

TENNESSEE CODE

TITLE 62

Professions, Businesses and Trades

CHAPTER 26

Private Investigators

PART II

Private Investigators Licensing and Regulatory Act

62-26-201. Short title. —

This part shall be known and may be cited as the “Private Investigators Licensing and Regulatory Act.”

[Acts 1990, ch. 780, § 2.]

62-26-202. Part definitions. —

As used in this part, unless the context otherwise requires:

- (1) “Branch manager” means the individual who is immediately responsible for the operation of a branch office;
- (2) “Branch office” means any office of an investigations company within this state other than its principal place of business within this state;
- (3) “Commission” means the private investigation and polygraph commission;
- (4) “Commissioner” means the commissioner of commerce and insurance or the commissioner's designee;
- (5) “Identification card” means a pocket card issued by the commissioner evidencing that the holder has met the qualifications required by this part to perform the duties of a private investigator in this state;
- (6) “Investigations company” means any person who engages in the business or accepts employment to obtain or furnish information with reference to:
 - (A) Crime or wrongs done or threatened against the United States or any state or territory of the United States;

(B) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputations or character of any person;

(C) The location, disposition or recovery of lost or stolen property;

(D) The cause or responsibility for fires, libels, losses, accidents, damages or injuries to persons or to property; or

(E) The securing of evidence to be used before any court, board, commission, officer or investigating committee;

(7) “Licensee” means any investigations company and private investigator licensed in accordance with this part;

(8) “Person” means any individual, firm, association, company, partnership, corporation, nonprofit organization, institution or similar entity;

(9) “Principal corporate officer” means the chief executive officer, president, vice president, treasurer, secretary or comptroller of the treasury, as well as any other responsible officer or executive employee who performs functions for the corporation corresponding to those performed by the chief executive officer, president, vice president, treasurer, secretary or comptroller of the treasury;

(10) “Private investigator” means any person who performs one (1) or more services described in subdivision (6); and

(11) “Qualifying agent” means a principal corporate officer meeting the qualifications set forth in this part for operating an investigations company.

[Acts 1990, ch. 780, § 3; 1991, ch. 457, § 1; 1993, ch. 511, §§ 1, 2; 1999, ch. 253, §§ 1, 4.]

62-26-203. [Repealed.]

62-26-204. License required. —

(a) Except as otherwise provided in this part, it is unlawful for any person to act as an investigations company or private investigator without first obtaining a license from the commission.

(b) After expiration of a license issued under former part 1, holders of such licenses may obtain the equivalent license under this part by complying with the terms and conditions for renewal prescribed in this part.

(c) Every private investigator licensed in accordance with this part shall maintain a place of business at an investigations company that has been duly licensed by the commission.

(d) In the event an applicant for an investigations company license maintains more than one (1) place of business within the state, the applicant shall apply for and obtain a branch office

license for each branch office, in addition to the company license for the principal place of business.

(e) (1) A private investigator may retire the license issued in accordance with this part by making a request for retirement of the license in writing and paying the appropriate fees set by the commission. The written request must be accompanied by the license certificate and pocket card. The retiree shall be responsible for notifying the commission of any change in address. Only licenses that are current and in good standing with the commission may be retired. No retired licensee may engage in any act defined in § 62-26-202.

(2) A retired license shall not be reactivated unless the licensee shows proof of completion of continuing education requirements as provided in § 62-26-225 sufficient to meet a licensee's current requirements. Upon receipt of proof of the continuing education requirements and payment of appropriate fees set by the commission, a retired license shall automatically be changed from retired to active.

[Acts 1990, ch. 780, § 5; 1991, ch. 457, § 3; 1993, ch. 511, §§ 4, 5; 2000, ch. 677, § 1.]

