

1 **As Amended by House Committee**

2 *Session of 2002*

3
4 **HOUSE BILL No. 3006**

5
6 By Committee on Federal and State Affairs

7
8 2-27

9
10 AN ACT concerning regulation and licensure of detective business; pro-
11 hibiting certain acts and providing penalties for violations; amending
12 K.S.A. 75-7b19 and K.S.A. 2001 Supp. 75-7b01, 75-7b04, 75-7b07, 75-
13 7b10 and 75-7b13 and repealing the existing sections.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 2001 Supp. 75-7b01 is hereby amended to read as
17 follows: 75-7b01. As used in this act:

18 (a) "Detective business" means the furnishing of, making of or agree-
19 ing to make any investigation for the purpose of obtaining information
20 with reference to:

21 (1) Crime or wrongs done or threatened against the United States or
22 any state or territory of the United States, or any political subdivision
23 thereof when furnished or made by persons other than law enforcement
24 officers;

25 (2) the identity, habits, conduct, business, occupation, honesty, in-
26 tegrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity,
27 movement, whereabouts, affiliations, associations, transactions, acts, rep-
28 utation or character of any person;

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

30 (4) the cause or responsibility for fires, libels, losses, frauds, accidents
31 or damage or injury to persons or to property; or

32 (5) securing evidence to be used before any court, board, officer or
33 investigating committee.

34 (b) "Private detective" means any person who, for any consideration
35 whatsoever, engages in detective business.

36 (c) "*Private detective intern*" means any person performing investi-
37 gative work as an intern under the direction and control of a licensed
38 private detective agency.

39 ~~(c)~~ (d) "Private detective agency" means a person who regularly em-
40 ploys any other person, other than an organization, to engage in detective
41 business.

42 ~~(d)~~ (e) "Private patrol operator" means a person who, for any consid-
43 eration whatsoever, agrees to furnish or furnishes a watchman, guard,

1 patrolman or other person to protect persons or property or to prevent
2 the theft, unlawful taking, loss, embezzlement, misappropriation or con-
3 cealment of any goods, wares, merchandise, money, bonds, stocks, notes,
4 documents, papers or property of any kind, or performs the service of
5 such watchman, guard, patrolman or other person for any such purposes.

6 ~~(e)~~ (f) “Law enforcement officer” means a law enforcement officer
7 as defined by K.S.A. 21-3110, and amendments thereto.

8 ~~(f)~~ (g) “Organization” means a corporation, trust, estate, partnership,
9 cooperative or association.

10 ~~(g)~~ (h) “Person” means an individual or organization.

11 ~~(h)~~ (i) “Firearm permit” means a permit for the limited authority to
12 carry a firearm concealed on or about the person by one licensed as a
13 private detective.

14 ~~(i)~~ (j) “Firearm” means:

15 (1) A pistol or revolver which is designed to be fired by the use of a
16 single hand and which is designed to fire or capable of firing fixed car-
17 tridge ammunition; or

18 (2) any other weapon which will or is designed to expel a projectile
19 by the action of an explosive and which is designed to be fired by the use
20 of a single hand.

21 ~~(j)~~ (k) “Client” means any person who engages the services of a pri-
22 vate detective.

23 ~~(k)~~ (l) “Dishonesty or fraud” means, in addition to other acts not
24 specifically enumerated herein:

25 (1) Knowingly making a false statement relating to evidence or in-
26 formation obtained in the course of employment, or knowingly publishing
27 a slander or a libel in the course of business;

28 (2) using illegal means in the collection or attempted collection of a
29 debt or obligation;

30 (3) manufacturing or producing any false evidence; and

31 (4) acceptance of employment adverse to a client or former client
32 relating to a matter with respect to which the licensee has obtained con-
33 fidential information by reason of or in the course of the licensee’s em-
34 ployment by such client or former client.

35 (m) “Advertisement” means any solicitation or printed material such
36 as letterhead, business cards or brochures; banners or signage; telephone
37 directories; or any electronic media such as Internet web sites.

