

HOUSE BILL No. 2101

AN ACT concerning certain investigative and law enforcement personnel; relating to private detectives and private detective agency licenses and firearm permits; relating to arrest powers of certain federal law enforcement officers; amending K.S.A. 2003 Supp. 75-7b05, 75-7b07, 75-7b13, 75-7b17 and 75-7b21 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2003 Supp. 75-7b05 is hereby amended to read as follows: 75-7b05. (a) Every application for an initial or a renewal license ~~which will be effective on and after January 1, 1999~~, shall be accompanied by a fee in an amount fixed by the attorney general pursuant to K.S.A. ~~2002~~ 2003 Supp. 75-7b22, and amendments thereto. ~~The application fee for a license issued during calendar year 1998, shall not exceed \$120.~~

(b) In addition to the application fee imposed pursuant to subsection (a), if the applicant is an organization and any of its officers, directors, partners or associates intends to engage in the business of such organization as a private detective, such officer, director, partner or associate shall make a separate application for a license and pay a fee in an amount fixed by the attorney general pursuant to K.S.A. ~~2002~~ 2003 Supp. 75-7b22, and amendments thereto.

~~(c) If a license is issued for a period of less than two years, the fees imposed pursuant to this section shall be prorated for the months, or fraction thereof, for which the license is issued.~~

Sec. 2. K.S.A. 2003 Supp. 75-7b07 is hereby amended to read as follows: 75-7b07. (a) *Except as provided by this section*, any license issued under this act shall expire on December 31 of the year of its issuance ~~and may be renewed every two years thereafter~~. On and after ~~January 1, 1999~~ July 1, 2004, any license issued under this act shall expire ~~on December 31 of the year following the year when issued~~ *two years from the date of issuance* and may be renewed every two years thereafter. Renewal of any such license shall be made in the manner prescribed for obtaining an original license, including payment of the appropriate fee required by K.S.A. 75-7b05, and amendments thereto, except that:

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

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

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

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

~~(4)~~ (5) additional information may be required by rules and regulations adopted by the attorney general.

(b) *An individual licensee, as a condition of license renewal, shall be required to attend not less than eight hours of continuing education programs approved by the attorney general. The attorney general shall adopt rules and regulations establishing requirements for such programs. In establishing such requirements the attorney general may consider existing programs of continuing education being offered by professional associations of private detectives, private detective agencies or private patrol operators. The attorney general may enter into contracts for the administration of the provisions of this subsection.*

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

Sec. 3. K.S.A. 2003 Supp. 75-7b13 is hereby amended to read as follows: 75-7b13. (a) The attorney general may censure, limit, condition, suspend or revoke a license issued under this act if, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the attorney general determines that the licensee or, if the licensee is an organization, any of its officers, directors, partners or associates has:

(1) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof;

- (2) violated any provisions of this act;
- (3) violated any rules and regulations of the attorney general adopted pursuant to the authority contained in this act;
- (4) been convicted of a felony, vehicular homicide, assault, battery, assault of a law enforcement officer, misdemeanor battery against a law enforcement officer, criminal restraint, sexual battery, endangering a child, intimidation of a witness or victim or any crime involving moral turpitude or illegally using, carrying, or possessing a dangerous weapon subsequent to the issuance of the license;
- (5) impersonated, or permitted or aided and abetted an employee to impersonate, a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof;
- (6) committed or permitted any employee to commit any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;
- (7) willfully failed or refused to render to a client services or a report as agreed between the parties, and for which compensation has been paid or tendered in accordance with the agreement of the parties;
- (8) committed assault, battery or kidnapping or used force or violence on any person without proper justification;
- (9) knowingly violated or advised, encouraged or assisted the violation of, any court order or injunction in the course of business as a licensee;
- (10) acted as a runner or capper for any attorney;
- (11) used any letterhead, advertisement or other printed matter, or in any manner whatever represented that such person is an instrumentality of the federal government, a state or any political subdivision thereof;
- (12) used false, misleading or deceptive information in any advertisement, solicitation or contract for business;
- (13) has committed any act in the course of the licensee's business constituting dishonesty or fraud;
- (14) *failed to obtain continuing education as required by this act;*
- (15) misused a firearm permit badge; or
- ~~(15)~~ (16) committed any act which is a ground for denial of an application for a license under this act.

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

(c) Upon final disposition of the proceedings for a violation relating to the misuse of a firearm permit badge, the attorney general may bring an action for violation of K.S.A. 21-3824 or ~~K.S.A.~~ 21-3825, and amendments thereto.

