

SENATE BILL NO. 265—SENATOR CARLTON (BY REQUEST)

MARCH 16, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the Private Investigator's Licensing Board. (BDR 54-1053)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the Private Investigator's Licensing Board; revising provisions relating to licenses and registrations issued by the Board; revising provisions governing local regulation of such licensees and registrants; removing certain requirements for security guards and certain exemptions for counties whose population is less than 100,000; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a person who holds a license issued by the Private Investigator's Licensing Board to hire unlicensed employees if they hold a work card issued by the local sheriff. (NRS 648.060) **Sections 4-6, 8 and 9** of this bill remove the requirement of obtaining a work card from the local sheriff and instead require an unlicensed employee to be registered with the Board. (NRS 648.060, 648.085, 648.140, 648.158, 648.203) **Section 3** of this bill establishes the process and requirements for an application for registration. **Section 2** of this bill requires the Board to issue a provisional registration while the application process is pending. **Section 10** of this bill deems any person with an active work card issued before January 1, 2010, to be registered until the work card expires or until January 1, 2015, whichever is earlier.

Section 6 of this bill also removes the authority of certain local governments to regulate certain matters relating to licensees and registrants under chapter 648 of NRS.

Section 9 of this bill also removes: (1) the requirement that a security guard obtain a work card from the applicable sheriff; and (2) the exemption from certain requirements of chapter 648 of NRS for counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties).

Sections 2 and 9 of this bill allow the sheriff of a county whose population is 100,000 or more who has entered into a contract with the Board to issue a



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provisional registration or to receive a set of fingerprints from an applicant as a part of the registration process.

Section 3.5 of this bill exempts certified public accountants and commercial registered agents from the requirements of chapter 648 of NRS in the performance of certain duties relating to their professions.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 648 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *The Board or the sheriff of a county whose population is 100,000 or more who has entered into a contract with the Board to perform such services shall, upon completion and review by the Board or sheriff of a record of criminal history for the applicant pursuant to NRS 179A.070, issue a provisional registration to an applicant who:*

(a) Submits a completed application for registration in compliance with section 3 of this act; and

(b) Meets the requirements for registration as adopted by the Board by regulation.

2. *A provisional registration issued to an applicant by the Board or sheriff expires automatically:*

(a) If the Board denies the applicant's application;

(b) Upon the issuance of a registration to the applicant; or

(c) If the applicant's check for the fee for the application for registration is returned for insufficient funds.

3. *Except as otherwise provided in this section, a provisional registration expires 90 days after its date of issuance unless an extension is granted by the Executive Director of the Board for good cause.*

Sec. 3. 1. *To obtain a registration, a person must:*

(a) Be a natural person;

(b) File a written application for registration with the Board;

(c) Comply with the applicable requirements of this chapter; and

(d) Pay an application fee set by the Board of not more than \$135.

2. *An application for registration must include:*

(a) A fully completed application for registration as an employee;

(b) A passport size photo;

(c) A completed set of fingerprint cards or a receipt for electronically submitted fingerprints of the applicant submitted as required by the Board; and



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(d) Any other information or supporting materials required pursuant to the regulations adopted by the Board or by an order of the Board. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided in this chapter, the Board shall issue a registration to an applicant if:

(a) The application is verified by the Board and complies with the applicable requirements of this chapter; and

(b) The applicant:

(1) Is of good moral character and temperate habits;

(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony or a crime involving moral turpitude or the illegal use or possession of a dangerous weapon;

(3) Has not made a false statement of material fact on his application; and

(4) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Board.

4. Upon the issuance of a registration, a pocket card of such size, design and content as may be determined by the Board will be issued without charge to each registered person, and will be evidence that the person is duly registered pursuant to this chapter.

5. A registration issued pursuant to this section and the cards issued pursuant to subsection 4 expire 5 years after the date the registration is issued, unless it is renewed. To renew a registration, the holder of the registration must submit to the Board on or before the date the registration expires:

(a) A fully completed application for renewal of registration as an employee;

(b) A passport size photo;

(c) A completed set of fingerprint cards or a receipt for electronically submitted fingerprints of the applicant submitted as required by the Board;

(d) A renewal fee set by the Board of not more than \$135; and

(e) Any other information or supporting materials required pursuant to the regulations adopted by the Board or by an order of the Board. Such information or supporting materials may include, without limitation, other forms of identification of the person.

6. A denial of registration may be appealed to the Board. The Board shall adopt regulations providing for the consideration of such appeals.

Sec. 3.5. NRS 648.018 is hereby amended to read as follows:

648.018 Except as to polygraphic examiners and interns, this chapter does not apply:



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1 1. To any detective or officer belonging to the law enforcement
2 agencies of the State of Nevada or the United States, or of any
3 county or city of the State of Nevada, while the detective or officer
4 is engaged in the performance of his official duties.