38 Sec. 2. K.S.A. 2001 Supp. 75-7b04 is hereby amended to read as
39 follows: 75-7b04. (a) Every person desiring to be licensed in Kansas as a
40 private detective or private detective agency shall make application there-
41 for to the attorney general. An application for a license under this act
42 shall be on a form prescribed by the attorney general and accompanied
43 by the required application fee. An application shall be verified and shall

1 include:

- 2 (1) The full name and business address of the applicant;
- 3 (2) the name under which the applicant intends to do business;
- 4 (3) a statement as to the general nature of the business in which the
- 5 applicant intends to engage;
- 6 (4) a statement as to the classification or classifications under which
- 7 the applicant desires to be qualified;
- 8 (5) if the applicant is an organization, the full name and residence
- 9 address of each of its partners, officers, directors or associates;
- 10 (6) two photographs of the applicant taken within 30 days before the
- 11 date of application, of a type prescribed by the attorney general, and two
- 12 classifiable sets of the applicant's fingerprints one of which shall be sub-
- 13 mitted to the federal bureau of investigation for a fingerprint check for
- 14 any criminal history of the applicant;
- 15 (7) a statement of the applicant's employment history; and
- 16 (8) such other information, evidence, statements or documents as
- 17 may be required by the attorney general.

18 (b) The application shall be accompanied by a certificate of reference
19 signed by five or more reputable persons who have known the applicant
20 for a period of at least ~~5~~ *five* years. The certificate of reference shall be
21 verified and acknowledged by such persons before an officer authorized
22 to take oaths and acknowledgment of deeds.

23 Each person signing the certificate of reference shall subscribe and
24 affirm as true, under the penalties of perjury, that:

25 (1) The person has known the applicant personally for a period of at
26 least five years prior to the filing of the application. The attorney general
27 may lessen such period if the applicant has been discharged honorably
28 from the military service of the United States within the six-year period
29 immediately preceding the date the application is submitted;

30 (2) the person has read such application and believes each of the
31 statements made therein to be true;

32 (3) the applicant is honest, of good character and competent and not
33 related or connected by blood or marriage to such person.

34 (c) Before an application for a license may be granted, the applicant
35 or, if the applicant is an organization, all of the officers, directors, partners
36 or associates shall:

37 (1) Be at least 21 years of age;

38 (2) be a citizen of the United States;

39 (3) be a *law-abiding citizen* of good moral character; ~~and~~

40 (4) *not have been discharged from military service with a dishonor-*
41 *able discharge or a general discharge due to disciplinary actions;*

42 (5) *have satisfactorily completed ~~at~~: (A) At least two years of post*
43 *secondary education or technical schooling through an accredited college*

1 *or university; or (B) at least two years of equivalent military edu-*
2 **cation and training, as determined in accordance with rules and**
3 **regulations adopted by the attorney general;**

4 (6) except as provided by ~~subsection (d)~~ **subsections (d) and (e),**
5 *have at least three years of lawfully gained verifiable full-time experience*
6 *or training within the five-year period immediately preceding the date of*
7 *application: (A) In the lawful practice of private investigative business on*
8 *the applicant's own account; (B) in the lawful practice of private inves-*
9 *tigative business as an investigative intern employee of the holder of a*
10 *private detective agency license; (C) in practice as an investigator for a*
11 *law firm, government agency or private corporation, or in another ca-*
12 *capacity which the attorney general determines to provide the requisite*
13 *investigative experience; or (D) as a sworn officer with a federal, state,*
14 *county or city law enforcement agency, with qualifications in an investi-*
15 *gatory capacity; or*

16 (7) comply with such other qualifications as the attorney general
17 adopts by rules and regulations.

18 (d) *If an applicant has obtained an associate degree from an accred-*
19 *ited college or university, such applicant shall receive credit for one of the*
20 *three years' experience required under subsection (c)(6). If an applicant*
21 *has obtained a baccalaureate degree from an accredited college or uni-*
22 *versity, such applicant shall receive credit for two of the three years'*
23 *experience required under subsection (c)(6).*

24 **(e) Instead of the experience required pursuant to subsection**
25 **(c)(6), an applicant shall receive one year's credit for each year of**
26 **equivalent military experience, as determined in accordance with**
27 **rules and regulations adopted by the attorney general, within the**
28 **five-year period immediately preceding the date of application.**

29 ~~(e)~~ (f) In accordance with the summary proceedings provisions of the
30 Kansas administrative procedure act, the attorney general may deny a
31 license if the applicant has:

