

HOUSE No. 2290

The Commonwealth of Massachusetts

PRESENTED BY:

Timothy J. Toomey, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:
An Act relative to private security and armored car guards.

PETITION OF:

NAME:

Timothy J. Toomey, Jr.

DISTRICT/ADDRESS:

26th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2397 OF 2007-2008.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand and Nine
—————

AN ACT RELATIVE TO PRIVATE SECURITY AND ARMORED CAR GUARDS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 90 of the Massachusetts General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 20G the following section:—

“Section 20I. Notwithstanding the provisions of sections 20 and 20A, an armored vehicle used for the transportation of currency, valuables, jewelry, food stamps or any other high value items, may park for a period not to exceed fifteen minutes in violation of any rule, order, ordinance or by-law regarding the parking of motor vehicles without being subject to being given a violation notice.”

SECTION 2. The Massachusetts General Laws, as appearing in the 2006 Official Edition, is hereby further amended by inserting after Chapter 147 the following new chapter:—

CHAPTER 147A.

ARMORED CAR COMPANIES AND

ARMORED CAR GUARDS

Section 1. As used in this chapter, the following words shall, unless the context requires otherwise, have the following meaning:—

“Applicant” means an individual who has filed an application with the Department for a registration card.

“Armored car company” means any company which, for itself or under contract with another, transports currency, valuables, jewelry, food stamps, or any other item which requires secured delivery from one place to another or provides services to ATM, so-called, machines and kiosks.

“Armored car guard” means an individual who is employed by an armored car company, who primarily works on an armored vehicle and who is required to carry a weapon while in the performance of his duties and who is licensed to do so under this chapter.

“Armored car industry advisory committee” means a committee appointed by the secretary and will serve at the will of the secretary without compensation and consist of not more than six qualified members of the armored car industry, academia, and other related fields as determined by the secretary and will serve to advise the secretary and the council on matters pertaining to the armored car industry.

“Certified instructor” means a person who has met the requirements of this chapter to teach pre-assignment and renewal training for all courses except firearms courses.

“Company” means a sole proprietorship, partnership, firm, association, limited liability company, or corporation.

“Corporate officer” means the chairman, president, vice president, treasurer, secretary or any other person who performs the same function for the corporation as performed by these officers.

“Council” means Criminal Justice Training Council.

“Employer” means an armored car company licensed under this chapter.

“Firearms instructor” means a person who has met the requirements of this chapter to teach firearms training required by this chapter.

“Licensee” means the holder of a license issued under this chapter.

“Qualified armored car guard training” means a minimum eight hour program which shall include but not be limited to armored car orientation, operating procedures, prevention of theft and robbery, defensive driving, company policies and procedures and general duties recommended by the armored car advisory board and germane to the industry.

“Qualified firearms instructor” means an individual who holds a certificate as a firearms instructor from an association or organization recognized by the secretary.

“Qualified firearms training course” means a minimum eight hour firearms training course for armored car guards that is recommended by the armored car advisory board and is specific and germane to the armored car industry and is recognized by the secretary.

“Qualified manager” means the individual owner or the person designated by an armored car company who meets the qualifications set forth in this chapter, to operate an armored car and to represent the employer for purposes of administering and supervising the company’s compliance with this chapter and with such rules as promulgated under this chapter.

“Registrant” means any person issued a registration permit under this chapter.

“Secretary” means the secretary of the executive office of public safety.

Section 2. Registration permits shall be granted according to this chapter.

Section 3. An applicant must meet the following requirements for a registration permit:

- (a) File an application with the secretary sworn to or affirmed by the applicant in such form and including such information as may be prescribed by the secretary, including but not limited to the applicant’s name, address, date of birth, citizenship status, immediately preceding three year work history, three personal references with addresses and telephone numbers, and statement of convictions for crimes;
- (b) Submit two sets of classifiable fingerprints;
- (c) Submit two passport sized photographs;
- (d) Be at least 21 years old;
- (e) Not have been convicted in any jurisdiction of a serious offense or misdemeanor which in the discretion of the Secretary bears such a relationship to the performance of the duties of an armored car guard as to constitute a bar to employment;
- (f) Not have been declared by any court to be incompetent by reason of mental disease or defect which has not been removed;

