

1 AN ACT
2 RELATING TO LICENSING; RENAMING AND REVISING THE PRIVATE
3 INVESTIGATORS AND POLYGRAPHERS ACT; IDENTIFYING REGULATED
4 PERSONS; CREATING THE PRIVATE INVESTIGATIONS ADVISORY BOARD;
5 CHANGING THE NAME OF THE PRIVATE INVESTIGATOR AND POLYGRAPHER
6 FUND; PROVIDING PENALTIES; PROVIDING FEE LIMITATIONS;
7 PROVIDING FOR A TRANSITION PERIOD; AMENDING, REPEALING AND
8 ENACTING SECTIONS OF THE NMSA 1978.

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

13 "61-27A-1. SHORT TITLE.--Chapter 61, Article 27A NMSA
14 1978 may be cited as the "Private Investigations Act"."

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

17 "61-27A-2. DEFINITIONS.--As used in the Private
18 Investigations Act:

19 A. "armored car company" means a company that
20 knowingly and willingly transports money and other
21 negotiables for a fee or other remuneration;

22 B. "bodyguard" means an individual who physically
23 performs the mission of personal security for another
24 individual;

25 C. "branch office" means an office of a private

1 investigation company or a private patrol company physically
2 located in New Mexico and managed, controlled or directed by
3 a private investigations manager or private patrol operations
4 manager;

5 D. "client" means an individual or legal entity
6 having a contract that authorizes services to be provided in
7 return for financial or other consideration;

8 E. "conviction" means any final adjudication of
9 guilty, whether pursuant to a plea of guilty or nolo
10 contendere or otherwise and whether or not the sentence is
11 deferred or suspended;

12 F. "department" means the regulation and licensing
13 department;

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

15 H. "legal business entity" means a sole
16 proprietorship, corporation, partnership, limited liability
17 company, limited liability partnership or other entity formed
18 for business purposes;

19 I. "licensee" means a person licensed pursuant to
20 the Private Investigations Act;

21 J. "polygraph examiner" means an individual
22 licensed by the department to engage in the practice of
23 polygraphy;

24 K. "polygraphy" means the process of employing an
25 instrument designed to graphically record simultaneously the

1 physiological changes in human respiration, cardiovascular
2 activity, galvanic skin resistance or reflex for the purpose
3 of lie detection and includes the reading and interpretation
4 of polygraphic records and results or any other device used
5 to measure truthfulness;

6 L. "private investigation company" means a legal
7 business entity that provides private investigation services,
8 the location of which may be within or outside of the state,
9 provided that the private investigation services are
10 performed within New Mexico;

11 M. "private investigator" means an individual who
12 is licensed by the department to engage in business or who
13 accepts employment to conduct an investigation pursuant to
14 the Private Investigations Act to obtain information
15 regarding:

16 (1) crime or wrongs done or threatened
17 against the United States or any state or territory of the
18 United States;

19 (2) a person;

20 (3) the location, disposition or recovery of
21 lost or stolen property;

22 (4) the cause or responsibility for fires,
23 losses, accidents or damage or injury to persons or
24 properties;

25 (5) the securing of evidence to be used

1 before a court, administrative tribunal, board or
2 investigating committee or for a law enforcement officer; or

3 (6) the scene of a motor vehicle accident or
4 evidence related to a motor vehicle accident;

5 N. "private investigations employee" means an
6 individual who is registered by the department to work under
7 the direct control and supervision of a private investigator
8 for a private investigation company;

9 O. "private investigations manager" means an
10 individual who:

11 (1) is licensed as a private investigator
12 and is issued a license by the department as a private
13 investigations manager;

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

16 (3) is assigned to and operates from the
17 private investigation company that the private investigations
18 manager is licensed to manage or from a branch office of that
19 private investigation company;

20 P. "private patrol company" means a legal business
21 entity, the location of which may be within or outside of the
22 state, including an independent or proprietary commercial
23 organization that provides private patrol operator services
24 that are performed in New Mexico and the activities of which
25 include employment of licensed private patrol operators or

1 security guards;

2 Q. "private patrol employee" means an individual
3 who is registered by the department to work under the direct
4 control and supervision of a private patrol operator for a
5 private patrol company;

6 R. "private patrol operations manager" means an
7 individual who:

8 (1) is licensed as a private patrol operator
9 or registered as a level three security guard and is issued a
10 license by the department as a private patrol operations
11 manager;

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

14 (3) is assigned to and operates from the
15 private patrol company that the private patrol operations
16 manager is licensed to manage or from a branch office of that
17 private patrol company;

18 S. "private patrol operator" means an individual
19 who is licensed by the department to:

20 (1) conduct uniformed or nonuniformed
21 services as a watchman, security guard or patrolman to
22 protect property and persons on or in the property;

23 (2) prevent the theft, unlawful taking,
24 loss, embezzlement, misappropriation or concealment of goods,
25 wares, merchandise, money, bonds, stocks, notes, documents,

1 papers or property of any kind; or

2 (3) perform the services required of a
3 security guard or security dog handler or provide security
4 services for an armored car company;

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

8 U. "registrant" means an individual registered as
9 a private investigations employee, a private patrol
10 operations employee or a security guard at any level;

11 V. "security dog handler" means an individual who
12 patrols with dogs to detect illegal substances or explosives;

13 W. "security guard" means an individual who is
14 registered to engage in uniformed or nonuniformed services
15 under the direct control and supervision of a licensed
16 private patrol operator or a private patrol operations
17 manager to perform such security missions as watchman, fixed
18 post guard, dog handler, patrolman or other person to protect
19 property or prevent thefts; and

20 X. "special event" means a parade or other public
21 or private event of short duration requiring security."

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

24 "61-27A-3. LICENSE REQUIRED.--It is unlawful for an
25 individual to:

1 A. act as a private investigator, private patrol
2 operator, security guard, private investigations employee,
3 private investigations manager or private patrol operations
4 manager or to make any representation as being a licensee or
5 registrant unless the individual is licensed by the
6 department pursuant to the Private Investigations Act;

7 B. render physical protection for remuneration as
8 a bodyguard unless the individual is licensed as a private
9 investigator or a private patrol operator;

10 C. continue to act as a private investigator,
11 private patrol operator, security guard, private
12 investigations employee, private investigations manager or
13 private patrol operations manager if the individual's license
14 issued pursuant to the Private Investigations Act has
15 expired;

16 D. falsely represent that the individual is
17 employed by a licensee; or

18 E. practice polygraphy for any remuneration
19 without a license issued by the department in accordance with
20 the Private Investigations Act."

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

23 "61-27A-4. PERSONS EXEMPTED.--

24 A. As used in this section, "temporary" means a
25 period of time not to exceed the duration of one private

1 event or one school or nonprofit organization event, as
2 described in Paragraphs (2) and (3) of Subsection B of this
3 section.