62-26-205. Investigations company license — Application. —

(a) An application for an investigations company license shall be filed with the commission on the prescribed form. The application shall include:

(1) The full name and business address of the applicant;

(A) If the applicant is a partnership, the name and address of each partner; or

(B) If the applicant is a corporation, the name and address of the qualifying agent;

(2) The name under which the applicant intends to do business;

(3) The address of the principal place of business and all branch offices of the applicant within this state;

(4) As to each individual applicant, or, if the applicant is a partnership, as to each partner or, if the applicant is a corporation, as to the qualifying agent, the following information:

(A) Full name;

(B) Date and place of birth;

(C) All residences during the immediate past five (5) years;

(D) All employment or occupations engaged in during the immediate past five (5) years;

(E) Three (3) sets of classifiable fingerprints;

(F) Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and

(G) A list of all convictions and pending charges of the commission of a felony or misdemeanor in any jurisdiction;

(5) If the applicant is a corporation, the following information:

(A) The correct legal name of the corporation;

(B) The state and date of incorporation;

(C) The date the corporation qualified to do business in this state;

(D) The address of the corporate headquarters, if located outside of this state; and

(E) The names of two (2) principal corporate officers other than the qualifying agent, and the business address, residence address and the office held by each in the corporation; and

(6) Other information that the commission may reasonably require.

(b) The application shall be subscribed and sworn to:

(1) By the applicant, if the applicant is an individual;

(2) By each partner, if the applicant is a partnership; or

(3) By the qualifying agent, if the applicant is a corporation.

(c) Any individual signing the application must be at least twenty-one (21) years of age. [Acts 1990, ch. 780, § 6; 1991, ch. 457, § 4.]

62-26-206. Investigations company license — Applicants — Requirements. —

(a) On and after July 1, 2009, each individual applicant, or, if the applicant is a partnership, each partner, or, if the applicant is a corporation, the qualifying agent, must:

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

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

(3) Not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant competent;

(4) Not be suffering from habitual drunkenness or narcotics addiction or dependence;

(5) Be of good moral character;

(6) Possess or employ at least one (1) person who possesses at least two thousand (2,000) hours of compensated, verifiable, investigative experience satisfactory to the commission or has one (1) year of applicable, related experience or education in a related area of study

approved by the commission; and

(7) Pass an examination to be administered at least twice annually by the commissioner, designed to measure knowledge and competence in the investigations company business.

(b) Subdivision (a)(6) shall not apply to any person who has been issued an investigations company license prior to August 17, 2009, and such a license may continue to be renewed in accordance with this part or any rules and regulations promulgated by the commission in effect prior to July 1, 2009.

[Acts 1990, ch. 780, § 7; 1991, ch. 457, § 5; 1993, ch. 511, § 6; 2009, ch. 595, §§ 1-3.]

62-26-207. Private investigator license — Applicants — Requirements — Apprentice status. —

(a) Each applicant for a private investigator license must:

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

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

(3) Not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant competent;

(4) Not be suffering from habitual drunkenness or narcotics addiction or dependence;

(5) Be of good moral character; and

(6) Pass an examination to be administered at least twice annually by the commission, designed to measure knowledge and competence in the investigations field.

(b) The commission shall grant apprentice status, by correspondence, to an applicant for an individual investigator's license; provided, that the applicant is employed by an investigative company. The apprentice is enjoined from working without the direct supervision of a licensed investigator until such time as the apprentice's license application is fully processed.

(c) An apprenticeship may not commence until the sponsoring company has submitted a notice of intent to sponsor. The notice shall be by written endorsement to the application of the apprentice.

(d) An apprentice status shall be limited to six (6) months, and a person shall be able to apply for an apprentice status only once.

(e) Apprenticeship is intended to serve as a learning process. Sponsors shall assume a training status by providing direction and control of the apprentice. No sponsor may sponsor more than six (6) apprentices at one time. The sponsor shall certify completion of training or the termination of the apprentice within fifteen (15) days of such action. The report shall be in a

form that may be required by the commission, but shall include as a minimum the following:

- (1) The inclusive dates of the apprenticeship;
- (2) A narrative explaining the primary duties, types of experiences gained and the scope of the training received; and
- (3) An evaluation of the performance of the apprentice and a recommendation regarding future licensing.

[Acts 1990, ch. 780, § 8; 1991, ch. 457, §§ 6, 7; 1993, ch. 511, §§ 7, 25.]