32 (1) Committed any act which, if committed by a licensee, would be
33 grounds for the suspension or revocation of a license under this act;

34 (2) committed any act constituting dishonesty or fraud;

35 (3) a bad moral character or a bad reputation for truth, honesty, and
36 integrity;

37 (4) been convicted of a felony or, within 10 years immediately prior
38 to the date of application, been convicted of any crime involving moral
39 turpitude, dishonesty, vehicular homicide, assault, battery, assault of a law
40 enforcement officer, misdemeanor battery against a law enforcement of-
41 ficer, criminal restraint, sexual battery, endangering a child, intimidation
42 of a witness or victim or illegally using, carrying, or possessing a dangerous
43 weapon;

1 (5) been refused a license under this act or had a license suspended
 2 or revoked in this state or in any other jurisdiction or had a license cen-
 3 sured, limited or conditioned two or more times in this state or in any
 4 other jurisdiction;

5 (6) been an officer, director, partner or associate of any person who
 6 has been refused a license under this act or whose license has been sus-
 7 pended or revoked in this state or in any other jurisdiction or had a license
 8 censured, limited or conditioned two or more times in this state or in any
 9 other jurisdiction;

10 (7) while unlicensed, committed or aided and abetted the commis-
 11 sion of any act for which a license is required by this act; or

12 (8) knowingly made any false statement in the application.

13 ~~(e)~~ ~~(f)~~ **(g)** The attorney general may charge a fee for initial application
 14 forms and materials in an amount fixed by the attorney general pursuant
 15 to K.S.A. 2001 Supp. 75-7b22, and amendments thereto. Such fee shall
 16 be credited against the application fee of any person who subsequently
 17 submits an application.

18 **(h) The requirements of subsections (c)(5) and (c)(6) shall not**
 19 **apply to:**

20 **(1) Any individual who, on June 30, 2002, held a valid license**
 21 **issued under this act and has held a valid license continuously since**
 22 **that date; or**

23 **(2) any individual who, on June 30, 2002, was an officer, direc-**
 24 **tor, partner or associate of an organization which, on June 30,**
 25 **2002, held a valid license issued under this act, if such individual**
 26 **has continuously held a position of officer, director, partner or**
 27 **associate of such organization since that date.**

28 Sec. 3. K.S.A. 2001 Supp. 75-7b07 is hereby amended to read as
 29 follows: 75-7b07. (a) Any license issued under this act shall expire on
 30 December 31 of the year of its issuance. ~~On and after January 1, 1999,~~
 31 ~~any license issued under this act shall expire on December 31 of the year~~
 32 following the year when issued and may be renewed every two years
 33 thereafter. Renewal of any such license shall be made in the manner
 34 prescribed for obtaining an original license, including payment of the
 35 appropriate fee required by K.S.A. 75-7b05, and amendments thereto,
 36 except that:

37 (1) The signing of the application by five or more citizens as required
 38 by K.S.A. 75-7b04, and amendments thereto, shall not be required if such
 39 application for renewal is verified and acknowledged by the applicant
 40 before an officer authorized to administer oaths;

41 (2) the application for renewal shall provide the information required
 42 of original applicants if the information shown on the original application
 43 or any renewal thereof on file with the attorney general is no longer

1 accurate;

2 (3) a new photograph shall be submitted with the application for re-
3 newal only if the photograph on file with the attorney general has been
4 on file more than two years; ~~and~~

5 (4) *the application for renewal shall be accompanied by proof, satis-*
6 *factory to the attorney general, that the applicant has complied with the*
7 *continuing education requirement of subsection (b); and*

8 (5) additional information may be required by rules and regulations
9 adopted by the attorney general.

10 (b) *The attorney general shall adopt rules and regulations requiring*
11 *applicants for renewal of a license under this act to satisfactorily complete*
12 *courses of continuing education approved by the attorney general. Pro-*
13 *fessional associations of private detectives, private detective agencies or*
14 *private patrol operators shall submit to the attorney general recommen-*
15 *dations, and such documentation as required by the attorney general, of*
16 *courses of continuing education recommended for approval by the attor-*
17 *ney general.*

18 (c) A license issued under this act shall not be assignable.