4 B. Investigations Act does not apply to:

5 (1) an individual employed exclusively and
6 regularly by one employer in connection with the affairs of
7 that employer, provided that the individual patrols or
8 provides security only on the premises of the employer as
9 limited by the employer;

10 (2) an individual employed exclusively to
11 provide temporary security at a private event that is not
12 open to the public;

13 (3) individuals providing temporary security
14 at athletic or other youth events and where the events occur
15 under the auspices of a public or private school or a
16 nonprofit organization;

17 (4) an attorney licensed in New Mexico
18 conducting private investigations while engaged in the
19 practice of law;

20 (5) an officer or employee of the United
21 States or this state or a political subdivision of the United
22 States or this state while that officer or employee is
23 engaged in the performance of the officer's or employee's
24 official duties;

25 (6) a person engaged exclusively in the

1 business of obtaining and furnishing information concerning
2 the financial rating of persons;

3 (7) a charitable philanthropic society or
4 association duly incorporated under the laws of this state
5 that is organized and maintained for the public good and not
6 for private profit;

7 (8) a licensed collection agency or an
8 employee of the agency while acting within the scope of
9 employment while making an investigation incidental to the
10 business of the agency, including an investigation of the
11 location of a debtor or the debtor's property;

12 (9) admitted insurers, adjusters, agents and
13 insurance brokers licensed by the state performing duties in
14 connection with insurance transactions by them; or

15 (10) an institution subject to the
16 jurisdiction of the director of the financial institutions
17 division of the department or the comptroller of currency of
18 the United States."

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

21 "61-27A-5. ADMINISTRATION OF ACT--RULES.--

22 A. The department shall enforce and administer the
23 provisions of the Private Investigations Act.

24 B. The department shall keep a record of each
25 individual licensee.

1 C. The department shall adopt and enforce rules
2 necessary to carry out the provisions of the Private
3 Investigations Act, including establishing professional
4 ethical standards.

5 D. The department shall adopt rules regarding:

6 (1) licensing private investigators, private
7 investigations managers, private investigation companies,
8 private patrol operators, private patrol operations managers,
9 private patrol employees and polygraph examiners;

10 (2) registering private investigations
11 employees, security guards and private patrol employees;

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

14 (4) establishing continuing education
15 requirements;

16 (5) establishing and operating a branch
17 office;

18 (6) creating a policy on reciprocity with
19 other states and territories of the United States;

20 (7) providing permits for security guards
21 for special events; and

22 (8) conducting background investigations."

23 Section 6. A new section of the Private Investigations
24 Act, Section 61-27A-5.1 NMSA 1978, is enacted to read:

25 "61-27A-5.1. PRIVATE INVESTIGATIONS ADVISORY BOARD--

1 CREATED--MEMBERS.--

2 A. The "private investigations advisory board" is
3 created.

4 B. The superintendent of regulation and licensing
5 shall appoint members to the advisory board to assist in the
6 conduct of the examination process for licensees and
7 registrants and to assist the department in other manners as
8 requested by the superintendent or provided for in rules of
9 the department.

10 C. The advisory board members shall consist of at
11 least the following:

- 12 (1) two private investigators;
- 13 (2) one private patrol operator;
- 14 (3) one polygraph examiner; and
- 15 (4) one member of the public.

16 D. Members of the advisory board shall be
17 reimbursed pursuant to the Per Diem and Mileage Act and shall
18 receive no other compensation, perquisite or allowance for
19 each day spent in the discharge of their duties.

20 E. The public member of the advisory board or the
21 public member's spouse shall not:

- 22 (1) have been licensed pursuant to the
23 Private Investigations Act, the Private Investigators and
24 Polygraphers Act or any prior similar statutory provisions;
25 or

1 (2) have a direct or indirect financial
2 interest in a private investigation company, private patrol
3 company, polygraph business or a related business."

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

6 "61-27A-6. REQUIREMENTS FOR LICENSURE.--

7 A. The department shall issue a license as a
8 private investigator to an individual who files a completed
9 application accompanied by the required fees and who submits
10 satisfactory evidence that the applicant has met all
11 requirements set forth by the department in rule, including
12 that the applicant:

13 (1) is at least twenty-one years of age;

14 (2) is of good moral character;

15 (3) has successfully passed an examination
16 as required by department rule;

17 (4) has not been convicted of a felony
18 offense, an offense involving dishonesty or an offense
19 involving an intentional violent act or the illegal use or
20 possession of a deadly weapon and has not been found to have
21 violated professional ethical standards as defined by the
22 department; and

23 (5) has at least three years' experience
24 that has been acquired within the five years preceding the
25 filing of the application with the department of actual work

1 performed in:

2 (a) investigation for the purpose of
3 obtaining information with reference to a crime or wrongs
4 done or threatened against the United States;

5 (b) investigation of persons;

6 (c) the location, disposition or
7 recovery of lost or stolen property;

8 (d) the cause or responsibility for
9 fire, losses, motor vehicle or other accidents or damage or
10 injury to persons or property; or

11 (e) securing evidence to be used before
12 a court, administrative tribunal, board or investigating
13 committee or for a law enforcement officer.

14 B. Years of qualifying experience and the precise
15 nature of that experience shall be substantiated by written
16 certification from employers and shall be subject to
17 independent verification by the department as it deems
18 warranted. The burden of proving necessary experience is on
19 the applicant."

20 Section 8. A new section of the Private Investigations
21 Act, Section 61-27A-6.1 NMSA 1978, is enacted to read:

22 "61-27A-6.1. PRIVATE INVESTIGATION COMPANY--
23 REQUIREMENTS FOR LICENSURE.--

24 A. The department shall issue a license for a
25 private investigation company to a person that files a

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

3 (1) if an individual, is of good moral
4 character; or if a legal business entity, the owners,
5 officers or directors of the entity are of good moral
6 character;

7 (2) if an individual, has not been convicted
8 of a felony offense, an offense involving dishonesty, an
9 offense involving an intentional violent act or the illegal
10 use or possession of a deadly weapon and has not been found
11 to have violated professional ethical standards; or if a
12 legal business entity, the owners, officers or directors of
13 the entity, either singly or collectively, have not been
14 convicted of a felony offense or an offense involving
15 intentional violent acts or the illegal use or possession of
16 deadly weapons and have not been found to have violated
17 professional ethical standards;

18 (3) maintains a surety bond in the amount of
19 ten thousand dollars (\$10,000); however, private
20 investigators who provide personal protection or bodyguard
21 services shall maintain general liability insurance as
22 specified in the Private Investigations Act in lieu of the
23 surety bond required by the provisions of this paragraph;

24 (4) has an owner or a licensed private
25 investigations manager who is licensed as a private

1 investigator and who manages the daily operations of the
2 private investigation company;

3 (5) maintains a physical location in New
4 Mexico where records are maintained and made available for
5 department inspection;

6 (6) maintains a New Mexico registered agent
7 if the applicant is a private investigation company located
8 outside of New Mexico; and

9 (7) meets all other requirements set forth
10 in the rules of the department.

