PRIVATE SECURITY BUSINESS AND SECURITY ALARM ACT (EXCERPT)
Act 330 of 1968

338.1079 Licensure of private security police; rules; applicability of act to private security guards and police; use of pistols.

Sec. 29. (1) The licensure of private security police and private college security forces shall be administered by the department of state police. The application, qualification, and enforcement provisions under this act apply to private security police and private college security forces except that the administration of those provisions shall be performed by, and the payment of the appropriate fees shall be paid to, the department of state police. The director of the department may jointly promulgate rules with the department of state police under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to facilitate the bifurcation of authority described in this subsection.

(2) This act does not require licensing of any private security guards employed for the purpose of protecting the property and employees of their employer and generally maintaining security for their employer. However, any person, firm, limited liability company, business organization, educational institution, or corporation maintaining a private security police organization or a private college security force may voluntarily apply for licensure under this act. When a private security police employer or private college security force employer as described in this section provides the employee with a pistol for the purpose of protecting the property of the employer, the pistol shall be considered the property of the employer and the employer shall retain custody of the pistol, except during the actual working hours of the employee. All such private security people shall be subject to the provisions of sections 17(1) and 19(1).

History: 1968, Act 330, Imd. Eff. July 12, 1968;—Am. 1969, Act 168, Imd. Eff. Aug. 5, 1969;—Am. 2000, Act 411, Eff. Mar. 28, 2001;—Am. 2002, Act 473, Eff. Oct. 1, 2002;—Am. 2010, Act 68, Imd. Eff. May 13, 2010.

Constitutionality: This act, which requires the licensing of guards, does not demonstrate the requisite degree of state action to bring the activities of guards under color of state law so as to subject their activities to constitutional restraint and to require guards to give suspects warnings of their constitutional rights before eliciting inculpatory statements, and especially does not subject the activities of private police who are employed to protect the property and employees of their employer to constitutional restraint because such guards need not be licensed under the act. Grand Rapids v Impens, 414 Mich 667; 327 NW2d 278 (1982).

Participation by an off-duty deputy sheriff from another county, employed as a private guard, with other guards in the apprehension and detention of a shoplifting suspect did not provide a sufficient relationship so as to bring the activities of the guards under color of state law and require warnings of the suspect's constitutional rights before eliciting inculpatory statements by the suspect where the deputy did not obtain the statements and identified himself to the suspect only as a store employee. Grand Rapids v Impens, 414 Mich 667; 327 NW2d 278 (1982).

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