

Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005

HOUSE BILL NO. 1161
(Government and Veterans Affairs Committee)
(At the request of the Private Investigative and Security Board)

AN ACT to create and enact a new section to chapter 43-30 of the North Dakota Century Code, relating to citations for unlicensed provision of private investigative services or unlicensed private security services; to amend and reenact sections 43-30-10 and 43-30-12 of the North Dakota Century Code, relating to disciplinary measures for persons engaged in private investigative service or private security service; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-30-10 of the North Dakota Century Code is amended and reenacted as follows:

43-30-10. Penalty - Injunction - Unlicensed activity. Any person who violates this chapter or rules adopted under this chapter, or any person who provides a private investigative service or private security service without a current license issued by the board, or falsely states or represents that the person has been or is an investigative officer or employed by an investigative or security officer or agency is guilty of a class B misdemeanor. In addition to the criminal penalties provided, the civil remedy of an injunction is available to restrain and enjoin violations of any provisions of this chapter, without proof of actual damages sustained by any person. An injunction does not preclude criminal prosecution and punishment of a violator. The board is not liable for the lost income, costs, or any other expenses that may be incurred by a person against whom an injunction is sought, and the board may not be required to provide security or a bond. The board may seek costs for reimbursement of expenses for obtaining an injunction, including attorney's fees. In addition to issuing the injunction, the court may impose an administrative fee consistent with section 2 of this Act if the person has violated a provision of chapter 43-30.

SECTION 2. A new section to chapter 43-30 of the North Dakota Century Code is created and enacted as follows:

Issuance of citations for unauthorized practice - Administrative fee - Appeal.

1. The board may issue a citation to a person who the board finds probable cause to believe has violated section 43-30-10.
2. A citation must be in writing and describe with particularity the nature of the violation. The citation must also inform the person of the provisions of subsection 5. A separate citation must be issued for each violation.
3. If appropriate, the citation must contain an order of abatement fixing a reasonable time for abatement of the violation.
4. The board may assess an administrative fee of:
 - a. For the first violation, up to two hundred fifty dollars.
 - b. For the second violation, up to five hundred dollars.
 - c. For the third or subsequent violation, up to one thousand dollars.
5. To appeal the finding of a violation, the person must request a hearing by written notice of appeal to the board within thirty days after the date of issuance of the citation.

6. An appeal must be heard under the procedures contained in chapter 28-32.
7. A citation does not preclude a civil injunction or the criminal prosecution and punishment of a violator.

SECTION 3. AMENDMENT. Section 43-30-12 of the North Dakota Century Code is amended and reenacted as follows:

43-30-12. Disciplinary action. The board may refuse to renew, suspend, or revoke a license, or place on probationary status any licensee, or issue a letter of reprimand to any licensee, for any one or any combination of the following causes:

1. Fraud in obtaining a license.
2. Violation of this chapter or rules adopted which implement section 43-30-04.
3. If the holder of any license or a member of any copartnership, an officer of any corporation, or a manager of any limited liability company has been adjudged guilty of the commission of an offense determined by the board to have a direct bearing upon a holder's ability to serve the public as a private investigative or security agency, or if the board determines that, following conviction of any offense, the holder is not sufficiently rehabilitated under section 12.1-33-02.1.
4. Upon the disqualification or insolvency of the surety of the licenseholder.
5. Any person licensed, certified, or registered by the board pursuant to this chapter who violates any statute or board regulation and who is not criminally prosecuted is subject to a monetary penalty, which may be assessed at a hearing under the procedures contained in chapter 28-32. If the board determines that a respondent is guilty of the violation complained of, the board shall determine the amount of the monetary penalty for the violation, which may not exceed two thousand five hundred dollars for each violation. The penalty may be sued for and recovered in the name of the board. The monetary penalty must be paid into the board's general fund.

The board may impose a fee on any person subject to regulation under this chapter to reimburse the board for all or part of the costs of administrative actions resulting in disciplinary action, including the amount paid by the board for services from the office of administrative hearings, attorney's fees, court costs, witness fees, staff time, and other expenses.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1161.

House Vote: Yeas 88 Nays 0 Absent 6

Senate Vote: Yeas 44 Nays 1 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,
at _____ o'clock _____ M.

Secretary of State