62-26-208. Commission — Investigation of applications — Issuance of license — Notification of denial — Identification card. —

(a) (1) Upon receipt of an application for a license, accompanied by a nonrefundable, nonproratable application fee as set by the commission in accordance with subdivision (a)(2), the commission shall:

(A) Conduct an investigation to determine whether the statements made in the application are true;

(B) Request that the Tennessee bureau of investigation compare the fingerprints submitted with the application to fingerprints filed with the Tennessee bureau of investigation. On subsequent applications, the Tennessee bureau of investigation shall, at the request of the commission, review its criminal history files, based upon the name, date of birth, sex and race and social security number of an applicant whose fingerprints have previously been submitted to the bureau, for any new information since the date of the fingerprint comparison and shall furnish any information thereby derived to the commission; and

(C) Submit the fingerprints to the federal bureau of investigation for a search of its files to determine whether the individual fingerprinted has any recorded convictions.

(2) The nonrefundable, nonproratable application fees shall be set by the commission according to the following schedule:

[Click to view table.](#)

(b) The commission shall issue a license, in a form that the commission prescribes, to qualified applicants upon receipt of a nonrefundable, nonproratable fee as set by the commission in accordance with the following schedule:

[Click to view table.](#)

(c) If an application for a license is denied, the commission shall notify the applicant in writing and shall set forth the grounds for denial. If the grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the required correction.

(d) The commission shall issue with every private investigator license an identification card that shall contain at least the following information:

- (1) Name;
- (2) Photograph;
- (3) Physical characteristics;
- (4) Private investigator license number; and
- (5) Expiration date of license.

(e) The identification card shall be issued in a wallet-sized card and shall be permanently laminated.

(f) The identification card shall be carried on the person of the licensee when engaged in the activities of the licensee.

(g) An application shall be accompanied by a notarized statement sworn to by the applicant as to the identity and number of private investigators employed by or affiliated with the investigations company. Making a false statement shall be punishable by a civil penalty not to exceed one thousand dollars (\$1,000) and assessment of the maximum application fee.

[Acts 1990, ch. 780, § 9; 1991, ch. 457, §§ 8-11; 1993, ch. 511, §§ 8-10.]

62-26-209. Posting of license. —

Every license issued under this part shall be posted conspicuously in the licensee's principal place of business.

[Acts 1990, ch. 780, § 10; 1993, ch. 511, § 11.]

62-26-210. License not transferable or assignable. —

No license issued under this part shall be transferable or assignable.

[Acts 1990, ch. 780, § 11.]

62-26-211. Renewal — Validity. —

(a) A license or renewal of a license issued under this part shall be valid for a period of two (2) years from the date of issuance. The commission shall provide each licensee with a renewal application form sixty (60) days prior to the expiration of the license.

(b) (1) The fee for the timely renewal of a license shall be as set by the commission in accordance with the following schedule:

[Click to view table.](#)

(2) A penalty as prescribed by the commission will be assessed on any renewal application postmarked after the expiration date of the license.

(c) No renewal application will be accepted more than thirty (30) days after the expiration date of the license.

(d) A renewal application shall be accompanied by a notarized statement sworn to by the applicant as to the identity and number of private investigators employed by or affiliated with the investigations company. Making a false statement shall be punishable by a civil penalty not to exceed one thousand dollars (\$1,000) and assessment of the maximum renewal fee. [Acts 1990, ch. 780, § 12; 1991, ch. 457, §§ 12-14; 1993, ch. 511, §§ 12, 13.]

62-26-212. Termination of duties — Notice — Substitute agent. —

(a) If the qualifying agent of a licensee ceases to perform that agent's duties on a regular basis, the licensee shall:

- (1) Within thirty (30) days, notify the commission by certified or registered mail; and
- (2) Within three (3) months, obtain a substitute qualifying agent.

(b) The commission may, in its discretion, extend the period for obtaining a substitute qualifying agent for a reasonable time. [Acts 1990, ch. 780, § 13; 1991, ch. 457, § 15.]

62-26-213. Notice to the commission — When required. —

A licensee shall notify the commission in writing within thirty (30) days of:

- (1) Any change in the qualifying agent or principal corporate officers identified in its application for license;
- (2) Any material change in the information previously furnished or required to be furnished to the commission;
- (3) Any occurrence that could reasonably be expected to affect the licensee's right to a license under this part, including, but not limited to, any criminal charges placed against any licensee by any person. An investigations company must also, within thirty (30) days, notify the commission of any criminal charges placed against any investigator employed by or affiliated with the company; or

(4) Any judgment received by any person for punitive damages against any licensee. [Acts 1990, ch. 780, § 14; 1991, ch. 457, § 16; 1993, ch. 511, §§ 14, 15.]

