or~~

24                   ~~(2) a certificate of deposit in the sum of two~~  
25 ~~thousand dollars (\$2,000), conditioned for the faithful and~~

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1 ~~lawful conduct of business by the applicant.~~

2 ~~The form of bond, its execution and the sufficiency of the~~  
3 ~~surety shall be verified by the department.~~

4 ~~B. A licensee shall maintain the surety bond, and,~~  
5 ~~upon failure to do so, the license of the licensee shall be~~  
6 ~~suspended and shall not be reinstated until an application in~~  
7 ~~the form prescribed by the department is filed, together with a~~  
8 ~~proper surety bond. The department] a general liability~~  
9 ~~certificate of insurance with the board in the amount of one~~  
10 ~~million dollars (\$1,000,000).~~

11 B. The owner or chief executive officer of a  
12 licensed private investigation company or a private patrol  
13 operator company shall maintain the general liability  
14 certificate of insurance, and, upon failure to do so, the  
15 license of the private investigation company or the private  
16 patrol operator company shall be suspended and shall not be  
17 reinstated until an application in the form prescribed by the  
18 board is filed together with an acceptable general liability  
19 certificate of insurance. The board may deny the application,  
20 notwithstanding the applicant's compliance with this section:

21 (1) for any reason that would justify a  
22 refusal to issue or a suspension or a revocation of a license;  
23 or

24 (2) for the performance by the applicant of  
25 any practice while under suspension for failure to keep [his

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1 ~~bond~~ the general liability certificate of insurance in force  
2 for which a license under the Private Investigators and  
3 Polygraphers Act is required.

4 C. ~~[Bonds]~~ A general liability certificate of  
5 insurance executed and filed with the ~~[department]~~ board  
6 pursuant to the Private Investigators and Polygraphers Act  
7 shall remain in force until the ~~[surety]~~ company issuing the  
8 general liability certificate of insurance has terminated  
9 future ~~[liability]~~ indemnity by ~~[thirty-day]~~ notice to the  
10 ~~[department]~~ board. "

11 Section 22. Section 61-27A-12 NMSA 1978 (being Laws 1993,  
12 Chapter 212, Section 12) is amended to read:

13 "61-27A-12. PROHIBITED ACTS. --

14 A. ~~[Any]~~ A licensee or ~~[manager for the licensee]~~  
15 registrant may divulge to any law enforcement officer or  
16 district attorney, the attorney general or his representatives  
17 ~~[any]~~ information ~~[he acquires]~~ acquired concerning ~~[any]~~ a  
18 criminal offense, but ~~[he]~~ the licensee or registrant shall not  
19 divulge to any other person, except as ~~[he is]~~ required by law,  
20 ~~[any]~~ information acquired by ~~[him]~~ the licensee or registrant  
21 except at the direction of ~~[his]~~ the employer or the client for  
22 whom the information was obtained.

23 B. No licensee ~~[manager or employee of a licensee]~~  
24 or registrant shall knowingly make ~~[any]~~ a false report to his  
25 employer or the client for whom the information was being

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1 obtained.

2 C. No written report shall be submitted to a client  
3 except by the licensee, the manager or a person authorized by  
4 either of them, and the person submitting the report shall  
5 exercise diligence in ascertaining whether the facts and  
6 information of the report are true and correct.

7 D. No [~~licensee, manager or employee of a~~] private  
8 investigator, private investigator manager or registered  
9 private investigator employee shall use a badge in connection  
10 with the official activities of the licensee's [~~business~~] or  
11 registrant's employment for a private investigation company.

12 E. No licensee [~~manager or employee of a licensee~~]  
13 or registrant shall use a title or wear a uniform, use an  
14 insignia, use an identification card or make any statement with  
15 the intent to give an impression that he is connected in any  
16 way with the federal or state government or any political  
17 subdivision of either.

18 F. No private patrol operator, [~~licensee, manager~~  
19 ~~or employee of a private patrol operator licensee~~] private  
20 patrol operator manager or level three security guard shall use  
21 a badge except when engaged in guard or patrol work and while  
22 wearing a uniform.

23 G. No licensee or registrant shall appear as an  
24 assignee party in any proceeding involving a claim [~~and~~] or  
25 delivery [~~replevin or other possessory~~] action to recover or

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1 possess property or action for foreclosing a chattel mortgage,  
2 mechanic's lien, materialman's lien or any other lien.