- (g) Not have a physical or mental disability by reason of intoxication or the use of, addiction to or dependence on, alcohol or drugs which, as determined by the secretary, renders the applicant unfit to perform the usual duties of an armored car guard;
- (h) Pay a fee as determined by section 19 of this chapter;
- (i) Submit a statement from the employer or prospective employer that the employer has made a reasonable effort to verify the work history information on the application form. The results of such effort shall be part of the application. "Reasonable effort" shall be deemed to be the same effort required to satisfy the Immigration Reform and Control Act of 1986 (PL 99-603, 8 USC 1324a) with regard to verification of information contained on Form 1-9;
- (j) Submit a statement by a certified trainer verifying that the pre-assignment training and testing as prescribed by this chapter have been completed;
- (k) Submit a statement by a firearms instructor verifying that the firearms training and range qualification requirements as prescribed by this chapter have been completed.

Section 4. After receipt of an application for a registration permit, the secretary shall submit, or cause to have submitted, to the criminal history systems board and to the federal bureau of investigation, the fingerprint card submitted by the applicant for the purpose of a criminal background check. The secretary is authorized to receive the record check information directly from the United States department of justice. The secretary shall issue a registration permit when satisfied from an examination of the application and criminal record check that the applicant is of good character, competency and integrity and has fulfilled the application requirements of this chapter. The registration permit shall display a picture of the registrant and contain other information as required by the secretary.

All registration permits shall be valid for two years unless revoked by the secretary according to the provisions of this chapter.

Not less than 90 days prior to the expiration date of the license, the secretary shall mail a written notice and application for renewal to the last known address of the registrant with a copy sent to the employer.

Upon receipt of the renewal application form which will include certification that the applicant has met the training standards established by the council and payment of a renewal fee, the secretary shall issue a two year renewal license. No registration permit shall be renewed 90 days or more after its expiration date. The applicant shall submit a new, complete application and respective fee.

Section 5. The secretary shall collect information and maintain on a current basis, a registry of all armored car guards and applicants for registration permits. Such registry shall include, but not be limited to, with respect to each applicant, the applicant's name, address, date of birth, whether a registration permit or license has been issued, the type of permit issued, denied, suspended, or revoked, and the reason for denial, suspension, or revocation or has expired and the employer or employers by whom the applicant has been employed and such other information as the secretary shall deem appropriate, provided, however, that in no case shall such registry include criminal history information.

The secretary shall biannually compare the information in the registry with the records of the criminal history systems board. Any registrant or licensee whose record indicates an outstanding warrant, arrest or conviction for any disqualifying offense shall be suspended immediately, and the employer shall be notified of such suspension immediately, pending further disposition. This biannual check shall meet the background screening requirements of P.L. 103-55, the Armored Car Industry Reciprocity Act.

Companies which are defined as an employer under this chapter may, under the terms and conditions as the secretary may prescribe, have timely access to information contained in the registry but limited to the following information about the registrant or qualified agent: name, date of birth, social security number, registration permit or license number, employment history and status of the registration permit or license.

Section 6. An employer may issue a temporary armored car guard permit to a person, providing the employer has submitted to the secretary the application required for a registration permit, including the statement from a certified trainer verifying completion of the pre-assignment training requirements.

Under no circumstances may the holder of a temporary permit carry a weapon. If the employer has any knowledge that the applicant has a record of a criminal conviction which would disqualify the applicant

pursuant to the secretary's regulations, the employer may not issue a temporary security officer permit to the applicant. The employer must notify the secretary that it has issued a temporary permit.

The temporary armored car guard permit shall expire in 90 days and is non-renewable. However, the secretary may issue a 45-day extension to any applicant whose application is otherwise complete except for the receipt of the criminal background check.

Section 7. While on duty, a registrant shall have on his person his registration permit displayed in a manner prescribed by the provisions of section 19 of this chapter. At the employer's request, a registrant who is acting in the capacity of an armored car guard pursuant to this act may, while in uniform and on duty, wear a badge or shield inscribed with the name of the employer and a number. No such badge or shield shall include the word "police," "agent," "sheriff," or "trooper" or any part of the seal of the Commonwealth or any political subdivision thereof.