62-26-214. Investigations company — Change in ownership. —

(a) If the ownership of an investigations company changes, the new owner, if not already a licensee, may not operate that company more than thirty (30) days after the date of the change of ownership unless, within the thirty-day period, the new owner submits an application for a license. If the application is submitted, the new owner may continue to operate the company until the application has been finally determined by the commission.

(b) For good cause, the commission may extend the period for submitting an application pursuant to subsection (a) for a reasonable time.
[Acts 1990, ch. 780, § 15; 1991, ch. 457, § 17.]

62-26-215. [Repealed.]

62-26-216. [Repealed.]

62-26-217. Revocation of license. —

(a) The commission may suspend, revoke or refuse to issue or renew any license under this part upon finding that the holder or applicant has:

- (1) Violated this part or any rule promulgated under this part;
- (2) Practiced fraud, deceit or misrepresentation;
- (3) Knowingly and willfully made a material misstatement in connection with an application for a license or renewal;
- (4) Been convicted by a court of competent jurisdiction of a felony or a misdemeanor, if the commission finds that the conviction reflects unfavorably on the fitness for the license; or
- (5) Committed any act that would have been cause for refusal to issue the license or registration card had it existed and been known to the commission at the time of issuance.

(b) In addition to or in lieu of any other lawful disciplinary action under this section, the commission may assess a civil penalty not exceeding two thousand dollars (\$2,000).

(c) A license shall be subject to expiration and renewal during any period in which the license is suspended.

[Acts 1990, ch. 780, § 18; 1991, ch. 457, § 20.]

62-26-218. Municipality or county — Licensing requirement prohibited — Business tax permitted. —

(a) No licensee or registrant shall be required to obtain any authorization, permit or license from or pay any other fee or post a bond in any municipality, county or other political subdivision of this state to engage in any business or activity regulated under this part.

(b) Notwithstanding subsection (a), a municipality, county or other political subdivision of this state may impose a bona fide business tax.

[Acts 1990, ch. 780, § 19.]

62-26-219. Reciprocal agreements. —

The commission may negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed investigations companies and private investigators who meet or exceed the qualifications established in this part to operate across state lines under mutually acceptable terms.

[Acts 1990, ch. 780, § 20; 1991, ch. 457, § 21.]

62-26-220. Distribution of copies of this part. —

The commission shall provide a copy of this part and any rules promulgated under this part to:

(1) Each licensee every two (2) years at no charge; and

(2) Any other person, upon request, for a reasonable fee that the commission may fix.

[Acts 1990, ch. 780, § 21; 1991, ch. 457, § 22.]

62-26-221. Violations. —

No individual licensed as an investigations company or a private investigator in this state shall:

(1) In order to obtain employment, knowingly make a material misrepresentation as to the person's ability to perform the investigation required by a potential client;

(2) Make unsubstantiated monetary charges to a client for services not rendered or transportation not utilized;

(3) Knowingly make a false report to a client in relation to the investigation performed for

the client;

(4) Continue an investigation for a client when it becomes obvious to the investigator that a successful completion of an investigation is unlikely without first so advising the client and obtaining the client's approval for continuation of the investigation; or

(5) Reveal information obtained for a client during an investigation to another individual, except as required by law.

[Acts 1990, ch. 780, § 22.]

62-26-222. Hearing and review of contested cases — Governing provisions. —

The Uniform Administrative Procedures Act, compiled in title 4, chapter 5, governs all matters and procedures respecting the hearing and judicial review of any contested case arising under this part.

[Acts 1990, ch. 780, § 23.]

62-26-223. Exceptions to applicability of part. —

(a) This part does not apply to a public accountant and a certified public accountant, or the agent of either, performing duties relating to public accountancy.