11 B. The owner or the chief executive officer of a
12 private investigation company that provides personal
13 protection or bodyguard services shall maintain a general
14 liability certificate of insurance in an amount required by
15 the department. The department shall suspend the license
16 issued pursuant to this section of a private investigation
17 company that fails to maintain an effective general liability
18 certificate of insurance as required. The department shall
19 not reinstate the license of a private investigation company
20 that has had its license suspended pursuant to this
21 subsection until an application is submitted to the
22 department with the necessary fees and a copy of the private
23 investigation company's general liability certificate of
24 insurance in effect. The department may deny an application
25 for reinstatement of a private investigation company's

1 license, notwithstanding the applicant's compliance with this
2 subsection for:

3 (1) a reason that would justify a denial to
4 issue a new private investigation company license or that
5 would be cause for a suspension or revocation of a private
6 investigation company's license; or

7 (2) the performance by the applicant of an
8 act requiring a license issued pursuant to the Private
9 Investigations Act while the applicant's license is under
10 suspension for failure to maintain the applicant's general
11 liability certificate of insurance in effect."

12 Section 9. A new section of the Private Investigations
13 Act, Section 61-27A-6.2 NMSA 1978, is enacted to read:

14 "61-27A-6.2. PRIVATE INVESTIGATIONS MANAGER--
15 REQUIREMENTS FOR LICENSURE--NOTIFICATION OF DEPARTMENT IN
16 EVENT OF TERMINATION OF EMPLOYMENT.--

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

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

23 (2) has successfully passed an examination
24 required by department rules;

25 (3) is employed by the private investigation

1 company that the applicant is being licensed to manage; and

2 (4) meets other requirements set forth in
3 the rules of the department.

4 B. A private investigations manager who ceases to
5 be employed by the private investigation company that the
6 manager is licensed to manage, before leaving the company,
7 shall surrender the private investigations manager's license
8 to the owner, officer or director who is required to
9 temporarily take over the management of the private
10 investigation company. The owner, officer or director who
11 temporarily takes over managing the private investigation
12 company within thirty days of the termination from employment
13 of the private investigations manager shall:

14 (1) notify the department of the termination
15 of the employment of the private investigations manager;

16 (2) submit the surrendered license; and

17 (3) submit an application to the department
18 naming a new private investigations manager, who shall not
19 begin to perform the duties of a private investigations
20 manager until and unless the department grants the applicant
21 a private investigations manager's license.

22 C. Failure to notify the department within thirty
23 days of the private investigations manager's termination from
24 employment subjects the license of the private investigation
25 company to suspension or revocation by the department.

1 D. Reinstatement of the private investigation
2 company's license may occur only upon the filing of an
3 application for reinstatement and payment of the
4 reinstatement fee."

5 Section 10. A new section of the Private Investigations
6 Act, Section 61-27A-6.3 NMSA 1978, is enacted to read:

7 "61-27A-6.3. PRIVATE PATROL OPERATOR--REQUIREMENTS FOR
8 LICENSURE.--

9 A. The department shall issue a license for a
10 private patrol operator to an individual who files a
11 completed application accompanied by the required fees and
12 who submits satisfactory evidence that the applicant:

13 (1) is at least twenty-one years of age;
14 (2) is of good moral character;
15 (3) has successfully passed an examination
16 as required by department rules;

17 (4) has not been convicted of a felony
18 offense, an offense involving dishonesty, an offense
19 involving an intentional violent act or the illegal use or
20 possession of a deadly weapon and has not been found to have
21 violated professional ethical standards;

22 (5) has at least three years' experience of
23 actual work performed as a security guard or an equivalent
24 position, one year of which shall have been in a supervisory
25 capacity. The experience shall have been acquired within

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

8 (6) is firearm certified, if the position
9 will require being armed with a firearm; and

10 (7) meets other requirements set forth in
11 rules of the department.

12 B. A private patrol operator may not investigate
13 acts except those that are incidental to a theft,
14 embezzlement, loss, misappropriation or concealment of
15 property or other item that the private patrol operator has
16 been engaged or hired to protect, guard or watch."

17 Section 11. A new section of the Private Investigations
18 Act, Section 61-27A-6.4 NMSA 1978, is enacted to read:

19 "61-27A-6.4. PRIVATE PATROL COMPANY--REQUIREMENTS FOR
20 LICENSURE.--

21 A. The department shall issue a license for a
22 private patrol company to a person who files a completed
23 application accompanied by the required fees and who submits
24 satisfactory evidence that the applicant:

25 (1) if an individual, is of good moral

1 character; or if a legal business entity, the owners,
2 officers or directors of the entity are of good moral
3 character;

4 (2) if an individual, has not been convicted
5 of a felony offense, an offense involving dishonesty, an
6 offense involving an intentional violent act or the illegal
7 use or possession of a deadly weapon and has not been found
8 to have violated professional ethical standards, or if a
9 legal business entity, the owners, officers or directors of
10 the entity, either singly or collectively, have not been
11 convicted of a felony offense, an offense involving
12 dishonesty or an offense involving an intentional violent act
13 or the illegal use or possession of a deadly weapon and have
14 not been found to have violated professional ethical
15 standards;

16 (3) has an owner or a licensed private
17 patrol operations manager who manages the daily operations of
18 the private patrol company;

19 (4) maintains a physical location in New
20 Mexico where records are maintained and made available for
21 department inspection;

22 (5) maintains a New Mexico registered agent
23 if the applicant is a private patrol company located outside
24 of New Mexico; and

25 (6) meets all other requirements set forth

1 in the rules of the department.

2 B. The owner or the chief executive officer of a
3 private patrol company shall maintain a general liability
4 certificate of insurance in an amount required by the
5 department. The department shall suspend the license issued
6 pursuant to this section of a private patrol company that
7 fails to maintain an effective general liability certificate
8 of insurance as required. The department shall not reinstate
9 the license of a private patrol company that has had its
10 license suspended pursuant to this subsection until an
11 application is submitted to the department with the necessary
12 fees and a copy of the private patrol company's general
13 liability certificate of insurance newly in effect. The
14 department may deny an application for reinstatement of a
15 private patrol company's license, notwithstanding the
16 applicant's compliance with this subsection for:

17 (1) a reason that would justify a denial to
18 issue a new private patrol company license or that would be
19 cause for a suspension or revocation of a private patrol
20 company's license; or

21 (2) the performance by the applicant of an
22 act requiring a license issued pursuant to the Private
23 Investigations Act while the applicant's license is under
24 suspension for failure to maintain the applicant's general
25 liability certificate of insurance in effect."

1 Section 12. A new section of the Private Investigations
2 Act, Section 61-27A-6.5 NMSA 1978, is enacted to read:

3 "61-27A-6.5. PRIVATE PATROL OPERATIONS MANAGER--
4 REQUIREMENT FOR LICENSURE--NOTIFICATION OF DEPARTMENT IN
5 EVENT OF TERMINATION OF EMPLOYMENT.--

6 A. The department shall issue a license for a
7 private patrol operations manager to an individual who files
8 a completed application accompanied by the required fees and
9 who submits satisfactory evidence that the applicant:

10 (1) possesses a current license in good
11 standing as a private patrol operator or a registration as a
12 level three security guard;

13 (2) has successfully passed an examination
14 required by department rule;

15 (3) is employed by the private patrol
16 company that the applicant is being licensed to manage; and

17 (4) meets other requirements set forth in
18 the rules of the department.

