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SECOND SUBSTITUTE SENATE BILL 5125

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State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Erwin, Gaspard, Amondson, Matson, Owen, Snyder, Nelson, von Reichbauer, Thorsness, Sellar, Johnson, Murray, McMullen, Bailey, Anderson and Talmadge).

Read first time March 11, 1991.

1 AN ACT Relating to private detective agencies and private  
2 detectives; adding a new section to chapter 43.101 RCW; adding a new  
3 chapter to Title 18 RCW; creating a new section; and prescribing  
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** Unless the context clearly requires  
7 otherwise, the definitions in this section apply throughout this  
8 chapter.

9 (1) "Armed private detective" means a private detective who has a  
10 current firearms certificate issued by the commission and is licensed  
11 as an armed private detective under this chapter.

12 (2) "Chief law enforcement officer" means the elected or appointed  
13 police administrator of a municipal, county, or state police or  
14 sheriff's department that has full law enforcement powers in its  
15 jurisdiction.

1 (3) "Commission" means the criminal justice training commission  
2 established in chapter 43.101 RCW.

3 (4) "Department" means the department of licensing.

4 (5) "Director" means the director of the department of licensing.

5 (6) "Employer" includes any individual, firm, corporation,  
6 partnership, association, company, society, manager, contractor,  
7 subcontractor, bureau, agency, service, office, or an agent of any of  
8 the foregoing that employs or seeks to enter into an arrangement to  
9 employ any person as a private detective.

10 (7) "Firearms certificate" means a certificate issued by the  
11 commission.

12 (8) "Forensic scientist" or "accident reconstructionist" means a  
13 person engaged exclusively in collecting and analyzing physical  
14 evidence and data relating to an accident or other matter and compiling  
15 such evidence or data to render an opinion of likely cause, fault, or  
16 circumstance of the accident or matter.

17 (9) "Person" includes any individual, firm, corporation,  
18 partnership, association, company, society, manager, contractor,  
19 subcontractor, bureau, agency, service, office, or an agent or employee  
20 of any of the foregoing.

21 (10) "Principal" of a private detective agency means the owner or  
22 manager appointed by a corporation.

23 (11) "Private detective" means a person who is licensed under this  
24 chapter and is employed by a private detective agency for the purpose  
25 of investigation, escort or body guard services, or property loss  
26 prevention activities.

27 (12) "Private detective agency" means a person or entity licensed  
28 under this chapter and engaged in the business of detecting,  
29 discovering, or revealing one or more of the following:

30 (a) Crime, criminals, or related information;

1 (b) The identity, habits, conduct, business, occupation, honesty,  
2 integrity, credibility, knowledge, trustworthiness, efficiency,  
3 loyalty, activity, movement, whereabouts, affiliations, associations,  
4 transactions, acts, reputation, or character of any person or thing;

5 (c) The location, disposition, or recovery of lost or stolen  
6 property;

7 (d) The cause or responsibility for fires, libels, losses,  
8 accidents, or damage or injury to persons or to property;

9 (e) Evidence to be used before a court, board, officer, or  
10 investigative committee;

11 (f) Detecting the presence of electronic eavesdropping devices; or

12 (g) The truth or falsity of a statement or representation.

13 (13) "Qualifying agent" means an officer or manager of a  
14 corporation who meets the requirements set forth in this chapter for  
15 obtaining a private detective agency license.

16 (14) "Sworn peace officer" means a person who is an employee of the  
17 federal government, the state, or a political subdivision, agency, or  
18 department branch of a municipality or other unit of local government,  
19 and has law enforcement powers.