Section 8. (a)(1) All applicants shall complete a minimum of 8 hours of pre-assignment situational and field training and a minimum 8 hours of pre-assignment range and classroom firearms training taught and administered by a certified firearms instructor and approved by the council. Such training shall be developed based on an analysis of the duties and responsibilities of armored car guards and shall be recommended by the armored car advisory board. The provisions of this section shall be subject to section 19 of this chapter.

(a)(2) Renewal applicants shall re-qualify for firearms purposes in a manner prescribed by the council.

(b) This section shall conform to the requirements of P.L. 103-55, the Armored Car Industry Reciprocity Act, requiring registration holders to submit a statement annually to the secretary certifying that the registrant has completed the training required under subsection (a)(2) of this section.

(c) No instructor shall teach a course of instruction required by this chapter unless the instructor holds a certified trainer permit, or for firearms instruction, a firearms instructor permit, issued by the secretary according to rules for these permits as established by the provisions of this chapter.

(d) The curriculum for training, range qualifications and testing examinations required under this section

shall be established by the council. Such curriculum shall be developed based on an analysis of the duties and responsibilities of armored car guards and shall be recommended by the armored car advisory board. In the establishment of said curriculum, the council shall consult with the armored car industry advisory committee. Said committee shall be appointed by the secretary and serve at will of the secretary and without compensation and consist of not more than six qualified members of the armored car industry, academia, and other related fields as determined by the secretary.

Section 9. All registrants shall possess a license to carry a firearm, as provided for in section 131 of chapter 140. No employee shall carry or be furnished a firearm while on duty or while wearing a uniform unless the carrying of a firearm is required by the employer. When carried by a uniformed employee, the weapon shall be exposed to view.

The secretary, in consultation with the council and armored car industry advisory committee, shall establish rules as to the type and caliber of weapons that may be carried under this chapter. A registrant may only carry a firearm of the specific type and caliber with which the registrant is qualified pursuant to the firearms training referenced in section eight of this chapter.

Whenever a registrant discharges a firearm in the course of the registrant's duties, except during range firing, the registrant and the employer shall, within five business days, submit to the secretary an explanation describing the nature of the incident, the necessity for using the firearm and the name of any law enforcement agency to which this incident was reported. Furthermore, armored car companies shall facilitate the purchase of protective vests by armored car guards who request them after a probationary period of employment. Employers of armored car guards shall establish a program whereby such armored car guards may pay for the vests through a payroll deduction plan.

The secretary, in consultation with the council and the armored car industry advisory committee, may promulgate rules and regulations establishing minimum standards for weapons other than firearms.

Whenever a registrant ceases employment with the employer for which he is registered, the employer shall, within five business days, notify the secretary. The secretary shall then notify the state or local

authority which issued the registrant's license to carry a firearm of said registrant's change in employment.

Section 10. (a) No company shall employ in the Commonwealth an armored car guard as defined by this chapter, or advertise its business as providing armored car services, or solicit customers for such a business, without having first obtained from the secretary, a license to conduct such business as defined by this chapter as an armored car company shall have a license for the company and copies of such license to be displayed in each office of the company located in the Commonwealth.

(b) The application for a license submitted to the secretary must:

(1) be signed by the owner, partner, or in case of a corporation, a corporate officer;

(2) and include the name of the business and any fictitious names the business uses in the operation of the business, the firm's principal address and the address of each branch operation within the Commonwealth, the nature of the business, names and addresses and a statement of convictions of crimes of all officers and of any investor who actively participates, directs or controls the business; any other information as determined by the secretary to be reasonably necessary;

(3) submit two sets of classifiable fingerprints from the president, executive vice president, secretary and treasurer of the corporation;

(4) be accompanied by the name of the qualified manager to be employed by the company; and,

(5) a certificate of insurance evidencing that the company meets the insurance requirements as defined by rules and regulations to be promulgated by the secretary.

Section 11. An armored car company must employ a person licensed as a qualified manager. Such qualified manager shall administer and supervise the licensee's compliance with this chapter. Such qualified manager shall be subject to the rules of the secretary on behalf of the licensee and the qualified manager's actions shall be deemed to be those of the licensee for the purposes of this chapter.

Upon application, the secretary shall issue a qualified manager license to a person who: (1) meets the background check requirement for a registration permit; (2) be at least 21 years of age; and, (3) pass an

examination determined by the council with the input of the armored car industry advisory council to measure the applicant's knowledge and competence in the armored car industry.