19 B. A private patrol operations manager who ceases
20 to be employed by the private patrol company that the manger
21 is licensed to manage, before leaving the company, shall
22 surrender the private patrol operations manager's license to
23 the owner, officer or director who is required to temporarily
24 take over the management of the private patrol company. The
25 owner, officer or director who temporarily takes over

1 managing the private patrol company within thirty days of the
2 termination from employment of the private patrol operations
3 manager shall:

4 (1) notify the department of the termination
5 of the employment of the private patrol operations manager;

6 (2) submit the surrendered license; and

7 (3) submit an application to the department
8 naming a new private patrol operations manager, who shall not
9 begin to perform the duties of a private patrol operations
10 manager until the department grants the applicant a private
11 patrol operations manager's license.

12 C. Failure to notify the department within thirty
13 days of the private patrol operations manager's termination
14 from employment subjects the license of the private patrol
15 company to suspension or revocation by the department.

16 D. Reinstatement of the private patrol company's
17 license may occur only upon the filing of an application for
18 reinstatement and payment of the reinstatement fee."

19 Section 13. A new section of the Private Investigations
20 Act, Section 61-27A-6.6 NMSA 1978, is enacted to read:

21 "61-27A-6.6. POLYGRAPH EXAMINER.--The department shall
22 issue a license as a polygraph examiner to an individual who
23 files a completed application accompanied by the required
24 fees and who submits satisfactory evidence that the
25 applicant:

- 1 A. is at least eighteen years of age;
- 2 B. is of good moral character;
- 3 C. possesses a high school diploma or its
4 equivalent;
- 5 D. has not been convicted of a felony involving an
6 intentional violent act or the illegal use or possession of a
7 deadly weapon and has not been found to have violated
8 professional ethical standards;
- 9 E. has graduated from an accredited polygraph
10 examiners course approved by the department;
- 11 F. has:
- 12 (1) completed a probationary operational
13 competency period and passed an examination of ability
14 approved by the department to practice polygraphy; or
- 15 (2) submitted proof of holding, for a
16 minimum of two years immediately preceding the date of
17 application, a current license to practice polygraphy in
18 another jurisdiction whose standards are equal to or greater
19 than those in New Mexico; and
- 20 G. meets other requirements set forth in the rules
21 of the department."

22 Section 14. A new section of the Private Investigations
23 Act, Section 61-27A-6.7 NMSA 1978, is enacted to read:

24 "61-27A-6.7. PRIVATE INVESTIGATIONS EMPLOYEE--
25 REGISTRATION--REQUIREMENTS.--

1 A. On or after July 1, 2007, every individual who
2 seeks employment or is currently employed as a private
3 investigations employee or who provides services on a
4 contract basis to a private investigation company shall file
5 an application for registration as a private investigations
6 employee with the department.

7 B. The department shall issue a registration for a
8 private investigations employee to an individual who files a
9 completed application accompanied by the required fees and
10 who submits satisfactory evidence that the applicant:

11 (1) is at least twenty-one years of age;

12 (2) is of good moral character;

13 (3) possesses a high school diploma or its
14 equivalent;

15 (4) has successfully completed an
16 examination as required by department rule;

17 (5) has not been convicted of a felony
18 involving an intentional violent act or the illegal use or
19 possession of a deadly weapon and has not been found to have
20 violated professional ethical standards;

21 (6) shall be employed by, or shall contract
22 with a private investigation company to provide investigation
23 services for, a private investigation company, under the
24 direct control and supervision of a private investigator; and

25 (7) meets other requirements set forth in

1 rules of the department.

2 C. If the contract or employment of a private
3 investigations employee with a private investigation company
4 terminates for any reason, the registration of the individual
5 as a private investigations employee immediately terminates.
6 The private investigations employee shall turn over the
7 employee's registration to the private investigation company
8 upon ceasing employment with that company.

9 D. A private investigation company shall notify
10 the department within thirty days from the date of
11 termination of employment of a private investigations
12 employee of the employment termination and return the
13 employee's registration to the department."

14 Section 15. A new section of the Private Investigations
15 Act, Section 61-27A-6.8 NMSA 1978, is enacted to read:

16 "61-27A-6.8. SECURITY GUARD--LEVELS OF REGISTRATION.--

17 A. A security guard shall be registered at one of
18 the three levels enumerated in this section that are based on
19 experience, age and other qualifications of the registrant:

20 (1) level one is the entry level
21 registration for security guards who will be working in a
22 position not requiring the registrant to carry arms;

23 (2) level two is the intermediate level
24 registration for security guards who are required to be armed
25 but not with firearms; and

1 (3) level three is the advanced level
2 registration for security guards who may be required to be
3 armed with a firearm.

4 B. Each security guard shall receive a card issued
5 by the department in the security guard's name with a
6 definite expiration date that shall be carried by the
7 security guard at all times when the security guard is
8 performing duties that require the security guard to be
9 registered pursuant to the provisions of this section. A
10 security guard is not required to obtain a new card each time
11 the security guard changes employment."

12 Section 16. A new section of the Private Investigations
13 Act, Section 61-27A-6.9 NMSA 1978, is enacted to read:

14 "61-27A-6.9. SECURITY GUARD--LEVEL ONE--REGISTRATION--
15 REQUIREMENTS.--

16 A. On or after July 1, 2007, every individual
17 seeking employment or employed as a level one security guard
18 shall file an application for registration with the
19 department.

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

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

25 (2) is of good moral character;

1 (3) has successfully completed an
2 examination as required by department rule;

3 (4) has not been convicted of a felony or an
4 offense involving dishonesty, an offense involving an
5 intentional violent act or the illegal use or possession of a
6 deadly weapon and has not been found to have violated
7 professional ethical standards;

8 (5) has completed a curriculum approved in
9 department rule consisting of level one security guard
10 training prior to being placed on a guard post for the first
11 time as a level one security guard; that training may be
12 provided by:

13 (a) a public educational institution in
14 New Mexico or an educational institution licensed by the
15 higher education department pursuant to the Post-Secondary
16 Educational Institution Act;

17 (b) an in-house training program
18 provided by a licensed private patrol company using a
19 curriculum approved by the department; or

20 (c) any other department-approved
21 educational institution using a curriculum approved by the
22 department and complying with department standards set forth
23 in department rules;

24 (6) is employed by a private patrol company
25 under the direct supervision of a licensed private patrol

1 operator, a level three security guard or a private patrol
2 operations manager; and

3 (7) meets other requirements set forth in
4 department rules.

5 C. A private patrol company shall notify the
6 department within thirty days from the date of termination of
7 a level one security guard of the employment termination."

8 Section 17. A new section of the Private Investigations
9 Act, Section 61-27A-6.10 NMSA 1978, is enacted to read:

10 "61-27A-6.10. SECURITY GUARD--LEVEL TWO--REGISTRATION--
11 REQUIREMENTS.--

12 A. On or after July 1, 2007, every individual
13 seeking employment or employed as a level two security guard
14 shall file an application for registration with the
15 department.