20 NEW SECTION. **Sec. 2.** The requirements of this chapter do not  
21 apply to:

22 (1) A person who is employed exclusively or regularly by one  
23 employer and performs investigations solely in connection with the  
24 affairs of that employer, if the employer is not a private detective  
25 agency;

26 (2) An officer or employee of the United States or of this state or  
27 a political subdivision thereof, while engaged in the performance of  
28 the officer's official duties;

1 (3) A person engaged exclusively in the business of obtaining and  
2 furnishing information about the financial rating of persons;

3 (4) An attorney at law while performing the attorney's duties as an  
4 attorney;

5 (5) A licensed collection agency or its employee, while acting  
6 within the scope of that person's employment and making an  
7 investigation incidental to the business of the agency;

8 (6) Insurers, agents, and insurance brokers licensed by the state,  
9 while performing duties in connection with insurance transacted by  
10 them;

11 (7) A bank subject to the jurisdiction of the Washington state  
12 banking commission or the comptroller of currency of the United States,  
13 or a savings and loan association subject to the jurisdiction of this  
14 state or the federal home loan bank board;

15 (8) A licensed insurance adjuster performing the adjuster's duties  
16 within the scope of the adjuster's license;

17 (9) A secured creditor engaged in the repossession of the  
18 creditor's collateral, or a lessor engaged in the repossession of  
19 leased property in which it claims an interest;

20 (10) A person who is a forensic scientist, accident  
21 reconstructionist, or other person who performs similar functions and  
22 does not hold himself or herself out to be an investigator in any other  
23 capacity; or

24 (11) A person solely engaged in the business of securing  
25 information about persons or property from public records.

26 NEW SECTION. **Sec. 3.** An applicant must meet the following  
27 minimum requirements to obtain a private detective license:

28 (1) Be at least eighteen years of age;

29 (2) Be a citizen or resident alien of the United States;

1 (3) Not have been convicted of a crime in any jurisdiction, if the  
2 director determines that the applicant's particular crime directly  
3 relates to his or her capacity to perform the duties of a private  
4 detective and the director determines that the license should be  
5 withheld to protect the citizens of Washington state. The director  
6 shall make her or his determination to withhold a license because of  
7 previous convictions consistent with the restoration of employment  
8 rights act, chapter 9.96A RCW;

9 (4) Be employed by or have an employment offer from a private  
10 detective agency or be licensed as a private detective agency;

11 (5) Submit a set of fingerprints; and

12 (6) Pay the required fee.

13 NEW SECTION. **Sec. 4.** (1) An applicant must meet the following  
14 minimum requirements to obtain an armed private detective license:

15 (a) Be licensed as a private detective;

16 (b) Be at least twenty-one years of age;

17 (c) Have a current firearms certificate issued by the commission;

18 and

19 (d) Pay the fee established by the director.

20 (2) The armed private detective license may take the form of an  
21 endorsement to the private detective license if deemed appropriate by  
22 the director.

23 NEW SECTION. **Sec. 5.** (1) In addition to meeting the minimum  
24 requirements to obtain a license as a private detective, an applicant,  
25 or, in the case of a partnership or limited partnership, each partner,  
26 or, in the case of a corporation, the qualifying agent must meet the  
27 following additional requirements to obtain a private detective agency  
28 license:

1 (a) Pass an examination determined by the director to measure the  
2 person's knowledge and competence in the private detective agency  
3 business; or

4 (b) Have had at least three years' experience in investigative work  
5 or its equivalent as determined by the director. A year's experience  
6 means not less than two thousand hours of actual compensated work  
7 performed before the filing of an application. An applicant shall  
8 substantiate the experience by written certifications from previous  
9 employers. If the applicant is unable to supply written certifications  
10 from previous employers, applicants may offer written certifications  
11 from persons other than employers who, based on personal knowledge, can  
12 substantiate the employment.

13 (2) An agency license issued pursuant to this section may not be  
14 assigned or transferred without prior written approval of the director.

15 NEW SECTION. **Sec. 6.** (1) An armed private detective license  
16 grants authority to the holder, while in the performance of his or her  
17 duties, to carry a firearm with which the holder has met the  
18 proficiency requirements established by the commission.

19 (2) All firearms carried by armed private detectives in the  
20 performance of their duties must be owned by the employer and, if  
21 required by law, must be registered with the proper government agency.

22 NEW SECTION. **Sec. 7.** (1) Applications for licenses required  
23 under this chapter shall be filed with the director on a form provided  
24 by the director. The director may require any information and  
25 documentation that reasonably relates to the need to determine whether  
26 the applicant meets the criteria.

