

DEPARTMENT OF SAFETY AND HOMELAND SECURITY
BAIL ENFORCEMENT AGENTS
Statutory Authority: 24 Delaware Code, Section 5404(a) (24 Del.C. §5404(a))

ORDER

Pursuant to the Guidelines in 29 **Del.C.** Section 10118(a)(1)-(7), the Secretary of Safety and Homeland Security ("Secretary") hereby issues this Order. Following public notice held open until February 1, 2005 on the proposed amendment of promulgated rules and regulations 1.0 - Licensing, the Secretary makes the following Findings and Conclusions:

Summary of Evidence and Information Submitted

1. The Secretary did not receive written evidence or information pertaining to the proposed amendment.
2. The Secretary expressed his intent to amend the rule to clarify items and fees that a Bail Enforcement Agent will incur when applying for or renewing their license.

Findings of Fact

3. The public was given notice and the opportunity to provide the Secretary with comments, in writing, on the amendment of the rule. The written comments received are described in paragraph 1.
4. The Secretary finds that the amendment of this rule will clarify items and fees that a Bail Enforcement Agent will incur when applying for or renewing their license.
5. The Secretary finds that the amendment will have no adverse impact on the public.
6. The Secretary finds that the amendment is well written and describes its intent to clarify items and fees that a Bail Enforcement Agent will incur when applying for or renewing their license.

Conclusion

7. The proposed rule amendment was promulgated by the Secretary in accord with the statutory duties and authority as set forth in 24 **Del.C.** Section 5504 et seq. and, in particular, 24 **Del.C.** Section 5504(a).
8. The Secretary deems this amendment necessary and expedient to the full and official performance of his duties under 24 **Del.C.** Section 5504 et. seq.
9. The Secretary concludes that the amendment of this rule will be in the best interests of the citizens of the State of Delaware.
10. The Secretary therefore adopts the amendment of this rule pursuant to 24 **Del.C.** Section 5504(a) 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 amended rule replaces 1.0 (1.1, 1.2, 1.3, 1.4, 1.4.1, 1.5, 1.6, 1.8, & 1.9), in its entirety, and any former rule or regulation heretofore promulgated by the Secretary.
12. The effective date of this Order shall be March 10, 2005.
13. Attached hereto and incorporated herein this order is the amended rule marked as exhibit A and executed simultaneously by the Secretary on the 14th day of February, 2005.

Secretary David B. Mitchell

APPROVED AS TO FORM:
Patricia D. Murphy, Esquire
Deputy Attorney General
February 14, 2005

Bounty Hunter/Bail Enforcement Agents

Preamble

These Rules & Regulations are promulgated pursuant to 24 **Del.C.** §5504(a) and the Secretary of Public Safety delegates his regulatory authority granted by Chapter 55 to the Division of State Police.

1.0 Licensing

1.1 Any individual applying for a bail enforcement agent ID card under 24 **Del.C.** Ch. 55 must meet and maintain the following qualifications:

1.1.1 Must not be convicted of any felony; and

1.1.2 Must not have been convicted, within the last seven (7) years, of any two (2) of the following misdemeanors: theft, drug offenses, offensive touching, or assault III; and

1.1.3 Must not have been convicted of any charge or been involved in any conduct that may impair the performance of the bail enforcement agent and endanger public safety as determined by the Detective Licensing Section and

1.1.4 Must not have been, as a juvenile, adjudicated as delinquent for conduct which, if committed by an adult, would constitute a felony, unless and until that person has reached their 25th birthday.

1.2 An individual bail enforcement agent ID card will not be issued if there is a pending charge as listed in Section 1.1.1 or a pending charge as listed in Section 1.1.2 for an applicant with one (1) conviction of specified misdemeanor listed in Section 1.1.2.

1.3 The individual bail enforcement agent applying for an ID card under Title 24 Chapter 55 must also meet the following qualifications:

1.3.1 Must be at least 21 years of age; and

1.3.2 Must complete the training qualifications set forth in Section 6.0; and

1.3.3 If carrying a weapon, must meet and maintain the qualifications set forth in Section 4.0.

1.4 The individual bail enforcement agent applying for an ID card under Title 24 Chapter 55 must submit the following for approval:

1.4.1 A fee of ~~\$25~~ \$75 for a four (4) year ID card which shall expire and be renewable on the 4th anniversary date of the birth of the applicant next following the date of its issuance unless the birth date is February 29, in which event the license shall expire and be renewable on February 28 every 4th year; and

1.4.2 Any and all applications required by the Detective Licensing Section; and

1.4.3 Submit two (2) sets of fingerprints for a Delaware (CHRI) and Federal (FBI) criminal history record check. The Director of the State Bureau of Identification (SBI) determines the fee for this process. This subsection 1.4.3 does not apply to the renewal of ID cards, unless required by the Director of Detective Licensing.

1.5 The ID cards are the property of the Delaware State Police and must be returned to the Detective Licensing Section upon expiration of the ID card or at the request of the Detective Licensing Section.