16 B. The department shall issue a registration for a
17 level two security guard to an individual who files a
18 completed application accompanied by the required fees and
19 who submits satisfactory evidence that the applicant:

20 (1) meets the requirements to be granted
21 registration as a level one security guard and maintains in
22 good standing a current registration as a level one security
23 guard;

24 (2) has successfully completed an
25 examination as required by department rule;

1 (3) possesses a high school diploma or its
2 equivalent;

3 (4) in addition to the training required to
4 be registered as a level one security guard, has completed a
5 curriculum approved in department rule of level two security
6 guard training prior to being placed on a guard post for the
7 first time as a level two security guard; that training may
8 be provided by:

9 (a) a public educational institution in
10 New Mexico or an educational institution licensed by the
11 higher education department pursuant to the Post-Secondary
12 Educational Institution Act;

13 (b) an in-house training program
14 provided by a licensed private patrol company using a
15 curriculum approved by the department;

16 (c) the New Mexico law enforcement
17 academy; or

18 (d) any other department-approved
19 educational institution using a curriculum approved by the
20 department and complying with department standards set forth
21 in department rules;

22 (5) is employed by a private patrol company
23 under the direct supervision of a licensed private patrol
24 operator, a level three security guard or a private patrol
25 operations manager; and

1 (6) meets other requirements set forth in
2 department rules.

3 C. A private patrol company shall notify the
4 department within thirty days from the date of termination of
5 a level two security guard of the employment termination."

6 Section 18. A new section of the Private Investigations
7 Act, Section 61-27A-6.11 NMSA 1978, is enacted to read:

8 "61-27A-6.11. SECURITY GUARD--LEVEL THREE--
9 REGISTRATION--REQUIREMENTS.--

10 A. On or after July 1, 2007, every individual
11 seeking employment or employed as a level three security
12 guard shall file an application for registration with the
13 department.

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

18 (1) is at least twenty-one years of age;

19 (2) meets the requirements to be granted
20 registration as a level two security guard and maintains in
21 good standing a current registration as a level two security
22 guard;

23 (3) has successfully completed an
24 examination as required by department rule;

25 (4) possesses a high school diploma or its

1 equivalent;

2 (5) in addition to the training required to
3 be registered as a level two security guard and before the
4 applicant shall be placed for the first time at a guard post
5 as a level three security guard, has completed a curriculum
6 approved by the department consisting of the minimum training
7 for firearm certification prescribed by the department;
8 provided that the additional training required by the
9 department is provided by:

10 (a) a public educational institution in
11 New Mexico or an educational institution licensed by the
12 higher education department pursuant to the Post-Secondary
13 Educational Institution Act;

14 (b) an in-house training program
15 provided by a licensed private patrol company using a
16 curriculum approved by the department;

17 (c) the New Mexico law enforcement
18 academy; or

19 (d) any other department-approved
20 educational institution using a curriculum approved by the
21 department and complying with department standards set forth
22 in department rules;

23 (6) is firearm certified by the New Mexico
24 law enforcement academy or the national rifle association;

25 (7) is employed by a private patrol company

1 under the direct supervision of a licensed private patrol
2 operator, another level three security guard or a private
3 patrol operations manager;

4 (8) beginning on July 1, 2009, has
5 successfully passed a psychological evaluation as prescribed
6 by the department to determine suitability for carrying
7 firearms; and

8 (9) meets other requirements set forth in
9 department rules.

10 C. A private patrol company shall notify the
11 department within thirty days from the date of termination of
12 a level two security guard of the employment termination."

13 Section 19. A new section of the Private Investigations
14 Act, Section 61-27A-6.12 NMSA 1978, is enacted to read:

15 "61-27A-6.12. SPECIAL EVENT PERMIT--NONRESIDENT
16 SECURITY GUARD PROCEDURE--QUALIFICATIONS--PROHIBITED USE.--

17 A. A private patrol company employing a
18 nonresident security guard temporarily for a special event
19 shall apply to the department for and may be issued a special
20 event permit for each nonresident security guard qualified to
21 be employed at the special event.

22 B. A special event permit is issued for a specific
23 nonresident security guard and a specific special event and
24 shall not be transferred to another security guard or used
25 for a special event other than for the special event for

1 which the permit is issued.

2 C. To be issued a special event permit, a private
3 patrol company shall provide the department with a
4 description of the special event, its location and the dates
5 on which the temporary nonresident security guard will be
6 employed to provide services at the special event. A special
7 event permit shall bear the name of the private patrol
8 company and contact information, the name of the nonresident
9 security guard, the name of the special event for which it is
10 issued, the dates of the special event and other pertinent
11 information required by the department.

12 D. A special event permit shall be issued only to
13 an individual who qualifies for a level one or higher
14 security guard registration and who:

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

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

18 (3) meets other requirements specified by
19 the department.

20 E. A special event permit requiring a security
21 guard to carry a firearm shall only be issued to an
22 individual who is qualified to be registered as a level three
23 security guard.

24 F. It is a violation of the Private Investigations
25 Act for a private patrol company to circumvent the

1 registration process for permanent or long-term part-time
2 employment of security guards through use of the provisions
3 of this section."

4 Section 20. A new section of the Private Investigations
5 Act, Section 61-27A-7.1 NMSA 1978, is enacted to read:

6 "61-27A-7.1. FEES.--

7 A. The department shall establish a schedule of
8 reasonable fees as follows:

9 (1) private investigator fees:

10 (a) application fee, not to exceed one
11 hundred dollars (\$100);

12 (b) initial private investigator's
13 license fee or license renewal fee, not to exceed three
14 hundred dollars (\$300); and

15 (c) initial private investigations
16 manager license fee or license renewal fee, not to exceed two
17 hundred dollars (\$200);

18 (2) private patrol operator fees:

19 (a) application fee, not to exceed one
20 hundred dollars (\$100);

21 (b) initial private patrol operator's
22 license fee or license renewal fee, not to exceed three
23 hundred dollars (\$300); and

24 (c) initial private patrol operations
25 manager license fee or license renewal fee, not to exceed two

1 hundred dollars (\$200);

2 (3) security guard fees:

3 (a) level one or level two security
4 guard registration fee or registration renewal fee, not to
5 exceed fifty dollars (\$50.00); and

6 (b) level three security guard
7 registration fee or registration renewal fee, not to exceed
8 seventy-five dollars (\$75.00);

9 (4) polygraph examiners:

10 (a) application fee, not to exceed one
11 hundred dollars (\$100);

12 (b) initial polygraph examiner's
13 license fee or license renewal fee, not to exceed four
14 hundred dollars (\$400); and

15 (c) examination fee, not to exceed one
16 hundred dollars (\$100); and

17 (5) other fees applying to private
18 investigators, private patrol operators and polygraph
19 examiners:

20 (a) change in license fee, not to
21 exceed two hundred dollars (\$200);

22 (b) late fee on license or registration
23 renewals, not to exceed one hundred dollars (\$100);

24 (c) special event permit fee, not to
25 exceed one hundred dollars (\$100); and

1 (d) special event license fee for a
2 private patrol company, not to exceed fifty dollars (\$50.00).

3 B. Fees charged by the department shall not be
4 increased prior to fiscal year 2009."

5 Section 21. A new section of the Private Investigations
6 Act, Section 61-27A-8.1 NMSA 1978, is enacted to read:

7 "61-27A-8.1. LICENSE AND REGISTRATION RENEWAL.--

8 A. A license or registration granted pursuant to
9 the provisions of the Private Investigations Act shall be
10 renewed by the department annually unless the term of the
11 license is set by the department in rule to be a longer
12 period.