27 (2) After receipt of an application for a license, the director  
28 shall conduct an investigation to determine whether the facts set forth

1 in the application are true and shall request that the Washington state  
2 patrol compare the fingerprints submitted with the application to  
3 fingerprint records available to the Washington state patrol.

4 (3) A summary of the information acquired under this section, to  
5 the extent that it is public information, shall be forwarded by the  
6 department to the applicant's employer and to the chief law enforcement  
7 officer of the county and city or town in which the applicant's  
8 employer is located, for the purpose of comment prior to the issuance  
9 of a permanent private detective license.

10 NEW SECTION. **Sec. 8.** (1) The director shall issue a private  
11 detective license card to each licensed private detective and an armed  
12 private detective license card to each armed private detective.

13 (a) The license card may not be used as security clearance or as  
14 identification.

15 (b) A private detective shall carry the license card whenever he or  
16 she is performing the duties of a private detective and shall exhibit  
17 the card upon request.

18 (c) An armed private detective shall carry the license card  
19 whenever he or she is performing the duties of an armed private  
20 detective and shall exhibit the card upon request.

21 (2) The director shall issue a license certificate to each licensed  
22 private detective agency.

23 (a) Within seventy-two hours after receipt of the license  
24 certificate, the licensee shall post and display the certificate in a  
25 conspicuous place in the principal office of the licensee within the  
26 state.

27 (b) It is unlawful for any person holding a license certificate to  
28 knowingly and willfully post the license certificate upon premises

1 other than those described in the license certificate or to materially  
2 alter a license certificate.

3 (c) Every advertisement by a licensee that solicits or advertises  
4 business shall contain the name of the licensee, the address of record,  
5 and the license number as they appear in the records of the director.

6 (d) The licensee shall notify the director within thirty days of  
7 any change in the licensee's officers or directors or any material  
8 change in the information furnished or required to be furnished to the  
9 director.

10 NEW SECTION. **Sec. 9.** (1) The director shall adopt rules  
11 establishing preassignment training and testing requirements, which  
12 shall include a minimum of four hours of classes. The director may  
13 establish, by rule, continuing education requirements for private  
14 detectives.

15 (2) The director shall consult with the private detective industry  
16 and law enforcement before adopting or amending the preassignment  
17 training or continuing education requirements of this section.

18 (3) A private detective need not fulfill the preassignment training  
19 requirements of this chapter if he or she, within sixty days of the  
20 effective date of this act, provides proof to the director that he or  
21 she previously has met the training requirements of this chapter or has  
22 been employed as a private detective or armed private detective for at  
23 least eighteen consecutive months immediately prior to the date of  
24 application.

25 NEW SECTION. **Sec. 10.** (1) No private detective agency license  
26 may be issued under the provisions of this chapter unless the applicant  
27 files with the director a surety bond, executed by a surety company  
28 authorized to do business in this state, in the sum of ten thousand



1 dollars conditioned to recover against the principal and its servants,  
2 officers, agents, and employees by reason of its wrongful or illegal  
3 acts in conducting business licensed under this chapter. The bond  
4 shall be made payable to the state of Washington, and anyone so injured  
5 by the principal or its servants, officers, agents, or employees shall  
6 have the right and shall be permitted to sue directly upon this  
7 obligation in his or her own name. This obligation shall be subject to  
8 successive suits for recovery until the face amount is completely  
9 exhausted.

10 (2) Every licensee must at all times maintain on file with the  
11 director the surety bond required by this section in full force and  
12 effect. Upon failure by a licensee to do so, the director shall  
13 suspend the licensee's license and shall not reinstate the license  
14 until this requirement is met.

15 (3) In lieu of posting bond, a licensed private detective agency  
16 may file with the director a certificate of insurance as evidence that  
17 it has comprehensive general liability coverage of at least twenty-five  
18 thousand dollars for bodily or personal injury and twenty-five thousand  
19 dollars for property damage.

20 NEW SECTION. **Sec. 11.** (1) The provisions of this chapter  
21 relating to the licensing for regulatory purposes of private  
22 detectives, armed private detectives, and private detective agencies  
23 are exclusive. No governmental subdivision of this state may enact any  
24 laws or rules licensing for regulatory purposes such persons, except as  
25 provided in subsections (2) and (3) of this section.

