Office of the Registrar of Regulations,
Legislative Council,
State of Delaware

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

DIVISION OF STATE POLICE

Statutory Authority: 24 Delaware Code, Section 1304 (24 Del.C. §1304)
24 DE Admin. Code 1300

FINAL

ORDER

1300 Board of Examiners of Private Investigators & Private Security Agencies

Pursuant to the Guidelines in 29 Del.C. Section 10118(a)(1)-(7), the Board of Examiners of Private Investigators and Private Security Agencies ("Board") hereby issues this Order. Following notice and a public hearing on the proposed adoption of amendments to rules:

3.0 – Nightstick, PR 24, Mace, Peppergas and Handcuffs
5.0 – Use of Animals
7.0 – Employment Notification
12.0 – Record Book; Right of Inspection,

the Board makes the following Findings and Conclusions:

Summary of Evidence and Information Submitted

1. The Board did not receive written evidence or information pertaining to the proposed adoption.
2. The Board expressed its desire to adopt these amendments.

Findings of Fact

3. The public was given notice and the opportunity to provide the Board with comments, in writing and by oral testimony, on proposed amendments. The written comments and oral testimony received are described in paragraph 1.
4. The Board finds that the adoption of these rules will:
   - change where the training certificates are to be sent;
   - expand the prohibition to all areas regulated by this chapter;
   - omit the first paragraph and will place it in another rule at a later date, and
   - add the requirement to keep a copy of the 16 hours mandatory security guard training
5. The Board finds that these adoptions will have no adverse impact on the public.
6. The Board finds that the amendment is well written and describes its intent to adopt these rules.

Conclusion

7. The proposed rule adoption was published by the Board in accord with the statutory duties and authority as set forth in 24 Del.C. Section 1304 et seq. and, in particular, 24 Del.C. Section 1304(b)(3).
8. The Board deems this adoption necessary and expedient to the full and official performance of its duties under 24 Del.C. Section 1304 et. seq.
9. The Board concludes that the adoption of this rule will be in the best interests of the citizens of the State of Delaware.
10. The Board therefore adopts the amendment pursuant to 24 Del.C. Section 1304(b)(3) and guidelines of 29 Del.C. Section 10118 of the Administrative Procedures Act. See, Strauss v. Silverman, Del. Supr., 399 A.2d 192 (1979).
11. This adopted rule replaces in its entirety any former rule or regulation heretofore promulgated by the Board.
12. The effective date of this Order shall be February 1, 2012.
13. Attached hereto and incorporated herein this order is the amended rule marked as exhibit A and executed simultaneously on the 10th of January, 2012.

Lt. Colonel James Paige, Chairman

APPROVED AS TO FORM:

W. Michael Tupman, Esquire
Deputy Attorney General

1300 Board of Examiners of Private Investigators & Private Security Agencies

1.0 Firearm's Policy

1.1 No person licensed under Title 24 Chapter 13 Sections 1315 & 1317 shall carry a firearm unless that person has first passed an approved firearms course of instruction and an initial qualification administered by a Board approved certified firearms instructor. The course of instruction shall include a minimum 40 hours of training. The Professional Licensing Section may waive the 40 hour training requirement depending upon the applicant's professional credentials, training and/or work experience (i.e. prior law enforcement).

1.2 Individuals licensed to carry a firearm must shoot a minimum of three (3) qualifying shoots per calendar year, scheduled on at least two (2) separate days, with a minimum 90 days between scheduled shoots. Of these three (3), there will be one (1) mandatory "low light" shoot. Simulation is permitted and it may be combined with a daylight shoot. The initial qualification shoot may be used to fulfill one day and one low light requirement during the first year.

1.2.1 An individual not meeting the minimum qualifications set forth in 1.2. may have their firearms license suspended until such time that they meet the minimum three (3) qualifying shoots within the calendar year.

1.3 Firearms - approved type of weapons

1.3.1 9mm

1.3.2 .357

1.3.3 .38

1.3.4 .40

1.4 All weapons must be either a revolver or semi-automatic and must be double-action or double-action only and must be maintained to factory specifications.

1.5 Under no circumstances will anyone be allowed to carry any type of shotgun or rifle or any type of weapon that is not described herein.

