



Economic Impact Analysis Virginia Department of Planning and Budget

6 VAC 20-171 – Regulations Relating to Private Security Services Department of Criminal Justice services September 23, 2010

Summary of the Proposed Amendments to Regulation

Pursuant to requirements for periodic review, the Board of Criminal Justice Services (Board) proposes to amend its Regulations Relating to Private Security Services. Amongst the substantive changes in this regulatory action, the Board proposes to replace emergency regulations that govern locksmiths (pursuant to Chapter 638 of the 2008 Acts of the Assembly) and add new regulations for detector canine handlers and detector canine handler examiners (pursuant to Chapter 470 of the 2004 Acts of the Assembly). The Board also proposes to:

- Rewrite firearms endorsement requirements to include three levels of handgun training and increase training requirements for security officers/couriers to include 10 more hours of firearms training,
- Increase the hours of training needed for a shotgun endorsement from two to three,
- Increase the hours needed for renewal of other types of firearms endorsement from two to four,
- Add new requirements for patrol rifle training,
- Allow businesses that are applying for initial licensure to choose to be licensed for one or two years before they must renew,
- Add a \$5 manual processing fee for applications not submitted through available electronic means,
- Increase the firearms endorsement fee from \$10 to \$15 per year,
- Charge training schools a \$50 fee for each training category rather than the flat \$500 fee they currently pay for approval of training materials and charge instructors \$10

per category for each addition certification category,

- Decrease fees for initial compliance agent certification and compliance agent certification renewal and
- Require instructors and examiners to complete regulatory compliance entry level and in-service training (fees added for these categories).

Result of Analysis

The benefits likely exceed the costs for some of these proposed changes. The costs likely exceed the benefits for at least one of these proposed changes. For several other regulatory changes, there is insufficient information to ascertain whether benefits outweigh costs. All benefits and costs are discussed below.

Estimated Economic Impact

Pursuant to Chapter 638 of the 2008 Acts of the Assembly, the Board promulgated emergency regulations for registration of locksmiths in July 2008. The Board now proposes permanent regulation to replace the emergency regulations that expired on December 30, 2009.

Under these proposed regulations, locksmiths will have to complete 20 hours of initial training (2 hours of training on applicable Virginia law and 18 hours on subject matter training), pass an exam and pay a \$25 initial registration fee for a registration that is valid for two years. Fees for initial training range between \$200 and \$325, depending on which private training school is offering it. Every biennium, registered locksmiths will have to complete four hours of continuing education and pay a \$20 fee to renew their registration. Fees for continuing education range between \$89 and \$125. As provided by Chapter 638, locksmiths who have actively and continuously provided locksmith services for two or more years prior to July 1, 2008 are exempt from the initial training requirements.

In order to get an initial business license, locksmith businesses will have to 1) provide fingerprints for each principal owner and supervisor of the applying business (\$50 per fingerprint card), 2) show evidence of a surety bond of at least \$100,000 or a liability insurance policy with minimum coverages of \$100,000 and \$300,000, 3) complete an irrevocable consent form for the Department of Criminal Justice Services (DCJS) to serve as service agent for all actions filed in any court in the Commonwealth, 4) designate an employee as a compliance agent who will make

sure the business complies with applicable laws and regulations and 5) pay a fee of either \$550 for an initial license valid for one year or \$800 for an initial license valid for two years. This fee covers business licensure for one category; each additional category adds \$50 to the cost of the business license. Businesses will have to pay \$500 for renewal of licensure at the time their initial license expires.

DCJS reports that the legislature recently required registration of locksmiths in order to protect the public “from incompetent or unqualified persons” who were in the locksmith trade. To the extent that regulation achieves this goal, the public will benefit from locksmiths being required to register. Locksmiths who choose to become registered will benefit from a likely decrease in the number of individuals who practice this trade in direct competition with them. It is not entirely clear that these benefits outweigh the costs, both direct and indirect, that will be accrued by licensed locksmith businesses and registered locksmiths. Direct costs include fees for licensure and/or registration and fees for classes. Indirect costs include the value of time spent attending classes and studying for and taking exams. In particular, the costs of business licensure may prove too onerous for some single proprietor locksmiths. The number of individuals who work as locksmiths is very likely to fall on account of licensure requirements.

Currently, these regulations do not include provision for registration of detector canine handlers and certification of detector canine handler examiners. Pursuant to Chapter 470 of the 2004 Acts of the Assembly, the Board now proposes to add provisions that will govern registration, certification and licensure for these groups.