26 (2) This section shall not be construed to prevent a political  
27 subdivision of this state from levying a business fee, business and  
28 occupation tax, or other tax upon private detective agencies if such

1 fees or taxes are levied by the state on other types of businesses  
2 within its boundaries.

3 (3) This section shall not be construed to prevent this state or a  
4 political subdivision of this state from licensing for regulatory  
5 purposes private detective agencies with respect to activities that are  
6 not regulated under this chapter.

7 NEW SECTION. **Sec. 12.** Private detectives or armed private  
8 detectives whose duties require them to operate across state lines may  
9 operate in this state for up to thirty days per year, if they are  
10 properly registered and certified in another state with training and  
11 certification requirements that the director finds are at least equal  
12 to the requirements of this state.

13 NEW SECTION. **Sec. 13.** (1) A private detective agency shall  
14 notify the director within thirty days after the death or termination  
15 of employment of any employee who is a licensed private detective or  
16 armed private detective.

17 (2) A private detective agency shall notify the director within  
18 seventy-two hours and the chief law enforcement officer of the county,  
19 city, or town in which the agency is located immediately upon receipt  
20 of information affecting a licensed private detective's or armed  
21 private detective's continuing eligibility to hold a license under the  
22 provisions of this chapter.

23 NEW SECTION. **Sec. 14.** (1) Any person from another state that  
24 the director determines has selection, training, and other requirements  
25 at least equal to those required by this chapter, and who holds a valid  
26 license, registration, identification, or similar card issued by the  
27 other state, may apply for a private detective license card or armed

1 private detective license card on a form prescribed by the director.  
2 Upon receipt of a processing fee to be determined by the director, the  
3 director shall issue the individual a private detective license card or  
4 armed private detective license card.

5 (2) A valid license, registration, identification, or similar card  
6 issued by any other state of the United States is valid in this state  
7 for a period of ninety days, but only if the licensee is on temporary  
8 assignment for the same employer that employs the licensee in the state  
9 in which he or she is a permanent resident.

10 NEW SECTION. **Sec. 15.** (1) After June 30, 1992, any person who  
11 performs the functions and duties of a private detective in this state  
12 without being licensed in accordance with the provisions of this  
13 chapter, or any person presenting or attempting to use as his or her  
14 own the license of another, or any person who gives false or forged  
15 evidence of any kind to the director in obtaining a license, or any  
16 person who falsely impersonates any other licensee, or any person who  
17 attempts to use an expired or revoked license, or any person who  
18 violates any of the provisions of this chapter is guilty of a gross  
19 misdemeanor.

20 (2) After January 1, 1992, a person is guilty of a gross  
21 misdemeanor if he or she owns or operates a private detective agency in  
22 this state without first obtaining a private detective agency license.

23 (3) After June 30, 1992, the owner or qualifying agent of a private  
24 detective agency is guilty of a gross misdemeanor if he or she employs  
25 any person to perform the duties of a private detective without the  
26 employee having in his or her possession a permanent private detective  
27 license issued by the department. This shall not preclude a private  
28 detective agency from requiring applicants to attend preassignment

1 training classes or from paying wages for attending the required  
2 preassignment training classes.

3 (4) After June 30, 1992, a person is guilty of a gross misdemeanor  
4 if he or she performs the functions and duties of an armed private  
5 detective in this state unless the person holds a valid armed private  
6 detective license issued by the department.

7 (5) After June 30, 1992, it is a gross misdemeanor for a private  
8 detective agency to hire, contract with, or otherwise engage the  
9 services of an unlicensed armed private detective knowing that the  
10 private detective does not have a valid armed private detective license  
11 issued by the director.

12 (6) It is a gross misdemeanor for a person to possess or use any  
13 vehicle or equipment displaying the word "police" or "law enforcement  
14 officer" or having any sign, shield, marking, accessory, or insignia  
15 that indicates that the equipment or vehicle belongs to a public law  
16 enforcement agency.

17 (7) It is the duty of all officers of the state and political  
18 subdivisions thereof to enforce the provisions of this chapter. The  
19 attorney general shall act as legal adviser of the director, and render  
20 such legal assistance as may be necessary in carrying out the  
21 provisions of this chapter.