Sec. 4. K.S.A. 2003 Supp. 75-7b17 is hereby amended to read as follows: 75-7b17. (a) No licensee may carry a firearm concealed on or about the licensee's person unless the licensee obtains a permit therefor, upon application to the attorney general. No permit shall be issued to any licensee unless such licensee:

(1) Demonstrates to the attorney general the need to carry a firearm in order to protect the licensee's life or property or to protect the life or property of a client of licensee and submits such proof as required by the attorney general to establish the necessity for the issuance of a firearm permit; and

(2) (A) *within 24 months before the date of submission of the original application for a firearm permit, has successfully completed the law enforcement training requirements of subsection (a) of K.S.A. 74-5607a, and amendments thereto, or, within 12 months before the date of submission of the original application for a firearm permit, has successfully completed the law enforcement training requirements of subsection (b) of K.S.A. 74-5607a, and amendments thereto, and submits such proof as required by the attorney general to show satisfactory completion of such training or* (B) *within six months before the date of submission of the original application for a firearm permit, has received training in the handling of firearms and the lawful use of force from a trainer certified pursuant to K.S.A.*

75-7b21, and amendments thereto, and submits such proof as required by the attorney general to show satisfactory completion of such training.

(b) An application for a firearm permit ~~which will be effective on and after January 1, 1999,~~ by a licensee shall be made in the manner and form prescribed by the attorney general and shall be accompanied by a fee in an amount fixed by the attorney general pursuant to K.S.A. ~~2002~~ 2003 Supp. 75-7b22, and amendments thereto. ~~The application fee for a firearm permit issued during calendar year 1998, shall not exceed \$10.~~ Such application shall be made a part of and supplemental to such licensee's application for a license under this act. The application shall contain:

- (1) The applicant's name and business and residence addresses;
- (2) the make or manufacturer's name, model, serial number, caliber, gauge and any other identifying information concerning the firearm or firearms to be carried by the applicant;
- (3) a full set of the applicant's fingerprints;
- (4) a color photograph of the applicant taken within 30 days prior to date of application and suitable for identification purposes;
- (5) such other information as deemed necessary by the attorney general.

(c) (1) If the attorney general is satisfied that it is necessary for an applicant under this section to carry a firearm, the attorney general shall issue to such licensee a firearm permit identification card, the form of which shall be approved by the attorney general. Such card shall bear the licensee's color photograph, thumb prints and signature and a description of the firearm or firearms to be carried. The licensee shall have such permit in the licensee's possession when carrying a firearm. Identification cards and firearm permits shall be numbered consecutively, and the attorney general shall maintain a current file of all valid firearm permits.

(2) For the purpose of safety and emergency identification, licensees issued a firearm permit under this act to carry a concealed firearm may carry a firearm permit badge. The badge shall be carried in such a manner that at all times when the badge is visible the private detective's firearm permit identification card issued pursuant to paragraph (1) of this subsection also shall be visible. The attorney general shall determine the size, design and other specifications of the badge. The words "licensed private detective" shall be stated clearly on the face of the badge. The cost of the badge shall be borne by the licensee. Whenever any licensee terminates such licensee's activities as a private detective, or such licensee's license has been suspended or revoked, such badge shall be surrendered within five days following such termination, suspension or revocation to the attorney general for cancellation. Every licensee possessing a valid firearm permit badge shall report to the attorney general any loss of the badge within 72 hours of the discovery of the loss.

(d) Any licensee granted a firearm permit shall present the permit identification card and firearm permit badge upon request by a law enforcement officer acting within the officer's jurisdictional authority, or by a private person upon private property if the person owns or has legal control of the private property, to demonstrate the licensee's permit to carry a firearm. Every licensee possessing a valid firearm permit shall report to the attorney general any change of employment status, change of firearm or firearms to be carried, loss of identification card or change of personal or business address. Every licensee who discharges a firearm for any reason other than test firing, firearm training or target practice shall report the discharge to the attorney general within 24 hours, together with a written report giving full particulars and reason for such discharge.

(e) The attorney general shall revoke any firearm permit if the licensee's private detective license has been suspended or revoked. The attorney general may suspend or revoke any firearm permit if the licensee has used a firearm in a manner inconsistent with the lawful use of force or if the licensee can no longer demonstrate a need to carry a firearm, pursuant to subsection (a)(1). An order of suspension or revocation, and hearing thereon, shall be subject to the provisions of the Kansas administrative procedure act. The attorney general shall recall any suspended or revoked firearm permit identification card.

(f) A licensee to whom a firearm permit is granted under this section shall be deemed to have no greater justification in the use of force than a private person as prescribed by the Kansas criminal code. Nothing in

this act shall be construed as limiting the civil liability of any such licensee with respect to the use of force.