5 2. To special police officers appointed by the police
6 department of any city, county, or city and county within the State
7 of Nevada while the officer is engaged in the performance of his
8 official duties.

9 3. To insurance adjusters and their associate adjusters licensed
10 pursuant to the Nevada Insurance Adjusters Law who are not
11 otherwise engaged in the business of private investigators.

12 4. To any private investigator, private patrolman, process
13 server, dog handler or security consultant employed by an employer
14 regularly in connection with the affairs of that employer if a bona
15 fide employer-employee relationship exists, except as otherwise
16 provided in NRS 648.060, 648.140 and 648.203.

17 5. To a reposessor employed exclusively by one employer
18 regularly in connection with the affairs of that employer if a bona
19 fide employer-employee relationship exists, except as otherwise
20 provided in NRS 648.060, 648.140 and 648.203.

21 6. To a person engaged exclusively in the business of obtaining
22 and furnishing information as to the financial rating of persons.

23 7. To a charitable philanthropic society or association
24 incorporated under the laws of this State which is organized and
25 maintained for the public good and not for private profit.

26 8. To an attorney at law in performing his duties as such.

27 9. To a collection agency unless engaged in business as a
28 reposessor, licensed by the Commissioner of Financial Institutions,
29 or an employee thereof while acting within the scope of his
30 employment while making an investigation incidental to the
31 business of the agency, including an investigation of the location of
32 a debtor or his assets and of property which the client has an interest
33 in or lien upon.

34 10. To admitted insurers and agents and insurance brokers
35 licensed by the State, performing duties in connection with
36 insurance transacted by them.

37 11. To any bank organized pursuant to the laws of this State or
38 to any national bank engaged in banking in this State.

39 12. To any person employed to administer a program of
40 supervision for persons who are serving terms of residential
41 confinement.

42 *13. To any commercial registered agent, as defined in NRS*
43 *77.040, who obtains copies of, examines or extracts information*
44 *from public records maintained by any foreign, federal, state or*



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1 *local government, or any agency or political subdivision of any*
2 *foreign, federal, state or local government.*

3 *14. To any holder of a certificate of certified public*
4 *accountant issued by the Nevada State Board of Accountancy*
5 *pursuant to chapter 628 of NRS while performing his duties*
6 *pursuant to the certificate.*

7 **Sec. 4.** NRS 648.060 is hereby amended to read as follows:

8 648.060 1. Except as otherwise provided in NRS 253.220, no
9 person may:

10 (a) Engage in the business of private investigator, private
11 patrolman, process server, reposessor, dog handler, security
12 consultant, or polygraphic examiner or intern; or

13 (b) Advertise his business as such, irrespective of the name or
14 title actually used,

15 ➔ unless he is licensed pursuant to this chapter.

16 2. No person may be employed by a licensee unless the person
17 ~~holds a work card issued by the sheriff of the county in which the~~
18 ~~work is to be performed.]~~ *is registered pursuant to this chapter.*
19 The provisions of this subsection do not apply to a person licensed
20 pursuant to this chapter.

21 3. A person licensed pursuant to this chapter may employ only
22 another licensee, or a nonlicensed person who:

23 (a) Is at least 18 years of age.

24 (b) Is a citizen of the United States or lawfully entitled to remain
25 and work in the United States.

26 (c) Is of good moral character and temperate habits.

27 (d) Has not been convicted of a felony or a crime involving
28 moral turpitude or the illegal use or possession of a dangerous
29 weapon.

30 *(e) Is registered pursuant to this chapter.*

31 **Sec. 5.** NRS 648.085 is hereby amended to read as follows:

32 648.085 1. In addition to any other requirements set forth in
33 this chapter:

34 (a) A natural person who applies for the issuance of a license or
35 ~~work card~~ *registration* issued pursuant to this chapter shall include
36 the social security number of the applicant in the application
37 submitted to the Board.

38 (b) A natural person who applies for the issuance or renewal of a
39 license or ~~work card~~ *registration* issued pursuant to this chapter
40 shall submit to the Board the statement prescribed by the Division of
41 Welfare and Supportive Services of the Department of Health and
42 Human Services pursuant to NRS 425.520. The statement must be
43 completed and signed by the applicant.

44 2. The Board shall include the statement required pursuant to
45 subsection 1 in:



(a) The application or any other forms that must be submitted for the issuance or renewal of the license or ~~{work-card}~~ *registration*; or

(b) A separate form prescribed by the Board.