22 NEW SECTION. **Sec. 16.** The following acts are prohibited and  
23 constitute grounds for disciplinary action or denial, suspension, or  
24 revocation of any license under this chapter, as deemed appropriate by  
25 the director:

26 (1) Knowingly violating any of the provisions of this chapter or  
27 the rules adopted under this chapter;

28 (2) Knowingly making a material misstatement or omission in the  
29 application for or renewal of a license or firearms certificate;

1 (3) Not meeting the qualifications set forth in section 3, 4, or 5  
2 of this act;

3 (4) Failing to return immediately on demand a firearm issued by an  
4 employer;

5 (5) Carrying a firearm in the performance of his or her duties if  
6 not the holder of a valid armed private detective license, or carrying  
7 a firearm not meeting the provisions of this chapter while in the  
8 performance of his or her duties;

9 (6) Failing to return immediately on demand company identification,  
10 badges, or other items issued to the private detective by an employer;

11 (7) Making any statement that would reasonably cause another person  
12 to believe that the private detective is a sworn peace officer;

13 (8) Divulging confidential information obtained in the course of  
14 any investigation to which he or she was assigned;

15 (9) Acceptance of employment that is adverse to a client or former  
16 client and relates to a matter about which a licensee has obtained  
17 confidential information by reason of or in the course of the  
18 licensee's employment by the client;

19 (10) Conviction of a gross misdemeanor or felony or the commission  
20 of any act involving moral turpitude, dishonesty, or corruption whether  
21 the act constitutes a crime or not. If the act constitutes a crime,  
22 conviction in a criminal proceeding is not a condition precedent to  
23 disciplinary action. Upon such a conviction, however, the judgment and  
24 sentence is conclusive evidence at the ensuing disciplinary hearing of  
25 the guilt of the license holder or applicant of the crime described in  
26 the indictment or information, and of the person's violation of the  
27 statute on which it is based. For the purposes of this section,  
28 conviction includes all instances in which a plea of guilty or nolo  
29 contendere is the basis for the conviction and all proceedings in which

1 the sentence has been deferred or suspended. Nothing in this section  
2 abrogates rights guaranteed under chapter 9.96A RCW;

3 (11) Advertising that is false, fraudulent, or misleading;

4 (12) Incompetence or negligence that results in injury to a person  
5 or that creates an unreasonable risk that a person may be harmed;

6 (13) Suspension, revocation, or restriction of the individual's  
7 license to practice the profession by competent authority in any state,  
8 federal, or foreign jurisdiction, a certified copy of the order,  
9 stipulation, or agreement being conclusive evidence of the revocation,  
10 suspension, or restriction;

11 (14) Failure to cooperate with the director by:

12 (a) Not furnishing any necessary papers or documents requested by  
13 the director for purposes of conducting an investigation for  
14 disciplinary action, denial, suspension, or revocation of a license  
15 under this chapter;

16 (b) Not furnishing in writing a full and complete explanation  
17 covering the matter contained in a complaint filed with the department;  
18 or

19 (c) Not responding to subpoenas issued by the director, whether or  
20 not the recipient of the subpoena is the accused in the proceeding;

21 (15) Failure to comply with an order issued by the director or an  
22 assurance of discontinuance entered into with the director;

23 (16) Aiding or abetting an unlicensed person to practice if a  
24 license is required;

25 (17) Misrepresentation or fraud in any aspect of the conduct of the  
26 business or profession;

27 (18) Failure to adequately supervise employees to the extent that  
28 the public health or safety is at risk;

29 (19) Interference with an investigation or disciplinary proceeding  
30 by willful misrepresentation of facts before the director or the

1 director's authorized representative, or by the use of threats or  
2 harassment against any client or witness to prevent them from providing  
3 evidence in a disciplinary proceeding or any other legal action; or

4 (20) Assigning or transferring any license issued pursuant to the  
5 provisions of this chapter, except as provided in section 5 of this  
6 act.