19 Sec. 4. K.S.A. 2001 Supp. 75-7b10 is hereby amended to read as
20 follows: 75-7b10. An advertisement by a licensee soliciting or advertising
21 business shall not contain any false, misleading or deceptive information.
22 *Any such advertisement by a licensee shall contain the number of the*
23 *licensee's Kansas license within the advertisement.* A licensee shall not
24 advertise or conduct business from any location other than that shown on
25 the records of the attorney general as the licensee's principal place of
26 business unless the licensee has received a branch office certificate for
27 such location after compliance with the provisions of this act and such
28 additional requirements necessary for the protection of the public as the
29 attorney general may prescribe by rules and regulations. A licensee shall
30 notify the attorney general in writing within 10 days after closing or chang-
31 ing the location of a branch office.

32 Sec. 5. K.S.A. 2001 Supp. 75-7b13 is hereby amended to read as
33 follows: 75-7b13. (a) The attorney general may censure, limit, condition,
34 suspend or revoke a license issued under this act if, after notice and
35 opportunity for hearing in accordance with the provisions of the Kansas
36 administrative procedure act, the attorney general determines that the
37 licensee or, if the licensee is an organization, any of its officers, directors,
38 partners or associates has:

39 (1) Made any false statement or given any false information in con-
40 nection with an application for a license or a renewal or reinstatement
41 thereof;

42 (2) violated any provisions of this act;

43 (3) violated any rules and regulations of the attorney general adopted

1 pursuant to the authority contained in this act;

2 (4) been convicted of a felony, vehicular homicide, assault, battery,
3 assault of a law enforcement officer, misdemeanor battery against a law
4 enforcement officer, criminal restraint, sexual battery, endangering a
5 child, intimidation of a witness or victim or any crime involving moral
6 turpitude or illegally using, carrying, or possessing a dangerous weapon
7 subsequent to the issuance of the license;

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

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

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

18 (8) committed assault, battery or kidnapping or used force or violence
19 on any person without proper justification;

20 (9) knowingly violated or advised, encouraged or assisted the violation
21 of, any court order or injunction in the course of business as a licensee;

22 (10) acted as a runner or capper for any attorney;

23 (11) used any letterhead, advertisement or other printed matter, or
24 in any manner whatever represented that such person is an instrumen-
25 tality of the federal government, a state or any political subdivision
26 thereof;

27 (12) used false, misleading or deceptive information in any advertise-
28 ment, solicitation or contract for business;

29 (13) has committed any act in the course of the licensee's business
30 constituting dishonesty or fraud;

31 (14) *falsely advertised as a private detective or private detective*
32 *agency within the state of Kansas;*

33 (15) *failed to obtain continuing education as required by rules and*
34 *regulations of the attorney general;*

35 (16) misused a firearm permit badge; or

36 ~~(15)~~ (17) committed any act which is a ground for denial of an ap-
37 plication for a license under this act.

38 (b) The record of conviction, or a certified copy thereof, shall be
39 conclusive evidence of such conviction as that term is used in this section
40 or in K.S.A. 75-7b04, and amendments thereto, and a plea or verdict of
41 guilty or a conviction following a plea of *nolo contendere* is deemed to be
42 a conviction within the meaning thereof.

43 (c) Upon final disposition of the proceedings for a violation relating

1 to the misuse of a firearm permit badge, the attorney general may bring
2 an action for violation of K.S.A. 21-3824 or ~~K.S.A.~~ 21-3825, and amend-
3 ments thereto.

4 Sec. 6. K.S.A. 75-7b19 is hereby amended to read as follows: 75-
5 7b19. ~~Any person who knowingly falsifies~~ *It shall be a severity level 6,*
6 *nonperson felony for a person to: (1) Violate the provisions of subsection*
7 *(a) of K.S.A. 75-7b02, and amendments thereto; or (2) knowingly falsify*
8 *the fingerprints or photographs required to be submitted under this act*
9 ~~shall be guilty of a class E felony, and any person who violates any of the~~
10 ~~other provisions of this act shall be guilty of a class A misdemeanor. It~~
11 *shall be a class A misdemeanor to violate any other provision of this act.*

12 Sec. 7. K.S.A. 75-7b19 and K.S.A. 2001 Supp. 75-7b01, 75-7b04, 75-
13 7b07, 75-7b10 and 75-7b13 are hereby repealed.

14 Sec. 8. This act shall take effect and be in force from and after its
15 publication in the statute book.

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