1.6 All individuals must qualify with the same type of weapon that he/she will carry.

1.7 All ammunition will be factory fresh (no re-loads).

1.8 The minimum passing score is 80%.

1.9 All licenses are valid for a period of five (5) years, subject to proof of compliance of Rule 1.0 by submission of shoot certification or re-certification forms by January 31st of each year for the previous calendar year.

1.10 Firearms Instructors

1.10.1 Firearms instructors must be certified by the National Rifle Association, a law enforcement training and standards commission (i.e. C.O.P.T.), and/or another professional firearms training institution as a "certified firearms instructor".

1.10.2 Firearms instructors are restricted to teaching and qualifying individuals according to the type of firearm matching their certification. (For example, a certified shotgun instructor may only instruct and qualify individual with the shotgun.)

1.10.3 All firearms instructors must be approved by the Board before they are authorized to instruct or qualify individuals licensed under Title 24 Chapter 13.

Adopted 11/04/1994

3 DE Reg. 960 (1/1/00)

7 DE Reg. (3/1/04)

13 DE Reg. 502 (10/01/09)

14 DE Reg. 1395 (06/01/11)

2.0 Use of Rifle and Shotgun

2.1 Whereas there exists a need for private security officers in the State of Delaware to be equipped to handle situations where the risk of terrorist activity is high, or at special events where there is a high risk of violent activity or attack, the following rules are established to regulate the use of rifles and shotguns by security services contractors in the State.

2.2 The Governor of the State of Delaware, or designee, or the Superintendent of State Police, or designee, may authorize specified security services contractors to deploy guards with rifles and/or shotguns, as appropriate to the defense of critical infrastructure facilities, or private business facilities and operations reasonably believed

to be at risk of violent activity or attack likely to result in injury or significant damage to or loss of property. The situations where such protection would be required would include, but not be limited to:

2.2.1 An increase in the threat level from the Department of Homeland Security to “Orange”, or higher;

2.2.2 Special circumstances where additional protection would be deemed appropriate, including but not limited to:

2.2.2.1 Credible threats to local facilities or operations;

2.2.2.2 Response to natural disasters;

2.2.2.3 Response to biological or chemical threats;

2.2.2.4 Civil unrest.

2.2.3 Any situation where additional trained responders are required to assist in the protection of life and property in the State of Delaware;

2.2.4 An armored car company or agency, as defined by 24 Del.C. §1302(1), dealing with a credible threat or genuine risk to life or to property.

2.3 Guards who would be deployed and authorized to use such additional weaponry would be required to:

2.3.1 Be trained by certified firearms instructors pursuant to State of Delaware standards;

2.3.2 Be required to re-qualify with the weapons on a three times per year basis;

2.3.3 Maintain a handgun firearms license through the State;

2.3.4 Be listed by name on a roster of authorized individuals; and

2.3.5 Maintain employment in good standing with their security services contractor employer at all times for inclusion on the list.

2.4 Guards using such firearms would be required to maintain strict compliance with the provisions of 24 Del.C. §1321.

2.5 Rifles deemed appropriate for use in the State would be .30 caliber weapons, .223 caliber weapons, 9mm rifle type weapons, and other weapons approved by the Superintendent, or designee, as need and technology dictate. Shotguns would be of the 12 gauge law enforcement/military style weapons. All firearms would be subject to the approval of the Superintendent or designee.

10 DE Reg. 1445 (03/01/07)

3.0 Nightstick, Pr24, Mace, Peppergas and Handcuffs

To carry the above weapons/items a security guard must have completed a training program on each and every weapon/item carried, taught by a certified instructor representing the manufacturer of the weapon/item. Under no circumstances would a person be permitted to carry any other type weapon/item, unless first approved by the Director of the ~~Board of Examiners~~ Professional Licensing Section.

Adopted 11/04/1994

13 DE Reg. 502 (10/01/09)

4.0 Training Requirements

4.1 Each person licensed as a security guard under Title 24 Chapter 13 shall undertake a total of sixteen (16) hours of training through a program approved by the Board, and any such additional training as the Board deems appropriate.

4.2 The required training shall include instruction in legal requirements and limitations, use of force, ethics, emergency services, diversity, communication, asset protection, and terrorism. The Board, in its discretion, may require such additional topics as it finds necessary.