13 B. A licensee or registrant with an expired
14 license or registration shall not perform an activity for
15 which a license or registration is required pursuant to the
16 Private Investigations Act until the license or registration
17 has been renewed or reinstated.

18 C. The department may require proof of continuing
19 education credits or other proof of competency as a
20 requirement of renewal or reinstatement of a license or
21 registration.

22 D. A license or registration issued to a person
23 pursuant to the Private Investigations Act shall not be
24 transferred or assigned."

25 Section 22. Section 61-27A-9 NMSA 1978 (being Laws

1 1993, Chapter 212, Section 9) is amended to read:

2 "61-27A-9. DISPLAY OF LICENSE--NOTIFICATION OF
3 CHANGES.--

4 A. A license shall at all times be posted in a
5 conspicuous place in the principal place of business in New
6 Mexico of the licensee.

7 B. A copy of the registration of each registrant
8 employed by a private investigation company or a private
9 patrol company shall be maintained in the main New Mexico
10 office of the company and in the branch office in which the
11 registrant works.

12 C. A registration card issued by the department
13 shall at all times be in the possession of and located on the
14 person of a registrant when working.

15 D. A security guard shall wear the registration
16 card on the outside of the guard's uniform so that the card
17 is visible to others.

18 E. A licensee, including owners, officers or
19 directors of a private investigation company or a private
20 patrol company, or a registrant shall notify the department
21 immediately in writing of a change in the mailing or contact
22 address of the licensee or registrant.

23 F. Failure to notify the department within thirty
24 days of changes required to be reported pursuant to this
25 section or failure to carry or display a registration as

1 required is grounds for suspension of a license or
2 registration."

3 Section 23. A new section of the Private Investigations
4 Act, Section 61-27A-10.1 NMSA 1978, is enacted to read:

5 "61-27A-10.1. GENERAL OPERATIONS PROVISIONS OF
6 COMPANIES--MANAGEMENT--LIABILITY FOR EMPLOYEES' CONDUCT--
7 MAINTENANCE OF RECORDS REQUIRED--REQUIRED AND PERMITTED
8 ACTIVITIES--ALLOWED CATEGORIES OF UNLICENSED EMPLOYEES.--

9 A. An owner of a private investigation company
10 providing services in New Mexico shall operate, direct,
11 control and manage that company provided that the owner is
12 licensed as a private investigator. An owner of a private
13 investigation company who is not licensed as a private
14 investigator shall employ a private investigator as a private
15 investigations manager and shall turn over the operation,
16 direction, control and management of the private
17 investigation company to that manager.

18 B. An owner of a private patrol company providing
19 services in New Mexico shall operate, direct, control and
20 manage that company, provided that the owner is licensed as a
21 private patrol operator or registered as a level three
22 security guard. An owner of a private patrol company who is
23 not licensed as a private patrol operator or registered as a
24 level three security guard shall employ a private patrol
25 operations manager and shall turn over the operation,

1 direction, control and management of the private patrol
2 company to that manager.

3 C. A private investigation company or a private
4 patrol company shall not conduct business under a fictitious
5 name until the company has obtained the authorization for use
6 of the name from the department. The department shall not
7 authorize the use of a fictitious name that may generate
8 public confusion with the name of a public officer or agency
9 or the name of an existing private investigation company or
10 private patrol company.

11 D. A private investigation company is liable for
12 the conduct of the company's employees, including the conduct
13 of its private investigations manager.

14 E. A private patrol company is liable for the
15 conduct of the company's employees, including the conduct of
16 its private patrol operations manager.

17 F. A private investigation company or a private
18 patrol company shall maintain records of the qualifications,
19 performance and training of all of its current and former
20 employees as required by the department. The records are
21 subject to inspection by the department upon reasonable
22 notice to the owner or private investigations manager or
23 private patrol operations manager.

24 G. Except as otherwise provided in this section,
25 every employee of a licensed private investigation company or

1 private patrol company shall be licensed or registered by the
2 department as employees of the company with which the
3 employee is employed; provided, however, that a licensee or
4 registrant may work for more than one company concurrently.

5 H. A licensee or registrant shall notify the
6 department in writing within thirty days of each change in
7 the licensee's or registrant's employment by filing an
8 amendment to the licensee's or registrant's application
9 obtained from the department. If a licensee or registrant
10 ceases to be employed by a private investigation company or a
11 private patrol company, the licensee or registrant shall
12 notify the department in writing within thirty days from the
13 date the licensee or registrant ceases employment with that
14 company.

15 I. A private investigation company or a private
16 patrol company shall notify the department within thirty days
17 of a change in ownership structure or, if a corporation, a
18 change in the membership of the board of directors.

19 J. Employees of a private investigation company or
20 a private patrol company who are engaged exclusively to
21 perform stenographic, typing, word processing, secretarial,
22 receptionist, accounting, bookkeeping, information technology
23 or other business applications or support functions and who
24 do not perform the work of a private investigator, a private
25 patrol operator or a security guard are not required to be

1 licensed or registered pursuant to the Private Investigations
2 Act.

3 K. An individual who is not licensed or qualified
4 to be employed as a private investigations manager or a
5 private patrol operations manager shall not be employed to
6 perform the duties required of those managers."

7 Section 24. Section 61-27A-11 NMSA 1978 (being Laws
8 1993, Chapter 212, Section 11) is amended to read:

9 "61-27A-11. BOND REQUIRED.--

10 A. A private investigation company shall file with
11 the department a surety bond in the amount of ten thousand
12 dollars (\$10,000) executed by a surety company authorized to
13 do business in this state.

14 B. The owner or the chief executive officer of a
15 private investigation company that provides personal
16 protection or bodyguard services or the owner or the chief
17 executive office of a private patrol company shall maintain a
18 general liability certificate of insurance in an amount
19 required by the department.

20 C. A surety bond in the amount of ten thousand
21 dollars (\$10,000) or a general liability certificate of
22 insurance executed and filed with the department pursuant to
23 the Private Investigations Act shall remain in force until
24 the surety company issuing the bond or the certificate has
25 terminated future indemnity by notice to the department."

1 Section 25. Section 61-27A-12 NMSA 1978 (being Laws
2 1993, Chapter 212, Section 12) is amended to read:

3 "61-27A-12. PROHIBITED ACTS.--

4 A. A licensee or registrant may divulge to a law
5 enforcement officer or district attorney, the attorney
6 general or the attorney general's representatives information
7 the licensee or registrant acquires concerning a criminal
8 offense, but the licensee or registrant shall not divulge to
9 any other person, except as the licensee or registrant is
10 required by law, information acquired by the licensee or
11 registrant except at the direction of the licensee's or
12 registrant's employer or the client for whom the information
13 was obtained.

14 B. No licensee or registrant shall knowingly make
15 a false report to the licensee's or registrant's employer or
16 the client for whom the information was being obtained.

17 C. No written report shall be submitted to a
18 client except by the licensee, or a person authorized by the
19 licensee, and the person submitting the report shall exercise
20 diligence in ascertaining whether the facts and information
21 of the report are true and correct.