3. A license or ~~{work-card}~~ *registration* may not be issued or renewed by the Board pursuant to this chapter if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 6. NRS 648.140 is hereby amended to read as follows:

648.140 1. Any license obtained pursuant to the provisions of this chapter gives the licensee or any bona fide employee of the licensee authority to engage in the type of business for which he is licensed in any county or city in the State of Nevada. A county or city shall not enact ordinances regulating persons licensed pursuant to this chapter, except ~~[-]~~:

~~—(a) Ordinances regulating the employer-employee relationship of licensees and their unlicensed employees; and~~

~~—(b) General~~ *general* business regulations designed to raise revenue or assure compliance with building codes and ordinances or regulations concerning zoning and safety from fire.

2. Except for polygraphic examiners and interns, a licensee may employ, in connection with his business, as many ~~{unlicensed}~~ persons *registered pursuant to this chapter* as may be necessary, but at all times every licensee is accountable for the good conduct of every person employed by him in connection with his business. Each licensee shall furnish the Board with the information requested by it concerning all ~~{unlicensed}~~ employees ~~[-]~~ *registered pursuant to this chapter*, except clerical personnel, and shall notify the Board within ~~{10}~~ 3 days after such employees begin ~~{or terminate}~~ their employment.



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~~[3. The Board may by regulation require that a licensee pay registration fees for each of his unlicensed employees, except clerical employees, and impose such terms and conditions in connection with those fees as it deems appropriate. The registration fee must not exceed \$10 for each unlicensed employee.~~

~~— 4. Each licensee shall report quarterly on forms provided by the Board the name of each unlicensed employee employed by him at the time of the report and the name of each unlicensed employee who has left his employ since the date of the last quarterly report. The report required by this subsection is in addition to the reports required by subsection 2.]~~

Sec. 7. NRS 648.144 is hereby amended to read as follows:

648.144 A license issued under the provisions of this chapter and the cards issued pursuant to NRS 648.142 expire on June 30 of each year ~~[]~~ *unless they are renewed*. A licensee desiring a renewal of his license must file an application for renewal on or before June 30 on a form prescribed by the Board which is accompanied by the fee prescribed pursuant to NRS 648.120 and all information required to complete the application for renewal. A renewal license for the next ensuing year must then be issued together with renewal cards for the persons described in subsection 3 of NRS 648.142.

Sec. 8. NRS 648.158 is hereby amended to read as follows:

648.158 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license or ~~[work-card]~~ *registration* issued pursuant to this chapter, the Board shall deem the license or ~~[work-card]~~ *registration* issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license or ~~[work-card]~~ *registration* by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license or ~~[work-card]~~ *registration* has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license or ~~[work-card]~~ *registration* issued pursuant to this chapter that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license or ~~[work-card]~~ *registration* was suspended stating that the person whose license or ~~[work-card]~~ *registration* was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.



Sec. 9. NRS 648.203 is hereby amended to read as follows:

648.203 1. Except as otherwise provided in ~~[subsection 2 or]~~
NRS 253.220, it is unlawful for a person to ~~[-~~

~~—(a) Allow]~~ **allow** an employee ~~[-, including an independent contractor,]~~ to perform any work regulated pursuant to the provisions of this chapter unless the employee ~~[holds a work card authorizing his work which is issued by the sheriff of the county in which the work is performed.]~~ **is registered pursuant to this chapter.** The provisions of this ~~[paragraph]~~ **subsection** do not apply to a person licensed pursuant to this chapter.

~~[(b) Work as a security guard unless he holds a work card authorizing his work as a security guard issued in accordance with applicable ordinances by the sheriff of the county in which the work is performed.]~~

2. ~~[The provisions of subsection 1 do not apply in any county whose population is less than 100,000, but this subsection does not prohibit a board of county commissioners from adopting similar restrictions by ordinance.~~

~~—3.]~~ The ~~[sheriff of any county in which such restrictions apply]~~ **Board** shall require any person applying for ~~[such a work card]~~ **registration pursuant to this chapter** to submit a complete set of his fingerprints **or a receipt for electronically submitted fingerprints** to the ~~[sheriff]~~ **Board or to the sheriff of a county whose population is 100,000 or more who has entered into a contract with the Board to perform such services,** who ~~[may]~~ **shall** forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the applicant's criminal history.

Sec. 10. Any person who holds an active work card issued before January 1, 2010, will be deemed to be registered pursuant to chapter 648 of NRS. Notwithstanding the amendatory provisions of this act to the contrary, any such registration pursuant to this section expires on the date that the work card expires or January 1, 2015, whichever is earlier.

Sec. 11. 1. This section and section 3.5 of this act become effective upon passage and approval.

2. Sections 1, 2, 3 and 4 to 10, inclusive, of this act become effective on January 1, 2010.

