

CHAPTER 55
PRIVATE DETECTIVES

Authority

N.J.S.A. 45:19-8 et seq.

Source and Effective Date

R.2007 d.28, effective December 20, 2006.
See: 38 N.J.R. 3242(a), 39 N.J.R. 232(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 55, Private Detectives, expires on December 20, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 55, Private Detectives, was adopted as R.1972 d.145, effective July 26, 1972. See: 4 N.J.R. 131(a), 4 N.J.R. 196(d).

Chapter 55, Private Detectives, was readopted as R.2007 d.28, effective December 20, 2006. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

13:55-1.1 Application for license

(a) Any person desiring to pursue the "private detective business" shall file an application with the Superintendent on a form designated S.P. 171 (individual or partnership) or S.P. 172 (corporation) and accompanied by any documents required by such application.

(b) The applicant shall also submit such other documents as the Superintendent may require pursuant to N.J.S.A. 45:19-12.

(c) All requests for applications shall be in writing.

13:55-1.2 Reproduction of license

No license certificate may be reproduced in any form except on written approval of the Superintendent.

Case Notes

License holder is responsible for employee's conduct and actions; employee identification subject to regulations. In re Rawls, 197 N.J.Super. 78, 484 A.2d 53 (Law Div.1984).

13:55-1.3 Employees

(a) Employees' statements and employees' fingerprint cards shall be numbered consecutively, commencing with number 1.

(b) A number, once assigned, shall not be used for any other employee or for a former employee subsequently reemployed.

(c) The number entered on the employee's statement shall be identical with that entered on the fingerprint card.

(d) Employees shall be reprinted upon reemployment after termination of employment; provided, however, that an employee who has been temporarily laid off or who is employed part time need not be reprinted until a period of more than 90 days has elapsed since the date of his former employment.

(e) Each licensee shall file with the Superintendent a current list of employees on the first day of July of each year.

(f) Every set of fingerprints forwarded to the Superintendent shall be accompanied by a form designated S.P. 487-A.

Case Notes

Failure of security company to register employees with Superintendent noted; license holder is responsible for employee's actions. In re Rawls, 197 N.J.Super. 78, 484 A.2d 53 (Law Div.1984).

13:55-1.4 Identification cards

(a) Licensees and employees of licensees shall at all times carry and exhibit when requested, only those identification cards which are prescribed in N.J.S.A. 45:19-17.

(b) In the event an employee fails, upon termination of his employment, or upon demand, to surrender his identification card, badge, uniform or other equipment furnished him by his employer, notification of same shall be given the Superintendent and the local police agency having jurisdiction.

Case Notes

License holder is responsible for employee's conduct and actions; employee identification subject to regulations. In re Rawls 197 N.J.Super. 78, 484 A.2d 53 (Law Div.1984).

13:55-1.5 Badges and uniforms

No particular type or style of uniform or badge is prescribed in these rules, other than required as to badges in N.J.S.A. 45:19-19 or prohibited by Chapter 2 of Title 52 of the Revised Statutes as to the use, exhibit and display of the Great Seal of the State of New Jersey, but no licensee or employee of a licensee, shall, with intent to deceive or con-

fuse the public, use a title, badge, uniform or other insignia which is likely to be confused with that of any law enforcement officer of the Federal government, a state or any political subdivision thereof.

Case Notes

Employment as guard by a security agency did not constitute "official duties" of a special policeman; while working as a guard, special policeman not permitted to carry a handgun without a permit or to wear his uniform and badge. In re Rawls, 197 N.J.Super. 78, 484 A.2d 53 (Law Div.1984).

13:55-1.6 Advertising

(a) No licensee shall, by the use of any letterhead, advertisement, or other printed matter, or in any manner whatever, represent that he is an instrumentality or agency of the Federal government or of the State of New Jersey or any agency or political subdivision thereof.

(b) No licensee shall advertise, solicit or contract for business in a name different from that under which he is currently licensed.

(c) No licensee shall conduct a business under a trade name unless and until he has obtained the written authorization of the Superintendent to do so. The Superintendent shall not authorize the use of a trade name which, in his opinion, is so similar to that of a public officer or agency, or of that used by another licensee that the public may be confused or misled thereby. The authorization shall require, as a condition precedent to the use of such name, the filing of a certificate of doing business under such name with the county clerk of the county where the licensee's principal place of business is located and with the Secretary of State in the manner provided by law.

(d) No licensee shall offer, by radio, television, newspaper advertisement or any other means of communication, to perform services at any location which is merely the location of an answering service unless full disclosure of that fact is made in the advertisement.

13:55-1.7 Prohibited acts

(a) No holder of a license issued under the Act may be a party to a franchise agreement nor accept money or other thing of value for the right to act as agent of the licensee. Possession of an employee's identification card shall not authorize the holder to engage in the business of private detective for his own reward or profit.

(b) No holder of a license under the Act may perform any of the services of a private detective, investigator or detective agency on a contingent or percentage basis, or make or enter into any agreement for furnishing services of any kind or character, by the terms or conditions of which agreement the compensation to be paid for such services to the holder of a license is partially or wholly contingent or based upon a percentage of the amount of money or property recovered, or dependent in any way upon the result achieved.