4.3 The Detective Licensing Section shall have the authority to require regular reports on training from licensees and employers, and shall report to the Board on compliance with this regulation.

11 DE Reg. 810 (12/01/07)

5.0 Use Of Animals

The use of animals is prohibited ~~in the performance of private security activities~~.

Adopted 04/23/1998

3 DE Reg. 960 (1/1/00)

6.0 Criminal Offenses

6.1 In addition to those qualifications set forth in Title 24, Chapter 13, no person required to be licensed under this chapter shall be issued a license, if that person has been convicted of Assault III within the last three (3) years.

6.2 For the purposes of Chapter 13 of Title 24 of the Delaware Code, the Board may deny an application for a license or suspend or revoke a license if the applicant or licensee has been convicted of a misdemeanor crime involving moral turpitude. A misdemeanor crime involving moral turpitude includes, but is not limited to, the following crimes in the Delaware Code (or similar crimes under the laws of other jurisdictions):

6.2.1 Title 11:

6.2.1.1 §763 Sexual harassment;

6.2.1.2 §764 Indecent exposure in the second degree;

6.2.1.3 §765 Indecent exposure in the first degree;

6.2.1.4 §766 Incest;

6.2.1.5 §767 Unlawful sexual contact in the third degree;

6.2.1.6 §781 Unlawful imprisonment in the second degree;

6.2.1.7 §840 Shoplifting;

6.2.1.8 §861 Forgery;

6.2.1.9 §871 Falsifying Business Records

6.2.1.10 §881 Bribery

6.2.1.11 §907 Criminal Impersonation

6.2.1.12 §1101 Abandonment of a Child;

6.2.1.13 §1102 Endangering the Welfare of a Child;

6.2.1.14 §1105 Endangering the Welfare of an Incompetent Person;

6.2.1.15 §1106 Unlawfully Dealing with a Child;

6.2.1.16 §1107 Endangering Children;

6.2.1.17 §1245 Falsely Reporting an Incident;

6.2.1.18 §1341 Lewdness;

6.2.1.19 §1342 Prostitution;

6.2.1.20 §1343 Patronizing a Prostitute; and

6.2.1.21 §1355 Permitting Prostitution

6.2.2 Title 16

8.2.2.1 §1166 Patient Neglect or Abuse

6.2.3 Title 31

6.2.3.1 §3913 Abuse/Neglect/Exploitation/Mistreatment of an Infirm Adult.

6.3 Anyone applying for licensure under Title 24, Chapter 13 shall not be issued a license if they have any pending criminal charge(s) for any crimes listed in this Chapter.

6.4 The Professional Licensing Section may suspend anyone licensed under Title 24, Chapter 13 who has been arrested and that arrest could result in the conviction of any misdemeanor or felony as described in this Chapter.

Adopted 11/04/1994

13 DE Reg. 502 (10/01/09)

14 DE Reg. 1395 (06/01/11)

7.0 Employment Notification

~~7.1 Under no circumstances will a security guard be permitted to be employed by more than two agencies at a time. It is also the responsibility for each licensed security guard to advise his/her employer(s) of whom he/she is employed with (i.e. If a security guard is employed with two security guard agencies, both employers must be made aware of this fact.)~~

7.~~2~~1 Anyone applying for licensure under this chapter may be rejected without refund, or have their license revoked, for knowingly omitting any criminal history, other material information or to make a false statement on their application.

7.~~3~~2 Employers Responsibility

7.~~3~~2.1 A licensed private security agency, after investigation, shall notify the Professional Licensing Office, in writing, of any terminated employees. This information is to be included in the next monthly roster report following the termination.

7.~~3~~2.2 A licensed private security agency shall report to the Professional Licensing Office, in writing, the following:

7.~~3~~2.2.1 The name of any employee arrested;

7.~~3~~2.2.2 The name of any employee admitted to any mental hospital ward, mental institution or sanitarium; or

7.~~3~~2.2.3 The name of any employee disabled from carrying, owning, or possession a gun by action of federal or state statute and/or court order, including bond orders and protection from abuse orders.

Adopted 11/04/1994

4 DE Reg. 361 (8/1/00)

13 DE Reg. 502 (10/01/09)

14 DE Reg. 1395 (06/01/11)

8.0 Private Investigators

8.1 A Private Investigator shall not be a member or employee of any Delaware Law Enforcement Organization, as defined by the Council on Police Training, or a member or employee of a law enforcement organization of any other state of federal jurisdiction.