(g) No firearm permit shall be issued to any:

- (1) Organization;
- (2) individual who has been declared, by any court of competent jurisdiction, to be incapacitated or mentally ill and has not been restored to capacity or mental health; or
- (3) individual who suffers from alcohol or narcotics addiction or dependence.

(h) A firearm permit issued under this act shall expire on December 31 of the year of its issuance, except that on and after ~~January 1, 1999~~ *July 1, 2004*, a firearm permit issued under this act shall expire on ~~December 31 of the year following the year when issued~~ *the date of expiration of the licensee's private detective license*. Renewal of any such firearm permit shall be made in a form and manner prescribed by the attorney general and subject to such conditions as required by rules and regulations adopted by the attorney general. Renewal of a firearm permit shall be based on a demonstrated continuing need to carry a firearm in accordance with subsection (a)(1).

Sec. 5. K.S.A. 2003 Supp. 75-7b21 is hereby amended to read as follows: 75-7b21. (a) The attorney general shall certify persons who are qualified to train private detectives in the handling of firearms and the lawful use of force.

(b) In order to be certified as a trainer under this section, an applicant shall:

- (1) Be 21 or more years of age;
- (2) have a minimum of one-year supervisory experience with a private detective agency, a private patrol operator, a proprietary investigative or security organization or any federal, United States military, state, county or city law enforcement agency;
- (3) be personally qualified to train private detectives in the handling of firearms and the lawful use of force; and
- (4) not have been convicted of a felony or, within 10 years immediately prior to the date of application, been convicted of a misdemeanor. If the applicant is not licensed as a private detective, the applicant shall submit two classifiable sets of the applicant's fingerprints one of which shall be submitted to the federal bureau of investigation for a fingerprint check for any criminal history of the applicant.

(c) Persons wishing to become certified trainers shall make application to the attorney general on a form prescribed by the attorney general. Applications for a firearm training certificate ~~which will be effective on and after January 1, 1999,~~ shall be accompanied by a fee in an amount fixed by the attorney general pursuant to K.S.A. ~~2002~~ 2003 Supp. 75-7b22, and amendments thereto. ~~The fee for a firearm training certificate issued during calendar year 1998, shall not exceed \$25.~~ The application shall contain a statement of the plan of operation for the training offered by the applicant and the materials and aids to be used and any other information required by the attorney general.

(d) A certificate shall be granted to a trainer if the attorney general finds that the applicant:

- (1) Meets the requirements of subsection (b);
- (2) is a person of good character and reputation;
- (3) has sufficient knowledge of private detective business, firearms training and the lawful use of force to be a suitable person to train private detectives in the handling of firearms and the lawful use of force;
- (4) has supplied all required information to the attorney general; and
- (5) has paid the required fee.

(e) The certificate issued pursuant to this section shall expire on December 31 of the year following the year when issued ~~and shall be renewable biennially~~ *except that, on and after July 1, 2004, a certificate issued pursuant to this section shall expire two years from the date of issuance. A certificate may be renewed on a biennial basis* upon application and payment of a fee in an amount fixed by the attorney general pursuant to K.S.A. ~~2002~~ 2003 Supp. 75-7b22, and amendments thereto.

New Sec. 6. (a) A federal law enforcement officer who enters this state may arrest a person, without a warrant, when in the judgment of the federal law enforcement officer a person:

(1) Asserts physical force or uses forcible compulsion likely to cause death or great bodily harm to any person; or

(2) is committing an inherently dangerous felony as defined in K.S.A. 21-3436, and amendments thereto.

(b) To provide assistance to law enforcement officers, a federal law enforcement officer shall have the same authority as a law enforcement officer where:

(1) The federal law enforcement officer is rendering assistance at the request of any law enforcement officer; or

(2) the federal law enforcement officer is effecting an arrest or providing assistance as part of a bona fide task force or joint investigation in which law enforcement officers are participating.

(c) Any lawful actions pursuant to this section shall be deemed to be within the scope of the federal law enforcement officer's employment.

(d) As used in this section:

(1) "Federal law enforcement officer" means a person employed by the United States government and assigned to the federal bureau of investigation who is empowered to effect an arrest with or without a warrant for violation of the United States code and who is authorized to carry a firearm in the performance of the person's official duties as a federal law enforcement officer.

(2) "Law enforcement officer" has the meaning ascribed thereto in K.S.A. 21-3110, and amendments thereto.

(e) This section shall be a part of and supplemental to the Kansas criminal code.

(f) The provisions of this section shall expire on July 1, 2007.

Sec. 7. K.S.A. 2003 Supp. 75-7b05, 75-7b07, 75-7b13, 75-7b17 and 75-7b21 are hereby repealed.

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

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.