7 NEW SECTION. **Sec. 17.** The director has the following  
8 authority in administering this chapter:

9 (1) To adopt, amend, and rescind rules as deemed necessary to carry  
10 out this chapter;

11 (2) To issue subpoenas and administer oaths in connection with an  
12 investigation, hearing, or proceeding held under this chapter;

13 (3) To take or cause depositions to be taken and use other  
14 discovery procedures as needed in an investigation, hearing, or  
15 proceeding held under this chapter;

16 (4) To compel attendance of witnesses at hearings;

17 (5) In the course of investigating a complaint or report of  
18 unprofessional conduct, to conduct practice reviews;

19 (6) To take emergency action ordering summary suspension of a  
20 license, or restriction or limitation of the licensee's practice  
21 pending proceedings by the director;

22 (7) To use the office of administrative hearings as authorized in  
23 chapter 34.12 RCW to conduct hearings. However, the director or the  
24 director's designee shall make the final decision in the hearing;

25 (8) To enter into contracts for professional services determined to  
26 be necessary for adequate enforcement of this chapter;

27 (9) To adopt standards of professional conduct or practice;

1 (10) In the event of a finding of unprofessional conduct by an  
2 applicant or license holder, to impose sanctions against a license  
3 applicant or license holder as provided by this chapter;

4 (11) To enter into an assurance of discontinuance in lieu of  
5 issuing a statement of charges or conducting a hearing. The assurance  
6 shall consist of a statement of the law in question and an agreement to  
7 not violate the stated provision. The applicant or license holder  
8 shall not be required to admit to any violation of the law, and the  
9 assurance shall not be construed as such an admission. Violation of an  
10 assurance under this subsection is grounds for disciplinary action;

11 (12) To designate individuals authorized to sign subpoenas and  
12 statements of charges;

13 (13) To employ such investigative, administrative, and clerical  
14 staff as necessary for the enforcement of this chapter; and

15 (14) To compel attendance of witnesses at hearings.

16 NEW SECTION. **Sec. 18.** A person, including but not limited to  
17 consumers, licensees, corporations, organizations, and state and local  
18 governmental agencies, may submit a written complaint to the department  
19 charging a license holder or applicant with unprofessional conduct and  
20 specifying the grounds for the charge. If the director determines that  
21 the complaint merits investigation, or if the director has reason to  
22 believe, without a formal complaint, that a license holder or applicant  
23 may have engaged in unprofessional conduct, the director shall  
24 investigate to determine if there has been unprofessional conduct. A  
25 person who files a complaint under this section in good faith is immune  
26 from suit in any civil action related to the filing or contents of the  
27 complaint.



1        NEW SECTION.    **Sec. 19.**        (1) If the director determines, upon  
2 investigation, that there is reason to believe a violation of this  
3 chapter has occurred, a statement of charges shall be prepared and  
4 served upon the license holder or applicant and notice of this action  
5 given to the owner or qualifying agent of the employing private  
6 detective agency. The statement of charges shall be accompanied by a  
7 notice that the license holder or applicant may request a hearing to  
8 contest the charges. The license holder or applicant must file a  
9 request for hearing with the department within twenty days after being  
10 served the statement of charges. The failure to request a hearing  
11 constitutes a default, whereupon the director may enter an order  
12 pursuant to RCW 34.05.440.

13        (2) If a hearing is requested, the time of the hearing shall be  
14 scheduled but the hearing shall not be held earlier than thirty days  
15 after service of the charges upon the license holder or applicant. A  
16 notice of hearing shall be issued at least twenty days prior to the  
17 hearing, specifying the time, date, and place of the hearing.

18        NEW SECTION.    **Sec. 20.**        The procedures governing adjudicative  
19 proceedings before agencies under chapter 34.05 RCW, the administrative  
20 procedure act, govern all hearings before the director.

21        NEW SECTION.    **Sec. 21.**        (1) If the director believes a license  
22 holder or applicant may be unable to practice with reasonable skill and  
23 safety to the public by reason of any mental or physical condition, a  
24 statement of charges shall be served on the license holder or applicant  
25 and notice shall also be issued providing an opportunity for a hearing.  
26 The hearing shall be limited to the sole issue of the capacity of the  
27 license holder or applicant to practice with reasonable skill or  
28 safety. If the director determines that the license holder or

1 applicant is unable to practice with reasonable skill and safety for  
2 one of the reasons stated in this subsection, the director shall impose  
3 such sanctions as are deemed necessary to protect the public.