3 H. A polygraph examiner shall not ask questions  
4 during the course of a polygraph examination relative to sexual  
5 affairs of an examinee, the examinee's race, creed, religion or  
6 union affiliation or any activity not previously and  
7 specifically agreed to by written consent. "

8 Section 23. Section 61-27A-13 NMSA 1978 (being Laws 1993,  
9 Chapter 212, Section 13) is amended to read:

10 "61-27A-13. DENIAL, SUSPENSION OR REVOCATION OF LICENSE  
11 OR REGISTRATION. --In accordance with procedures contained in  
12 the Uniform Licensing Act, the [~~department~~] board may deny,  
13 suspend or revoke [~~any~~] a license or registration held or  
14 applied for under the Private Investigators and Polygraphers  
15 Act or reprimand or place on probation a licensee or registrant  
16 upon grounds that the licensee, registrant or applicant:

17 A. ~~made a false statement or gave false information~~  
18 ~~in connection with an application for a license or registration~~  
19 ~~or renewal or reinstatement of a license or registration;~~

20 B. violated any provision of the Private  
21 Investigators and Polygraphers Act;

22 C. violated [~~any~~] a rule of the [~~department~~] board  
23 adopted pursuant to [~~that~~] the Private Investigators and  
24 Polygraphers Act;

25 D. has been convicted of a felony or [~~any~~] a crime

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1 involving moral turpitude or illegally using, carrying or  
2 possessing a deadly weapon;

3 E. impersonated or permitted or aided and abetted  
4 an employee to impersonate a law enforcement officer or  
5 employee of the United States or of [~~any~~] a state or political  
6 subdivision of either;

7 F. committed or permitted [~~any~~] an employee to  
8 commit [~~any~~] an act while the license or registration was  
9 expired that would be cause for the suspension or revocation of  
10 a license or registration or grounds for the denial of an  
11 application for a license or registration;

12 G. willfully failed or refused to render to a  
13 client services or a report as agreed between the parties, for  
14 which compensation has been paid or tendered in accordance with  
15 the agreement of the parties;

16 H. committed assault, battery or kidnapping or used  
17 force or violence on [~~any~~] a person without [~~proper~~]  
18 justification;

19 I. knowingly violated or advised, encouraged or  
20 assisted the violation of [~~any~~] a court order or injunction in  
21 the course of business of the licensee;

22 J. knowingly issued a worthless or otherwise  
23 fraudulent payroll check that is not redeemed within two days  
24 of denial of payment of [~~any~~] a bank;

25 K. has been chronically or persistently inebriated

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1 or addicted to the illegal use of dangerous or narcotic drugs;

2 L. has been adjudged mentally incompetent or insane  
3 by regularly constituted authorities; ~~[or]~~

4 M while unlicensed, committed or aided and abetted  
5 the commission of ~~[any]~~ an act for which a license is required  
6 under the Private Investigators and Polygraphers Act; or

7 N. has been found to have violated the requirements  
8 of a state or federal labor, tax or employee benefit law or  
9 rule."

10 Section 24. Section 61-27A-14 NMSA 1978 (being Laws 1993,  
11 Chapter 212, Section 14) is amended to read:

12 "61-27A-14. HEARING--PENALTIES. --

13 A. Every person who is denied a license or  
14 ~~[employee]~~ registration or who has ~~[his]~~ a license or  
15 ~~[employee]~~ registration suspended or revoked shall be entitled  
16 to a hearing before the ~~[department]~~ board if within twenty  
17 days after the denial, suspension or revocation a request for a  
18 hearing is ~~[served on]~~ received by the ~~[department]~~ board. The  
19 procedures ~~[outlined in]~~ of the Uniform Licensing Act shall be  
20 followed pertaining to the hearing ~~[insofar as]~~ to the extent  
21 that they do not conflict with the provisions of the Private  
22 Investigators and Polygraphers Act.

23 B. In accordance with the provisions of the Uniform  
24 Licensing Act, and in addition to other penalties provided by  
25 law, the board may impose the following:

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1                   (1) for a violation of the Private  
2 Investigators and Polygraphers Act, a civil penalty not to  
3 exceed one thousand dollars (\$1,000) for each violation; and  
4                   (2) against a person who is found by the board  
5 to be engaging in practice regulated by the board without an  
6 appropriate license or registration, civil penalties not to  
7 exceed one thousand dollars (\$1,000). "

8           Section 25. Section 61-27A-16 NMSA 1978 (being Laws 1993,  
9 Chapter 212, Section 16) is amended to read:

10           "61-27A-16. LICENSE OR REGISTRATION NOT TRANSFERABLE. --

11                   A. A license or registration issued [under]  
12 pursuant to the Private Investigators and Polygraphers Act [is]  
13 shall not [transferable or reassignable] be transferred or  
14 assigned.