1.6 A bail enforcement agent that has been issued an ID card by the Detective Licensing Section shall be required to have such card in their possession while in the performance of his or her duties.

1.7 A bail enforcement agent must 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 local, state or federal jurisdiction.

1.8 There will be no reciprocity with any other state regarding the issuing of an ID card to a bail enforcement agent.

1.9 A fee of \$50 shall be for the renewal of the ID card and license, which shall be valid for another four (4) years.

7 DE Reg. 1782 (6/1/04)

2.0 Badges, Patches, Advertisements

2.1 No individual licensed under 24 **Del.C.** Ch. 55 shall use any type of uniform or other clothing items displaying logos, badges, patches, or any other type of writing without first being approved by the Detective Licensing Section. Under no circumstances shall any item 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.

2.2 All advertisements or other forms of publication, subsequent to their use, are subject to review by the Detective Licensing Section for potential misrepresentation. If the Detective Licensing Section does not approve the advertisement or publication, it will forward its concerns to the licensee. Failure to correct the advertisement or publication will be considered a violation of these Rules & Regulations.

2.3 The use of auxiliary lights, sirens, or any markings on vehicles is prohibited.

3.0 Use Of Animals

3.1 The use of animals is prohibited in the performance of any bail enforcement agent activity.

4.0 Firearms Policy

4.1 No person shall carry a firearm under this chapter unless the individual first completed and passed an approved 40-hour firearm course, instructed by a certified firearm instructor, recognized by the Detective Licensing Section.

4.2 All persons licensed to carry a firearm under this chapter must be re-certified yearly, by an instructor as described in Section 4.1, by shooting a minimum of three (3) qualifying shoots a year. The shoots must be scheduled on at least two (2) separate days, with a recommended 90 days between scheduled shoots. Of the three (3) shoots, there will be one mandatory "low light" shoot. Simulation is permitted and it may be combined with a daylight shoot. All individuals must qualify with the same type of weapon that he/she will carry. The minimum passing score is 75%.

4.2.1 All renewal shoot sheets must be submitted by January 31st of each year for the previous calendar year.

4.3 All handguns must be either a revolver or semi-automatic and be maintained to factory specifications. Only the handguns with the following calibers are permitted:

- 4.3.1 9mm
- 4.3.2 .357
- 4.3.3 .38
- 4.3.4 .40
- 4.4.5 .45

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

4.5 Any person requesting to carry any shotgun, rifle, any type of weapon or apprehension device must first provide proof of training to the Detective Licensing Section for approval.

5.0 Nightstick, PR24, Mace, Peppergas, Chemical Spray, And Handcuffs

5.1 To carry the above weapons/items a bail enforcement agent must have completed training by a Detective Licensing Section approved instructor, on each and every weapon/item carried. Proof of training, and any renewal training, must be provided to the Detective Licensing Section. Under no circumstances would a person be permitted to carry any other type weapon/item, unless first approved by the Detective Licensing Section.

7 DE Reg. 1782 (6/1/04)

6.0 Training

6.1 All bail enforcement agents licensed under Title 24 Chapter 55 must complete training in the following courses: Constitution/Bill of Rights, Laws of Arrest, Laws of Search & Seizure of Persons Wanted, Police Jurisdiction, Use of Deadly Force, and the Rules and Regulations of Bounty Hunters/Bail Enforcement Agents.

6.2 The training must be completed prior to obtaining a license.

7 DE Reg. 1782 (6/1/04)

7.0 Notification Of Apprehensions

7.1 All bail enforcement agents licensed under 24 Del.C. Ch. 55 are required to notify the police emergency 911 dispatch center (i.e., Recom, Kentcom, Suscom) of the appropriate police agency in which the apprehension will be attempted.

8.0 Notification Of Arrest

8.1 Anyone licensed under 24 Del.C. Ch. 55 shall, excluding weekends and State holidays, notify the Detective Licensing Section within five (5) days of being arrested for a misdemeanor or felony crime. Failure to do so may result in the suspension or revocation of any individual.

9.0 Suspensions And Revocations

9.1 The Detective Licensing Section shall have the power to suspend or revoke any individual, licensed under 24 Del.C. Ch. 55, that violates the Chapter or the promulgated Rules and Regulations.

9.2 The Detective Licensing Section may suspend or revoke any individual, licensed under 24 Del.C. Ch. 55, that has been arrested and that arrest could result in the conviction of any misdemeanor or felony as described in Section 1.0.

9.3 Anyone whose license has been suspended, revoked, rejected, or denied is entitled to a hearing before the Secretary of Safety and Homeland Security.

9.3.1 Anyone requesting a hearing shall notify the Detective Licensing Section, in writing, within 30 days from the suspension, revocation, rejection, or denial and the hearing shall be scheduled at the earliest possible time.

5 DE Reg. 1523 (1/1/02)

7 DE Reg. 1782 (6/1/04)

8 DE Reg. 1316 (3/1/05)