The Board proposes to require detector canine handlers to complete 160 hours of initial training (2 hours of training on applicable Virginia law and 158 hours on subject matter training), pass an exam and pay a \$25 for initial registration. DCJS reports that this training will cost approximately \$1,000 per 40 hour week of training. Detector canine handlers who have already completed training that would be equivalent to that required by the Board will be able to pay an entry level partial-training exemption fee of \$25 and the initial registration fee in order to gain their registration. DCJS staff believes that most individuals who would seek registration already have national certification that is at least equivalent to the initial training required in these proposed regulations.

These training requirements seem to be approximately equivalent to what is required for

police detector canine handlers. Given the nature of the relationship that must be fostered between a canine and its handler, and the repetition of exercises that is necessary to teach an animal to reliably perform a task, the benefits of requiring training before registration likely outweigh the costs of that training (and registration).

If detector canine handlers are business proprietors rather than employees of a business, they will need to meet the Board's requirements for business licensure (see explanation of locksmith business licensure above) and must complete regulatory compliance agent certification training (\$50 initial certification fee). These individuals will have to renew their licenses at the end of the initial licensure term (\$500 fee) and will have to complete compliance agent in-service (continuing education) every two years (\$25 fee).

Under the Board's proposal, detector canine handler examiners must 1) be at least 18 years old, 2) have a high school diploma or GED, 3) have a minimum of five years of experience as a detector canine handler and a minimum of two years experience as a detector canine trainer, 4) be certified as a detector canine handler examiner by a Board recognized national certification organization, a division of the United States military or other formal entity or by a certified DCJS private security services detector canine handler examiner, 5) pass an exam, 6) provide fingerprints to DCJS (\$50 fee) and 7) pay the initial certification fee of \$50 in order to get a certification that is valid for two years. Within 12 months of initial certification, examiners will have to satisfactorily complete regulatory compliance training (\$75 fee). In order to renew certification, these examiners must either have maintained certification under these regulations or complete 16 hours of continuing education before they recertify every two years (application fee \$25) and complete regulatory compliance in-service training (\$50 fee). No costs for continuing education are available but, given the number of hours required for those who have not maintained their certification, these costs will likely be more than several hundred dollars.

To the extent that requiring detector canine handler examiners to be certified improves the quality of the services they offer, the public will benefit from these regulatory changes. There is insufficient information to gauge whether these benefits outweigh the costs listed above.

Nothing in these proposed regulations would explicitly prohibit examiners from forming a business rather than working for another business or training school. There does appear to be an

oblique assumption, in the regulation's Administrative Requirements and Behavior Standards, that examiners will be working for a business or training school licensed by the Board. These regulations as currently proposed would appear not to require examiner businesses to be licensed by the Board.

Current regulations include provision for two levels of firearms training in order to gain a firearms endorsement. All registrants, except for personal protection specialists, must currently complete entry-level handgun training (14 hours training). Personal protection specialists must currently complete both entry-level handgun training and advanced handgun training (24 hours training) in order to gain a firearms endorsement. An endorsement that allows the registrant to use a shotgun requires two extra hours of training. There currently is no specifically required training for patrol rifles.

The Board proposes to modify these firearms training requirements so that handgun training is separated into three classes. All registrants but armed security officers, armed couriers and personal protection specialists that are seeking a firearms endorsement must complete fundamental handgun training (14 hours training). Armed security officers and armed couriers who are seeking a firearms endorsement have to complete basic handgun training (24 hours training). Personal protection specialists must complete both basic and advanced handgun training (14 hours training). The Board proposes to increase the training required to carry a shotgun from two to three hours and increase the hours needed annually to renew other firearms endorsements from two to four. The Board also proposes to add a 16 hour training requirement for patrol rifles.

These changes will increase the hours of handgun training needed by armed security officers and armed couriers for firearms endorsement by ten but will leave the hours of handgun training needed for other registrants unchanged. Any individuals who will seek an initial shotgun endorsement in the future will have to complete three hours of training rather than the currently required two hours. Individuals seeking to renew any other category of firearms endorsement will see the hours of training needed double from two to four hours. Any individuals who have been able to carry patrol rifles under current endorsement requirements will now have to pay for, and complete, 16 extra hours of training.

Estimates found online for firearms training indicate that training for each category of firearm will likely cost between \$100 and \$200 (but will likely be less for the additional two hours of retraining per category that will be required). Registrants will incur direct costs for additional training as well as indirect costs for the time spent on training. DCJS staff reports that the Board believes additional training for armed security officers and armed couriers is needed to ensure the safety of the public that these individuals work around. There is insufficient information to ascertain whether the benefits of additional public safety outweighs the costs of the 10 extra training hours required.