4 (2) In investigating or adjudicating a complaint or report that a  
5 license holder or applicant may be unable to practice with reasonable  
6 skill or safety by reason of a mental or physical condition, the  
7 department may require a license holder or applicant to submit to a  
8 mental or physical examination by one or more licensed or certified  
9 health professionals designated by the director. The cost of the  
10 examinations ordered by the department shall be paid by the department.  
11 In addition to any examinations ordered by the department, the licensee  
12 may submit physical or mental examination reports from licensed or  
13 certified health professionals of the license holder's or applicant's  
14 choosing and expense. Failure of the license holder or applicant to  
15 submit to examination when directed constitutes grounds for immediate  
16 suspension or withholding of the license, consequent upon which a  
17 default and final order may be entered without the taking of testimony  
18 or presentations of evidence, unless the failure was due to  
19 circumstances beyond the person's control. A determination by a court  
20 of competent jurisdiction that a license holder or applicant is  
21 mentally incompetent or mentally ill is presumptive evidence of the  
22 license holder's or applicant's inability to practice with reasonable  
23 skill and safety. An individual affected under this section shall at  
24 reasonable intervals be afforded an opportunity to demonstrate that the  
25 individual can resume competent practice with reasonable skill and  
26 safety to the public.

27 (3) For the purpose of subsection (2) of this section, an applicant  
28 or license holder governed by this chapter, by making application,  
29 practicing, or filing a license renewal, is deemed to have given  
30 consent to submit to a mental, physical, or psychological examination

1 if directed in writing by the department and further to have waived all  
2 objections to the admissibility or use of the examining health  
3 professional's testimony or examination reports by the director on the  
4 ground that the testimony or reports constitute hearsay or privileged  
5 communications.

6 NEW SECTION. **Sec. 22.** Upon a finding that a license holder or  
7 applicant has committed unprofessional conduct or is unable to practice  
8 with reasonable skill and safety due to a physical or mental condition,  
9 the director may issue an order providing for one or any combination of  
10 the following:

11 (1) Revocation of the license;

12 (2) Suspension of the license for a fixed or indefinite term;

13 (3) Restriction or limitation of the practice;

14 (4) Requiring the satisfactory completion of a specific program of  
15 remedial education or treatment;

16 (5) Monitoring of the practice by a supervisor approved by the  
17 director;

18 (6) Censure or reprimand;

19 (7) Compliance with conditions of probation for a designated period  
20 of time;

21 (8) Withholding a license request;

22 (9) Other corrective action; or

23 (10) Refund of fees billed to and collected from the consumer.

24 Any of the actions under this section may be totally or partly  
25 stayed by the director. All costs associated with compliance with  
26 orders issued under this section are the obligation of the license  
27 holder or applicant.

1        NEW SECTION.    **Sec. 23.**        If an order for payment of a fine is  
2 made as a result of a hearing and timely payment is not made as  
3 directed in the final order, the director may enforce the order for  
4 payment in the superior court in the county in which the hearing was  
5 held. This right of enforcement shall be in addition to any other  
6 rights the director may have as to a licensee ordered to pay a fine but  
7 shall not be construed to limit a licensee's ability to seek judicial  
8 review.

9        In an action for enforcement of an order of payment of a fine, the  
10 director's order is conclusive proof of the validity of the order of  
11 payment of a fine and the terms of payment.

12        NEW SECTION.    **Sec. 24.**        (1) The director shall investigate  
13 complaints concerning practice by unlicensed persons of a profession or  
14 business for which a license is required by this chapter. In the  
15 investigation of the complaints, the director shall have the same  
16 authority as provided the director under section 19 of this act. The  
17 director shall issue a cease and desist order to a person after notice  
18 and hearing and upon a determination that the person has violated this  
19 subsection. If the director makes a written finding of fact that the  
20 public interest will be irreparably harmed by delay in issuing an  
21 order, the director may issue a temporary cease and desist order. The  
22 cease and desist order shall not relieve the person practicing or  
23 operating a business without a license from criminal prosecution  
24 therefor, but the remedy of a cease and desist order shall be in  
25 addition to any criminal liability. The cease and desist order is  
26 conclusive proof of unlicensed practice and may be enforced under RCW  
27 7.21.060. This method of enforcement of the cease and desist order may  
28 be used in addition to, or as an alternative to, any provisions for  
29 enforcement of agency orders.