Section 12. A licensee shall file and maintain with the secretary a certificate of insurance from an insurance company licensed to do business in the commonwealth, as evidence that the licensee has comprehensive general liability coverage of at least \$100,000 per occurrence and \$300,000 in the aggregate.

In addition to a general liability certificate of insurance, a company licensed as an armored car company shall file and maintain with the secretary a certificate of insurance from an insurance company licensed to do business in the commonwealth, showing evidence of all risk cargo insurance coverage for a minimum of \$10,000,000 per occurrence and such additional amounts as are sufficient to cover the value of goods safeguarded in such company's vaults.

The certificate for insurance shall provide that the insurance may not be modified or canceled unless thirty days prior notice is given to the secretary.

Section 13. When satisfied, from the examination of the application and such further inquiry and investigations as the secretary shall deem proper as to the good character, competency and integrity of the applicant and that the applicant has met the standards established by the council, the secretary shall issue a license to the applicant, principal and branch offices, as appropriate, to conduct such business employing armored car guards and providing armored car services.

The license shall be valid, unless otherwise provided for in this chapter, for a period of three years.

Branch office licenses shall have the same expiration date as the principal license. No less than 90 days prior to the expiration date of the license, the secretary shall mail a written notice for renewal to the last known address of the license holder. Upon meeting the renewal standards established by the council, and payment of the renewal fee, the secretary shall issue a three-year renewal license.

All licenses issued pursuant to this chapter shall be on a form prescribed by the secretary and subject to rules and regulations as outlined in section 19 of this chapter. Notwithstanding the existence of a valid

corporate registration, no licensee may conduct activities regulated under this chapter under any fictitious name without prior written authorization from the secretary to use that name in the conduct of activities regulated under this chapter. The secretary may not authorize the use of a name which is so similar to that of a public law enforcement officer or agency, or of that used by another licensee, that the public may be confused or misled.

A license issued under this chapter may not be sold, assigned or transferred without the written approval of the secretary.

Section 14. The licensee, if a corporation, shall notify the secretary within 30 days of any change in the licensee's corporate officers or in any material information furnished or required to be furnished to the secretary under this chapter.

The licensee shall submit to the secretary, within 30 days, the name and registration permit number and personnel action taken for each person registered under this chapter as an armored car guard who has been employed by the company and who has retired or resigned or whose employment terminated for any reason.

A licensee shall notify the secretary within 10 days upon receipt of information affecting a registrant's eligibility to hold a registration permit under the provisions of this chapter.

If the qualified manager upon whom the licensee relies upon to comply with this chapter ceases for any reason to perform his duties on a regular basis, the licensee must within 10 days mail to the secretary, by certified or registered mail, notice of this failure to perform duties. Within 120 days of sending the notice, the licensee must employ a substitute qualified manager.

A registrant who has been arrested shall report said arrest to the secretary within 72 hours of the arrest.

Any employer who becomes aware of the arrest of an employee armored car guard shall notify the secretary within 72 hours of gaining that information.

Section 15. (a) The secretary, acting within promulgated rules and regulations as defined in section 19 of this chapter, shall have the power, upon notice and opportunity for a hearing to take disciplinary action

against any licensee, registrant or any unlicensed armored car company or unregistered person engaged in activities regulated by this chapter who violate, or cause to be violated, any provision of this chapter. The secretary may issue criminal penalties and by administrative sanctions against anyone found to be in violation of this chapter as established by promulgated rules and regulations.

(b) The secretary, acting within promulgated rules and regulations as defined in section 13 of this chapter, shall have the power to review the mental or physical condition of an armored car guard to carry out the duties of his position if the secretary believes that the individual may be unable to practice with reasonable skill and safety to the public due to a mental or physical infirmity.

Section 16. The secretary shall have the power to enforce the provisions of this chapter, irrespective of the place or location in which the violation occurred, as established by promulgated rules and regulations.

Section 17. If the secretary determines upon investigation that there is reason to believe a violation of this chapter has occurred, promulgated rules and regulations as set forth in section 18 shall govern procedures and penalties which may be assessed against a company or an individual. Any company or person shall be entitled to appeal to a court of competent jurisdiction.

Section 18. The secretary, in consultation with the council and the armored car industry advisory committee, shall promulgate any rules and/or regulations necessary to carry out the provisions of this chapter.