8.2 The identification card will bear the employer's name. Upon termination of employment, the identification card is no longer valid. If seeking employment with another licensed agency, the Private Investigator must be re-licensed with the new employer and a new identification card will be issued as in the previous procedure.

8.3 A licensed Private Investigator may only be employed by one licensed private investigative agency at a time.

Adopted 11/04/1994

13 DE Reg. 502 (10/01/09)

9.0 Qualified Manager

9.1 A qualified manager cannot be employed by more than one company at the same time. For example; a person cannot serve as a qualified manager for two separate private security agencies and/or private investigative agencies.

9.2 A qualified license holder must be an owner/partner/corporate officer of the agency requesting licensure.

Adopted 11/04/1994

8 DE Reg. 325 (8/1/04)

10.0 Uniforms, Patches, Badges, Seals, Vehicular Markings Amended 04/17/97

10.1 No person licensed under 24 Del.C. Ch. 13 shall wear or display any uniform, patch, or badge unless first approved by the Board of Examiners. The use of "patrol" and/or "officer" on any type of uniform, patch, badge, seal, vehicular marking or any type of advertisement shall first be proceeded by the word "security". Under no circumstances shall a uniform, patch, badge, seal, vehicular marking, letterhead, business card or any type of advertisement contain the seal or crest of the State of Delaware, any state of the United States, the seal or crest of any county or local sub division, or any facsimile of the aforementioned seals or crests.

10.2 Advertisement and other forms of publications:

10.2.1 No letterhead, business card, advertisement, or other form of publication including but not limited to uniforms, patches, badges, seals, vehicular markings and similar items may be used or displayed unless first approved by the Board of Examiners. No such items will be approved by the Board if the item will mislead the public by confusing the licensee and/or his/her employees with official law enforcement agencies and/or personnel.

10.2.2 All uniforms displaying a patch must contain an approved patch that is not generic in nature. The patch must have the name of the agency printed on it.

10.3 Vehicle Identification

10.3.1 No person or entity licensed under Title 24, Chapter 13 of the Delaware Code shall utilize any vehicle in the course of activities covered by said Chapter 13, unless the appearance of the vehicle, including any identifying marking, shall have been first approved by the Board of Examiners using the standards and criteria set forth in this Rule.

10.3.2 The content of any vehicle marking shall be governed by the standards and criteria set forth in Rule 5.1 above.

10.3.3 No vehicle utilized for purposes covered by Title 24, Chapter 13 shall have an appearance that creates a reasonable likelihood of confusion with a police vehicle used by the Delaware State Police or a law enforcement agency of any state or governmental subdivision. The Board of Examiners shall have

discretion to review the appearance of vehicles, and to make comparisons with known law enforcement vehicles, in order to enforce this Rule.

10.3.4 In the event that a vehicle is not approved by the Board of Examiners pursuant to this Rule, the Board may indicate what changes to the vehicle appearance would be sufficient to satisfy the standard and criteria set forth above.

10.3.5 Auxiliary lights on vehicles, used for patrol, shall be amber and/or clear only. Use of sirens is prohibited.

Adopted 11/04/1994

3 DE Reg. 960 (1/1/00)

Adopted 11/04/1994

3 DE Reg. 960 (1/1/00)

8 DE Reg. 325 (8/1/04)

11.0 Personnel Rosters and Job Assignments

11.1 Anyone licensed under 24 Del.C. Ch. 13 shall submit an alphabetical personnel roster and a job site list to the director of the Detective Licensing Section by the tenth of every month. Alphabetical personnel rosters shall include the full name, DOB, race, sec, expiration date, and position code of each individual in your employ. For example:

Mark A. Smith	01/25/60	W	M	01/25/99	FA
Helen E. White	03/17/71	B	F	03/17/00	FA
John F. Henry	05/23/43	B	M	05/23/00	PI
James D. Williams	12/03/40	W	M	06/30/99	MG
Frank G. Montgomery	07/24/55	B	M	06/30/99	LH
Anne L. Murray	10/20/40	W	F	06/30/99	CO