22 D. No private investigator, private investigations
23 manager or private investigations employee shall use a badge
24 in connection with the official activities of the licensee's
25 or employee's employment for a private investigation company.

1 E. No licensee or registrant shall use a title or
2 wear a uniform, use an insignia, use an identification card
3 or make a statement with the intent to give an impression
4 that the licensee or registrant is connected in any way with
5 the federal or state government or a political subdivision of
6 either.

7 F. No private patrol operator licensee, private
8 patrol operations manager or level three security guard shall
9 use a badge except when engaged in guard or patrol work and
10 while wearing a uniform.

11 G. No licensee or registrant shall appear as an
12 assignee party in a proceeding involving a claim and delivery
13 action to recover or possess property or action for
14 foreclosing a chattel mortgage, mechanic's lien,
15 materialman's lien or any other lien.

16 H. A polygraph examiner shall not ask questions
17 during the course of a polygraph examination relative to
18 sexual affairs of an examinee, the examinee's race, creed,
19 religion or union affiliation or an activity not previously
20 and specifically agreed to by written consent."

21 Section 26. Section 61-27A-13 NMSA 1978 (being Laws
22 1993, Chapter 212, Section 13) is amended to read:

23 "61-27A-13. DENIAL, SUSPENSION OR REVOCATION OF LICENSE
24 OR REGISTRATION.--In accordance with procedures contained in
25 the Uniform Licensing Act, the department may deny, suspend

1 or revoke a license or registration held or applied for under
2 the Private Investigations Act or reprimand or place on
3 probation a licensee or registrant upon grounds that the
4 licensee, registrant or applicant:

5 A. made a false statement or gave false
6 information in connection with an application for a license
7 or registration or renewal or reinstatement of a license or
8 registration;

9 B. violated a provision of the Private
10 Investigations Act;

11 C. violated a rule of the department adopted
12 pursuant to the Private Investigations Act;

13 D. has been convicted of a felony or any crime
14 involving dishonesty or illegally using, carrying or
15 possessing a deadly weapon;

16 E. impersonated or permitted or aided and abetted
17 an employee of a private investigation company or private
18 patrol company to impersonate a law enforcement officer or
19 employee of the United States or of a state or political
20 subdivision of either;

21 F. committed or permitted an employee of a private
22 investigation company or a private patrol company to commit
23 an act while the license or registration of the person
24 licensed or registered pursuant to the Private Investigations
25 Act was expired that would be cause for the suspension or

1 revocation of a license or registration or grounds for the
2 denial of an application for a license or registration;

3 G. willfully failed or refused to render to a
4 client services or a report as agreed between the parties,
5 for which compensation has been paid or tendered in
6 accordance with the agreement of the parties;

7 H. committed assault, battery or kidnapping or
8 used force or violence on a person without justification;

9 I. knowingly violated or advised, encouraged or
10 assisted the violation of a court order or injunction in the
11 course of business of the licensee or registrant;

12 J. knowingly issued a worthless or otherwise
13 fraudulent payroll check that is not redeemed within two days
14 of denial of payment by a bank;

15 K. has been chronically or persistently inebriated
16 or addicted to the illegal use of dangerous or narcotic
17 drugs;

18 L. has been adjudged mentally incompetent or
19 insane by regularly constituted authorities;

20 M. while unlicensed, committed or aided and
21 abetted the commission of any act for which a license is
22 required under the Private Investigations Act; or

23 N. has been found to have violated the
24 requirements of a state or federal labor, tax or employee
25 benefit law or rule."

1 Section 27. Section 61-27A-14 NMSA 1978 (being Laws
2 1993, Chapter 212, Section 14) is amended to read:

3 "61-27A-14. HEARING--PENALTIES.--

4 A. A person who is denied a license or
5 registration or who has a license or registration suspended
6 or revoked shall be entitled to a hearing before the
7 department if within twenty days after the denial, suspension
8 or revocation a request for a hearing is received by the
9 department. The procedures of the Uniform Licensing Act
10 shall be followed pertaining to the hearing to the extent
11 that they do not conflict with the provisions of the Private
12 Investigations Act.

13 B. In accordance with the provisions of the
14 Uniform Licensing Act, and in addition to other penalties
15 provided by law, the department may impose the following:

16 (1) for a violation of the Private
17 Investigations Act, a civil penalty not to exceed one
18 thousand dollars (\$1,000) for each violation; and

19 (2) against a person who is found by the
20 department to be engaging in a practice regulated by the
21 department without an appropriate license or registration,
22 civil penalties not to exceed one thousand dollars (\$1,000)."

23 Section 28. Section 61-27A-16 NMSA 1978 (being Laws
24 1993, Chapter 212, Section 16) is amended to read:

25 "61-27A-16. LICENSE NOT TRANSFERABLE.--

1 A. A license or registration issued pursuant to
2 the Private Investigations Act shall not be transferred or
3 assigned.

4 B. The department shall adopt by rule procedures
5 for changes in the name or management of a private
6 investigation company or private patrol company. If the
7 private investigation company or private patrol company fails
8 to comply with the procedures established by department rule,
9 the private investigation company or private patrol company
10 shall be considered to be operating without a license."

11 Section 29. Section 61-27A-17 NMSA 1978 (being Laws
12 1993, Chapter 212, Section 17) is amended to read:

13 "61-27A-17. LOCAL REGULATIONS.--The provisions of the
14 Private Investigations Act shall not prevent the local
15 authorities of a city or county by ordinance and within the
16 exercise of the police power of the city or county from
17 imposing local ordinances upon a street patrol special
18 officer or on a person licensed or registered pursuant to the
19 Private Investigations Act if the ordinances are consistent
20 with that act."

21 Section 30. Section 61-27A-18 NMSA 1978 (being Laws
22 1993, Chapter 212, Section 18) is amended to read:

23 "61-27A-18. FUND ESTABLISHED.--

24 A. The "private investigations fund" is created in
25 the state treasury.

1 B. All license and registration fees received by
2 the department pursuant to the Private Investigations Act
3 shall be deposited in the fund and are appropriated to the
4 department to be used for the administration and
5 implementation of that act.

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

9 D. All balances in the fund shall remain in the
10 fund and shall not revert to the general fund.

11 E. The department shall administer the fund, and
12 money in the fund shall be expended by warrant issued by the
13 secretary of finance and administration on vouchers signed by
14 the superintendent of regulation and licensing.

15 F. No more than five percent of the fund shall be
16 used by the department for administration of the fund."

17 Section 31. A new section of the Private Investigations
18 Act, Section 61-27A-19.1 NMSA 1978, is enacted to read:

19 "61-27A-19.1. FIREARMS.--A private investigator, a
20 private patrol operator, a private investigations employee, a
21 level three security guard or a private patrol operations
22 employee may carry a firearm upon successful completion of
23 the mandatory firearm training required by rules of the
24 department."

25 Section 32. Section 61-27A-20 NMSA 1978 (being Laws

1 1993, Chapter 212, Section 20) is amended to read:

2 "61-27A-20. PENALTIES.--

3 A. A person who engages in a business regulated by
4 the Private Investigations Act who fraudulently makes a
5 representation as being a licensee or registrant is guilty of
6 a misdemeanor and if convicted shall be sentenced pursuant
7 Section 31-19-1 NMSA 1978.