13:55-1.8 Active law enforcement officers

(a) No person who is an active member of the organized police department of this or any other state or political subdivision thereof, or who is an officer or investigator with an investigative agency of the United States of America or of any state, county or municipality thereof, shall be issued a private detective license, nor shall he be a qualifying member, officer or director of any firm, association or corporation licensed under the Act.

(b) Any person who either being licensed under the Act as an individual or being a qualifying member or officer or director of a corporation, firm or association licensed under the Act, who commences employment as a law enforcement officer in any of the categories mentioned in subsection (a) of this Section, shall surrender said license to the Superintendent during such employment if he be an individual licensee and resign his position as qualifying member, officer or director of a firm, association or corporation.

(c) In the case of a firm, association or corporation, if the individual who is required to resign is the qualifying member, the Superintendent, at his discretion, may reinstate the license upon receipt and approval of an application from another person who is qualified under the Act.

Case Notes

While police officers cannot act as or become a qualifying member, officer or director of a private detective agency, they are not prohibited from becoming or acting as employees. In re Rawls, 197 N.J.Super. 78, 484 A.2d 53 (Law Div.1984).

13:55-1.9 License continuation

Whenever a licensee ceases to meet the requirements of N.J.S.A. 45:19-12, the license may remain in effect for at least 60 days from the date of such cessation, upon written request to the Superintendent, and cause shown.

13:55-1.10 Change in type of license

(a) Any individual licensee intending to change his business to a firm, association or corporation, or any firm or association intending to change the form of its business to a corporation, shall apply to the Superintendent in the same manner as required for an original license.

(b) Upon issuance of the new license, the previous license shall be surrendered to the Superintendent.

(c) No refund or credit shall be made in respect to the fee paid for the unexpired term of the previous license.

13:55-1.11 Grounds for denial, revocation, suspension or refusal to renew a license

(a) The Superintendent may deny, revoke, suspend or refuse to renew a license upon determining that the applicant or licensee has:

1. Been convicted of a high misdemeanor or any of the misdemeanors or offenses prescribed by N.J.S.A. 45:19-16 and who has not subsequent to such conviction received executive pardon therefor removing any civil disabilities incurred thereby;

2. A bad moral character, intemperate habits or a bad reputation for truth, honesty and integrity;

3. Knowingly made a false material statement in his application;

4. Been convicted of a violation of the New Jersey Wiretapping and Electronic Surveillance Control Act (N.J.S.A. 2A:156A-1 et seq.);

5. Practiced fraud, deceit or misrepresentation, including but not limited to:

i. Knowingly making a false statement or written report relating to evidence or information obtained in the course of employment;

ii. Manufacturing evidence;

iii. Accepting employment adverse to a client or former client relating to a matter with respect to which the licensee has obtained confidential information by reason of or in the course of his employment by such client or former client;

6. Demonstrated incompetence or untrustworthiness in his actions;

7. Failed to maintain a proper surety bond as required by N.J.S.A. 45:19-12; or

8. Failed to meet or continue to meet the requirements for licensure provided by the Act and these rules.

(b) The Superintendent may, upon written notice, suspend or revoke any license pursuant to N.J.S.A. 45:19-13, pending any hearing provided for by law or these rules.

Case Notes

Police officer's conviction for official misconduct precluded licensure as private investigator. *Toine v. Division of State Police*, 96 N.J.A.R.2d (POL) 17.

Military service as embassy guard was not qualifying experience for purposes of licensure as private detective. *Bransky v. Division of State Police*, 96 N.J.A.R.2d (POL) 15.

Hours in prior employment as special police officer did not meet experience requirement for private detective license. *Larsen v. State Police*, 93 N.J.A.R.2d (POL) 5.

Applicant's former positions were not investigative in character so as to meet experience requirement for private detective license. *Artis v. State Police*, 93 N.J.A.R.2d (POL) 1.

Appeal of official misconduct conviction did not preclude disqualification from employment with private detective agency. *Matter of Garcia*, 92 N.J.A.R.2d (POL) 41.

Denial of private detective license proper; Federal writ of habeas corpus releasing applicant from custody following assault, battery and kidnapping convictions does not erase the collateral regulatory consequence of civil disability for licensure. *Hackett v. Div. of State Police*, 5 N.J.A.R. 112 (1982), reversed.

13:55-1.12 Hearings

(a) In the case of the denial of a license application, or the refusal to renew a license, or suspension of a license, the Superintendent shall notify the applicant or licensee in writing of same and shall state the reasons for his action.

(b) Upon such notification, the Superintendent shall afford the applicant or licensee an opportunity to be heard thereon in person or by counsel. A request for such an opportunity to be heard shall be made in writing to the Superintendent within 15 days from the receipt of notice provided in subsection (a) of this Section.

(c) If a request for an opportunity to be heard is timely received, the Superintendent shall set a date for hearing and notify the parties of the time and place thereof. Such a hearing shall be conducted by the Superintendent or his designee.

(d) All hearings shall be held in accordance with the provisions of the "Administrative Procedure Act" (N.J.S.A. 52:14B-1 et seq.).

13:55-1.13 Location of offices

(a) The headquarters of the Division of State Police in the Department of Law and Public Safety is located at West Trenton, New Jersey.

(b) Mail should be addressed to the Superintendent, Division of State Police, Box 68, West Trenton, New Jersey.