SG	Security Guard
FA	Firearm's
PI	Private Investigator
MG	Delaware Manager
LH	License Holder
CO	Corporate Officer

11.2 Job site lists shall include the name, address, location, and hours of coverage. For example:

The DuPont Industry

Barley Mill Road

2200 - 0600 Hours, Monday, Wednesday, and Friday

Adopted 11/04/1994

3 DE Reg. 960 (1/1/00)

12.0 Record Book; Right of Inspection

All persons licensed under 24 Del.C. Ch.13 shall keep and maintain at their place of business, at all times, a book that shall contain the names and positions of all employees along with the location that each employee is assigned to work. This book shall contain all current personnel information and at all times shall be current and up-to-date to include the list of weapons/items each employee is qualified to carry, the certification dates, scores and the serial number of the weapon/item, if applicable, <u>and a current copy of the mandatory 16 hours security guard training.</u>

Adopted 11/04/1994

3 DE Reg. 960 (1/1/00)

13.0 Licensing Fees

13.1 Class A License - Private Investigative Agency

13.1.1 In-State License Holder

13.1.1.1 Individual - No Employees - Not Corporation
13.1.1.1.1 $230
13.1.1.1.2 $5,000 Bond
13.1.1.1.3 $1,000,000 Liability Insurance per occurrence
13.1.1.2 Corporation - Has Employees
13.1.1.2.1 $345
13.1.1.2.2 $10,000 Bond
13.1.1.2.3 $1,000,000 Liability Insurance per occurrence
13.1.2 Out-of-State
13.1.2.1 License Holder - Individual and Corporation
13.1.2.1.1 $345
13.1.2.1.2 $10,000 Bond
13.1.2.1.3 $1,000,000 Liability Insurance per occurrence
13.1.2.2 Delaware Manager
13.1.2.2.1 $230
13.1.2.2.2 $5,000 Bond
13.2 Class B License - Private Security Agency
13.2.1 In-State License Holder
13.2.1.1 Individual - No Employees - Not Corporation
13.2.1.1.1 $230
13.2.1.1.2 $5,000 Bond
13.2.1.1.3 $1,000,000 Liability Insurance per occurrence
13.2.1.2 Corporation - Has Employees
13.2.1.2.1 $345
13.2.1.2.2 $10,000 Bond
13.2.1.2.3 $1,000,000 Liability Insurance per occurrence
13.2.2 Out-of-State
13.2.2.1 License Holder - Individual and Corporation
13.2.2.1.1 $345
13.2.2.1.2 $10,000 Bond
13.2.2.1.3 $1,000,000 Liability Insurance per occurrence
13.2.2.2 Delaware Manager
13.2.2.2.1 $230
13.2.2.2.2 $5000 Bond
13.3 Class C License - Private Investigative & Private Security Agency
13.3.1 In-State License Holder
13.3.1.1 Individual - No Employees - Not Corporation
13.3.1.1.1 $345
13.3.1.1.2 $10,000 Bond
13.3.1.1.3 $1,000,000 Liability Insurance per occurrence
13.3.1.2 Corporation - Has Employees
13.3.1.2.1 $520
13.3.1.2.2 $15,000 Bond
13.3.1.2.3 $1,000,000 Liability Insurance per occurrence
13.3.2 Out-of-State
13.3.2.1 Individual and Corporation
13.3.2.1.1 License Holder
13.3.2.1.1.1 $520
13.3.2.1.1.2 $15,000 Bond
13.3.2.1.1.3 $1,000,000 Liability Insurance per occurrence
13.3.2.1.2 Delaware Manager

13.3.2.1.2.1 $345

13.3.2.1.2.2 $10,000 Bond

13.4 Class D License - Armored Car Agency License

13.4.1 License Holder

13.4.1.1 $345

13.4.1.2 Banking Commissioner License as required by 5 Del.C. §3203

13.4.1.3 $10,000 Bond

13.4.1.4 $1,000,000 Liability Insurance per occurrence.

13.4.2 Delaware Manager

13.4.2.1 $230

13.4.2.2 $5000 Bond

13.5 All licenses will expire 2 years from the last day of the month they are approved for licensure.

6 DE Reg. 637 (11/01/02)

7 DE Reg. (03/01/04)

15 DE Reg. 1181 (02/01/12) (Final)