The Board proposes to require 16 hours of training for the additional patrol rifle endorsement (as compared to the three hours of training required for the additional shotgun endorsement). It also proposes to require a higher accuracy for range qualification than is required for either handguns or shotguns (85% versus 75%-79% and 70% respectively). The differential 13 hours of classroom training would likely only be justified if there was little or no carryover value from entry-level handgun training to patrol rifle training that could be assumed to exist for the required shotgun training (or if patrol rifles are much harder weapons to learn and operate). Although Board staff reports that experts on the Board believe the additional hours of training are necessary, there does not appear to be any quantifiable evidence that would support requiring more than five times as much training for patrol rifles. Although the Board has relaxed the range standard for patrol rifles from the initially proposed 100% accuracy, this standard still exceeds the standard imposed by surveyed local police departments (which ranged between 70% and 80%). Because the Board is imposing much more stringent standards for patrol rifles than other weapons, costs likely outweigh benefits for these proposed changes.

Currently, private security firms pay \$800 for a business license that is valid for two years and \$500 for renewal of that license every two years, thereafter. The Board proposes to allow firms the option of getting an initial license for \$550 that will be valid for a year or paying \$800 for a two year license. The biennial license renewal fee would remain \$500. While the average annual cost over time would be the same no matter which initial license is chosen, firms will benefit from the ability to defer costs. The proposed change will give firms greater flexibility to plan expenses.

The Board proposes to add a \$5 fee for applications that are not submitted through available electronic means and to increase the firearms endorsement fee from \$10 to \$15. The manual processing service fee is being proposed to encourage applicants to use Board resources that are less costly and more efficient. Since the fee will only apply if there are available electronic submission means, regulated entities are unlikely to incur this cost unless they feel that they benefit from doing so.

Currently, training schools pay a fee of \$800 fee for initial licensure and a fee of \$500 for electronic roster submittal authorization. The Board proposes to eliminate the electronic roster submittal authorization and instead charge training schools a \$50 fee for each category of training offered past the first one (which is included in the licensure fee). There are nine categories of training so training schools would incur costs of only \$400 if they taught all categories. Training schools will save between \$100 and \$500 on account of this proposed regulatory change.

Similarly, the Board proposes to cut the fees for instructor certification and compliance agent certification in half and implement an instructor certification category fee of \$10. Initial instructor certification will decrease from \$100 to \$50 and instructor certification renewal will decrease from \$50 to \$25. Instructors will pay a \$10 fee for each training category past the first for which certification is sought. Initial compliance agent certification will also decrease from \$100 to \$50 and compliance agent renewal will decrease from \$50 to \$25 but training will no longer be included in these fees. Compliance agent certification and training are being separated because private firms can now offer DCJS training online. Compliance agents will get a net benefit from this change only if training costs do not exceed what they will be saving in certification fees. This proposed change will likely save most instructors money.

Businesses and Entities Affected

These proposed changes will affect all entities that are subject to the Regulations Relating to Private Security Services. DCJS reports that these entities include 2,000 private security services businesses, 41,000 individual registrants (9,750 of which have firearms endorsements), 2,416 compliance officers, 488 instructors and 128 private security services training schools.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

The number of locksmiths practicing in the Commonwealth will likely be smaller on account of the costs imposed by these proposed regulations.

Effects on the Use and Value of Private Property

The value of locksmith businesses will likely decrease on account of these proposed regulations.

Small Businesses: Costs and Other Effects

Small business locksmiths, detector canine handlers and detector canine handler examiners will incur costs for initial registration, registration renewal, Board business licensure and business licensure renewal as listed above. Armed security officers and armed couriers will incur costs for completing 10 extra hours of firearms training, and two extra hours of firearms retraining (for each category of firearm). Instructors and detector canine handler examiners will incur costs for regulatory compliance training.

Small Businesses: Alternative Method that Minimizes Adverse Impact

Instead of requiring instructors and examiners to complete a regulatory compliance course and then pass a test, the Board might allow these entities to just take the test. The Board might also allow these entities to attest on their applications that they have read and understand relevant regulations and laws, as is allowed by several other regulatory Boards in the Commonwealth. The Board also might consider alternate, less expensive, requirements for private security businesses where the registrant is the only employee.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act

and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB ' s best estimate of these economic impacts.