8 B. An individual who fraudulently represents that
9 the individual is employed by a licensee is guilty of a petty
10 misdemeanor and if convicted shall be sentenced pursuant to
11 Section 31-19-1 NMSA 1978.

12 C. A person who violates a mandatory requirement,
13 as set forth by the department in rule, of the Private
14 Investigations Act, is guilty of a petty misdemeanor except
15 as provided in Subsection A of this section and if convicted
16 shall be sentenced pursuant to Section 31-19-1 NMSA 1978."

17 Section 33. A new section of the Private Investigations
18 Act is enacted to read:

19 "RECIPROCITY.--

20 A. The department may enter into a reciprocity
21 agreement with another state for the purpose of licensing or
22 registering applicants to perform activities regulated by the
23 Private Investigations Act.

24 B. An applicant from another state at the time of
25 application for licensure or registration in New Mexico shall

1 be licensed or registered in that other state to perform the
2 services for which the applicant is seeking a New Mexico
3 license or registration.

4 C. The department may develop rules that allow for
5 reciprocity on a temporary or limited basis without requiring
6 an applicant licensed or registered in another state subject
7 to a reciprocity agreement to be licensed or registered in
8 New Mexico; provided that the state of licensure or
9 registration:

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

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

14 (3) can verify that the applicant has
15 engaged in activities for at least one year in the state with
16 reciprocity that are required to be licensed or registered
17 pursuant to the Private Investigations Act."

18 Section 34. A new section of the Private Investigations
19 Act is enacted to read:

20 "BACKGROUND INVESTIGATIONS.--

21 A. The department shall adopt rules that:

22 (1) are developed in conjunction with the
23 department of public safety that require background
24 investigations of all persons licensed or registered pursuant
25 to the Private Investigations Act to determine if the person

1 has a criminal history;

2 (2) require all applicants for licensure or
3 registration to be fingerprinted on two fingerprint cards or
4 electronically as required for submission to the federal
5 bureau of investigation to conduct a national criminal
6 history investigation and for submission to the department of
7 public safety to conduct a state criminal history
8 investigation;

9 (3) provide for an applicant to inspect or
10 challenge the validity of the record developed by the
11 background investigation if the applicant is denied a license
12 or registration; and

13 (4) establish a fee for fingerprinting and
14 conducting a background investigation for an applicant.

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

20 C. The applicant shall pay the cost of obtaining
21 criminal history information from the federal bureau of
22 investigation and the department of public safety.

23 D. Electronic live scans may be used for
24 conducting criminal history investigations."

25 Section 35. A new section of the Private Investigations

1 Act is enacted to read:

2 "TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The
3 private investigations advisory board is terminated on
4 July 1, 2011 pursuant to the Sunset Act. The board shall
5 continue to operate according to the provisions of the
6 Private Investigations Act until July 1, 2012. Effective
7 July 1, 2012, Chapter 61, Article 27A NMSA 1978 is repealed."

8 Section 36. TEMPORARY PROVISION--TRANSITION.--

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, 2007
12 shall apply for registration pursuant to the Private
13 Investigations Act prior to October 31, 2007 to receive
14 registration without meeting the examination or educational
15 requirements of the Private Investigations Act.

16 B. Between July 1, 2007 and October 31, 2007, an
17 individual shall be registered as a level three security
18 guard without examination or further qualification by the
19 regulation and licensing department if the individual:

20 (1) worked as a security guard, watchman,
21 loss prevention officer or patrolman for the five years
22 immediately preceding July 1, 2007 and was licensed by the
23 regulation and licensing department to perform that work; and

24 (2) was authorized pursuant to the Private
25 Investigators and Polygraphers Act prior to July 1, 2007 to

1 carry a firearm in the course of the individual's employment.

2 C. A security guard, watchman, loss prevention
3 officer or patrolman who is not qualified pursuant to
4 Subsection B of this section to be registered as a level
5 three security guard shall be registered by the regulation
6 and licensing department as a level one security guard if the
7 individual applies for registration pursuant to the Private
8 Investigations Act between July 1, 2007 and October 31, 2007,
9 except as provided in Subsection D of this section.

10 D. If the regulation and licensing department
11 finds, upon application by a security guard, watchman, loss
12 prevention officer or patrolman who is employed in that
13 capacity prior to July 1, 2007, that the applicant has
14 applied in a timely manner and presents exceptional
15 circumstances, as determined by the regulation and licensing
16 department, in which the applicant demonstrates cause for
17 that applicant to be registered as a level two security
18 guard, the department in its discretion may register the
19 security guard applicant as a level two security guard
20 without examination or further qualification.

21 E. A private investigator or private patrol
22 operator holding a certificate of deposit or surety bond in
23 the sum of two thousand dollars (\$2,000) shall be exempt from
24 the bond provisions of the Private Investigations Act,
25 provided that the private investigator's or private patrol

1 operator's license remains current and the holder remains in
2 good standing with the regulation and licensing department.

3 F. A rule adopted by the regulation and licensing
4 department pursuant to the Private Investigators and
5 Polygraphers Act shall remain in effect until the regulation
6 and licensing department adopts rules to implement the
7 Private Investigations Act.

8 G. The regulation and licensing department shall
9 continue to register and license individuals pursuant to the
10 Private Investigators and Polygraphers Act until
11 July 1, 2007, or, if rules are not adopted by the regulation
12 and licensing department to implement the Private
13 Investigations Act by July 1, 2007, until the regulation and
14 licensing department adopts rules to implement the Private
15 Investigations Act. However, rules shall be adopted and the
16 regulation and licensing department shall begin to license
17 and register applicants pursuant to the Private
18 Investigations Act no later than September 1, 2007.

19 H. Money in the private investigator and
20 polygrapher fund is transferred on July 1, 2007 to the
21 private investigations fund.

22 I. Except as provided in Subsections C and D of
23 this section, a person licensed or registered pursuant to the
24 Private Investigators and Polygraphers Act prior to
25 July 1, 2007 shall be licensed or registered pursuant to the

1 Private Investigations Act on or after July 1, 2007 at a
2 level of licensure or registration equivalent to that level
3 that the person held prior to July 1, 2007 without further
4 training or examination; provided that the person:

5 (1) applies for licensure or registration
6 pursuant to the Private Investigations Act no later than
7 October 31, 2007;

8 (2) shall be subject to any disciplinary
9 proceedings initiated prior to July 1, 2007 or disciplinary
10 action resulting from the proceedings due to the licensee's
11 or registrant's unethical conduct or actions or inactions
12 taken in violation of the Private Investigators and
13 Polygraphers Act; and

14 (3) remains otherwise eligible to be
15 licensed or registered pursuant to the Private Investigations
16 Act.

17 Section 37. REPEAL.--Sections 61-27A-7, 61-27A-8,
18 61-27A-10, 61-27A-19 and 61-27A-21 NMSA 1978 (being Laws
19 1993, Chapter 212, Sections 7, 8, 10 and 19 and Laws 2000,
20 Chapter 4, Section 16, as amended) are repealed.

21 Section 38. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2007. _____