1           (2) The attorney general, a county prosecuting attorney, the  
2 director, or any person may, in accordance with the law of this state  
3 governing injunctions, maintain an action in the name of this state to  
4 enjoin any person practicing a profession or business for which a  
5 license is required by this chapter without a license from engaging in  
6 such practice or operating such business until the required license is  
7 secured. However, the injunction shall not relieve the person  
8 practicing or operating a business without a license from criminal  
9 prosecution therefor, but the remedy by injunction shall be in addition  
10 to any criminal liability.

11           (3) Unlicensed practice of a profession or operating a business for  
12 which a license is required by this chapter, unless otherwise exempted  
13 by law, constitutes a gross misdemeanor. All fees, fines, forfeitures,  
14 and penalties collected or assessed by a court because of a violation  
15 of this section shall be remitted to the department.

16           NEW SECTION.   **Sec. 25.**           A person or business that violates an  
17 injunction issued under this chapter shall pay a civil penalty, as  
18 determined by the court, of not more than twenty-five thousand dollars,  
19 which shall be paid to the department. For the purpose of this  
20 section, the superior court issuing any injunction shall retain  
21 jurisdiction and the cause shall be continued, and in such cases the  
22 attorney general acting in the name of the state may petition for the  
23 recovery of civil penalties.

24           NEW SECTION.   **Sec. 26.**           The director or individuals acting on  
25 the director's behalf are immune from suit in any action, civil or  
26 criminal, based on disciplinary proceedings or other official acts  
27 performed in the course of their duties in the administration and  
28 enforcement of this chapter.

1        NEW SECTION.    **Sec. 27.**        The director, in implementing and  
2 administering the provisions of this chapter, shall act in accordance  
3 with the administrative procedure act, chapter 34.05 RCW.

4        NEW SECTION.    **Sec. 28.**        A new section is added to chapter 43.101  
5 RCW to read as follows:

6        The commission shall establish a program for issuing firearms  
7 certificates to private detectives for the purposes of obtaining armed  
8 private detective licenses.        The commission shall adopt rules  
9 establishing the fees, training requirements, and procedures for  
10 obtaining and annually renewing firearms certificates. The fees charged  
11 by the commission shall recover the costs incurred by the commission in  
12 administering the firearms certificate program.

13        (1) Firearms training must be provided by an organization or  
14 trainer approved by the commission and must consist of at least eight  
15 hours of classes and proficiency training.

16        (2) Applications for firearms certificates shall be filed with the  
17 commission on a form provided by the commission.        The commission may  
18 require any information and documentation that reasonably relates to  
19 the need to determine whether the applicant qualifies for a firearms  
20 certificate.        Applicants must:

21        (a) Be at least twenty-one years of age;

22        (b) Possess a current private detective license; and

23        (c) Present a written request from the owner or qualifying agent of  
24 a licensed private detective agency that the applicant be issued a  
25 firearms certificate.

26        (3) The commission shall consult with the private security industry  
27 and law enforcement before adopting or amending the training  
28 requirements of this section.

1           (4) The commission may adopt rules that are reasonable and  
2 necessary for the effective implementation and administration of this  
3 section consistent with chapter 34.05 RCW.

4           NEW SECTION.   **Sec. 29.**           If any provision of this act or its  
5 application to any person or circumstance is held invalid, the  
6 remainder of the act or the application of the provision to other  
7 persons or circumstances is not affected.

8           NEW SECTION.   **Sec. 30.**           If specific funding for the purposes of  
9 this act, referencing this act by bill number, is not provided by June  
10 30, 1991, in the omnibus appropriations act, this act shall be null and  
11 void.

12           NEW SECTION.   **Sec. 31.**           Sections 1 through 27 of this act shall  
13 constitute a new chapter in Title 18 RCW.