15                   B. The board shall adopt by rule procedures for  
16 changes in company designation or management. A change in the  
17 company designation of a private investigation company or a  
18 private patrol operator company or a change in the manager of a  
19 private investigation company or a private patrol operator  
20 company shall proceed only pursuant to rules of the board, or  
21 the private investigation company or private patrol operator  
22 company shall be considered to be operating without a license. "

23           Section 26. Section 61-27A-17 NMSA 1978 (being Laws 1993,  
24 Chapter 212, Section 17) is amended to read:

25           "61-27A-17. LOCAL REGULATIONS. --The provisions of the

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1 Private Investigators and Polygraphers Act shall not prevent  
2 the local authorities of [~~any city, county or~~] a city [~~and~~] or  
3 county by ordinance and within the exercise of the police power  
4 of [~~such~~] the city or county [~~or city and county~~] from imposing  
5 local ordinances [~~upon any~~] on a street patrol special officer  
6 or [~~upon any~~] on a person licensed [~~within the scope of~~] or  
7 registered pursuant to the Private Investigators and  
8 Polygraphers Act if the ordinances are consistent with that  
9 act. "

10 Section 27. Section 61-27A-18 NMSA 1978 (being Laws 1993,  
11 Chapter 212, Section 18) is amended to read:

12 "61-27A-18. FUND ESTABLISHED. --

13 A. There is created in the state treasury the  
14 "private [~~investigator and polygrapher~~] investigators fund".

15 B. All license and registration fees and civil  
16 penalties received by the [~~department~~] board pursuant to the  
17 Private Investigators and Polygraphers Act shall be deposited  
18 in the fund. [~~and shall be used for the administration of that~~  
19 ~~act.~~]

20 C. The state treasurer shall invest the fund as  
21 other state funds are invested, and all income derived from the  
22 investment of the fund shall be credited to the fund.

23 D. Money in the fund is appropriated to the board  
24 to implement and administer the provisions of the Private  
25 Investigators and Polygraphers Act.

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1                   E. Money in the fund shall be expended pursuant to  
2                   warrants issued by the secretary of finance and administration  
3                   upon vouchers signed by the chair of the board.

4                   F. All balances in the fund shall remain in the  
5                   fund and shall not revert to the general fund."

6                   Section 28. Section 61-27A-19 NMSA 1978 (being Laws 1993,  
7                   Chapter 212, Section 19) is amended to read:

8                   "61-27A-19. DEADLY WEAPONS. -- [~~Licensed private patrol~~  
9                   ~~operators and their registered employees, when in uniform and~~  
10                   ~~in the performance of their duties, may carry firearms and~~  
11                   ~~other deadly weapons; provided, however, nothing in the Private~~  
12                   ~~Investigators and Polygraphers Act shall be construed as~~  
13                   ~~granting to polygraph examiners, private investigators, private~~  
14                   ~~patrol operators or their employees the right to carry~~  
15                   ~~concealed weapons.] A private investigator, a private patrol  
16                   operator or a registrant employed by a private investigation  
17                   company or a private patrol operator company may carry a  
18                   firearm upon successful completion of the mandatory firearm  
19                   training as required by rules of the board."~~

20                   Section 29. A new section of the Private Investigators  
21                   and Polygraphers Act is enacted to read:

22                   "[NEW MATERIAL] RECIPROCITY. --

23                   A. The board may enter into a reciprocity agreement  
24                   with another state for the purpose of licensing or registering  
25                   applicants to perform activities regulated by the Private

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1 Investigators and Polygraphers Act; provided that the person  
2 is, at the time of application for licensure or registration in  
3 New Mexico, licensed or registered to perform the services in  
4 the other state.

5 B. The board may develop rules that allow for  
6 reciprocity on a temporary or limited basis without requiring  
7 an applicant to be licensed or registered; provided that the  
8 other state:

9 (1) has licensure or registration requirements  
10 that meet or exceed those of New Mexico;

11 (2) has no record of disciplinary action taken  
12 against the applicant in the last year; and

13 (3) can verify that the applicant has engaged  
14 in activities that are licensed or registered pursuant to the  
15 Private Investigators and Polygraphers Act for at least one  
16 year in the other state."

17 Section 30. A new section of the Private Investigators  
18 and Polygraphers Act is enacted to read:

19 "[NEW MATERIAL] CRIMINAL HISTORY BACKGROUND CHECKS. --

20 A. The board shall:

21 (1) develop, in conjunction with the  
22 department of public safety, rules that require criminal  
23 history background checks of all persons licensed or registered  
24 pursuant to the Private Investigators and Polygraphers Act;

25 (2) require all applicants for licensure or

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1 registration to be fingerprinted;

2 (3) provide for an applicant to inspect or  
3 challenge the validity of the record developed by the  
4 background check, if the applicant is denied a license or  
5 registration;

6 (4) establish a fee for fingerprinting and  
7 conducting a background check for an applicant; and

8 (5) provide fingerprints from an applicant on  
9 two fingerprint cards for submitting to the federal bureau of  
10 investigation for a national criminal history background check  
11 and to the department of public safety for a state criminal  
12 history check.

13 B. Arrest record information received from the  
14 department of public safety and the federal bureau of  
15 investigation shall be privileged and shall not be disclosed to  
16 individuals not directly involved in the decision affecting the  
17 specific applicant or employee.

18 C. The applicant shall pay the cost of obtaining  
19 the criminal history background check from the department of  
20 public safety and the federal bureau of investigation.

21 D. Electronic live scans may be used for conducting  
22 criminal history background checks. "

23 Section 31. Section 61-27A-20 NMSA 1978 (being Laws 1993,  
24 Chapter 212, Section 20) is amended to read:

25 "61-27A-20. CRIMINAL OFFENSES--PENALTIES. --

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1           A. A person who engages in a business regulated  
2 ~~[under]~~ by the Private Investigators and Polygraphers Act who  
3 fraudulently represents himself to be a licensee or ~~[registered~~  
4 ~~employee]~~ registrant is guilty of a misdemeanor and if  
5 convicted shall be ~~[punished by a term of imprisonment less~~  
6 ~~than one year or a fine of not more than one thousand dollars~~  
7 ~~(\$1,000) or both]~~ sentenced pursuant to Section 31-19-1 NMSA  
8 1978.

9           B. A person who fraudulently represents that he is  
10 employed by a licensee is guilty of a petty misdemeanor and if  
11 convicted shall be ~~[punished by a term of imprisonment less~~  
12 ~~than six months or a fine of not more than five hundred dollars~~  
13 ~~(\$500) or both]~~ sentenced pursuant to Section 31-19-1 NMSA  
14 1978.

15           ~~[B.]~~ C. A person who violates ~~[a provision]~~ a  
16 mandatory requirement of the Private Investigators and  
17 Polygraphers Act, ~~[except as provided for in Subsection A]~~  
18 other than an offense in Subsection A or B of this section, is  
19 guilty of a petty misdemeanor and if convicted shall be  
20 ~~[punished by a fine of not more than five hundred dollars~~  
21 ~~(\$500) or by imprisonment for not more than six months or both]~~  
22 sentenced pursuant to Section 31-19-1 NMSA 1978. "

23           Section 32. Section 61-27A-21 NMSA 1978 (being Laws 2000,  
24 Chapter 4, Section 16) is amended to read:

25           "61-27A-21. TERMINATION OF AGENCY LIFE-- DELAYED REPEAL. --  
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1 The private investigators, private patrol operators and  
2 [~~polygraphers advisory~~] polygraph examiners board is terminated  
3 on July 1, [~~2005~~] 2011 pursuant to the Sunset Act. The board  
4 shall continue to operate according to the provisions of the  
5 Private Investigators and Polygraphers Act until July 1, [~~2006~~]  
6 2012. Chapter 61, Article 27A NMSA 1978 is repealed effective  
7 July 1, [~~2006~~] 2012. "

8 Section 33. TEMPORARY PROVISION. --

9 A. A security guard, watchman, loss prevention  
10 officer or patrolman licensed pursuant to the Private  
11 Investigators and Polygraphers Act prior to July 1, 2005 shall  
12 apply for a registration pursuant to the 2005 amended Private  
13 Investigators and Polygraphers Act prior to August 31, 2005 to  
14 receive a license without meeting the examination or  
15 educational requirements of the 2005 amended act.

16 B. Between July 1, 2005 and August 31, 2005, an  
17 individual shall be registered as a level three security guard  
18 without examination or further qualification by the private  
19 investigators, private patrol operators and polygraph examiners  
20 board if the individual:

21 (1) worked as a security guard, watchman, loss  
22 prevention officer or patrolman for the five years immediately  
23 preceding July 1, 2005 and was licensed by the regulation and  
24 licensing department to perform that work; and

25 (2) was authorized pursuant to the Private

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1 Investigators and Polygraphers Act prior to July 1, 2005, to  
2 carry a firearm in the course of his employment.

3 C. A security guard, watchman, loss prevention  
4 officer or patrolman who is not qualified pursuant to  
5 Subsection B of this section to be registered as a level three  
6 security guard shall be registered as level one security guard  
7 if he applies for registration pursuant to the Private  
8 Investigators and Polygraphers Act between July 1, 2005 and  
9 August 31, 2005, except as provided in Subsection D of this  
10 section.

11 D. If the board finds, upon application by a  
12 security guard, watchman, loss prevention officer or patrolman  
13 employed pursuant to the Private Investigators and Polygraphers  
14 Act prior to July 1, 2005 that the applicant has applied in a  
15 timely manner and presents exceptional circumstances, as  
16 determined by the board, in which the security guard, watchman,  
17 loss prevention officer or patrolman demonstrates that he  
18 should be registered as a level two security guard, the board  
19 in its discretion may register the security guard applicant as  
20 a level two security guard without examination or further  
21 qualification.

22 Section 34. EFFECTIVE DATE. --The effective date of the  
23 provisions of this act is July 1, 2005.