(b) This part does not apply to:

(1) A governmental officer or employee performing official duties;

(2) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons;

(3) (A) (i) An attorney at law in good standing and licensed to practice law;

(ii) An employee of a single attorney or single law firm who is acting within the employee's scope of employment for the attorney or law firm; or

(iii) A consultant when the person is retained by an attorney or appointed by a court to make tests, conduct experiments, draw conclusions, render opinions or make diagnoses, where those services require the use of training or experience in a technical, scientific or social science field;

(B) These exceptions do not apply to any other person or company that otherwise provides or offers to provide investigative services as described in § 62-26-202;

(4) An insurance company, licensed insurance agent or staff or independent adjuster performing investigative duties in connection with insurance business transacted;

(5) A private business employee conducting investigations relating to the internal affairs of the business;

(6) Any individual conducting investigative activities in connection with the repossession of a vehicle;

(7) An individual conducting undercover investigations meeting the criteria set forth in § 62-26-231;

(8) Any person duly licensed by this state in another profession while the person is engaged in activities within the scope of that profession; or

(9) Any student from any college or university who is working as an intern in a public defender's or district attorney's program in this state who is directly supervised by an attorney at law in the public defender's or district attorney's office and who is not compensated for the services.

(c) An insurance adjuster claiming an exemption to this part under subdivision (b)(4) must be an employee of an insurance company duly licensed to do business in this state, a licensed insurance agent in this state or a staff employee of the agent, or an independent adjuster performing investigative activity limited to matters directly pertaining to an insurance transaction. The employee of the insurance company, the insurance agent or employee of the agent or the independent adjuster or employee of the adjuster must be acting within the scope of that person's employment with respect to the investigative activity.

[Acts 1991, ch. 457, §§ 28, 29; 1992, ch. 879, §§ 1, 2; 1993, ch. 511, §§ 3, 16, 17; 1995, ch. 234, § 1; 2000, ch. 812, §§ 1, 2; 2004, ch. 539, §§ 1, 2; 2004, ch. 733, § 1.]

62-26-224. Investigative arm of commission — Access to records — Subpoenas. —

(a) The division of investigation is designated the official investigative arm of the commission.

(b) Licensees are required to provide the investigative staff all records kept within the normal course of business, as they directly pertain to the exact nature of the complaint under investigation.

(c) The commissioner is granted authority to subpoena to deposition those persons or documents necessary to any investigation undertaken under this part; provided, that all other means, including, but not limited to, notification by return receipt registered United States mail, have been exhausted and have not produced the desired results.

[Acts 1993, ch. 511, § 19.]

62-26-225. Continuing professional education. —

- (a) A private investigator license holder seeking biennial renewal shall, as a prerequisite for renewal, complete twelve (12) hours of continuing professional education acceptable to the commission during the two-year period prior to renewal.
- (b) The commission shall make every effort to ensure that at least one (1) seminar per year will be held in each grand division of the state and that each seminar provides an opportunity to fulfill the continuing professional education requirements of this section. The commission is encouraged to require that at least one (1) hour per year of continuing professional education be devoted to ethics.
- (c) The commission shall promulgate rules that are necessary to carry out this section.
[Acts 1993, ch. 511, § 20; 2004, ch. 555, § 1.]

62-26-226. Training. —

- (a) Any person or company offering private investigator training for a fee must first be certified by the commission. The commission shall ensure that the instructors employed by the training company possess both the experience and academic credentials to ensure that the curriculum and instruction of the training company will be beneficial to those seeking to enter the profession. In order to qualify as a certified trainer/instructor, the trainer:
 - (1) Must be at least twenty-one (21) years of age;
 - (2) Has at least three (3) years of supervisory experience satisfactory to the commission with an investigations company or proprietary entity, or with any federal, United States military, state, county or municipal law enforcement agency; and
 - (3) Is personally qualified to conduct the training required by this chapter.
- (b) A certified trainer may, in the trainer's discretion, instruct personally or use a combination of personal instruction, audio and visual training aids.
- (c) To assist in the implementation of the training program, the certified trainer may use as an assistant trainer any person who:
 - (1) Is at least twenty-one (21) years of age; and
 - (2) Has at least one (1) year of experience with an investigations company or any United States military, state, county or municipal law enforcement agency.
- (d) A certified trainer may be an employee of a private investigative or proprietary agency. If the applicant is not so employed, the applicant must be licensed as a company under this part.
- (e) The certified trainer shall certify to the successful completion of the training and shall submit the certification to the commission.

(f) The training program, fees and requirements shall be established by rules promulgated by the commission.

[Acts 1993, ch. 511, § 21.]

62-26-227. Prosecutions. —

No action taken under this part shall preclude prosecution under § 39-16-302.

[Acts 1993, ch. 511, § 22.]

62-26-228, 62-26-229. [Reserved.]

62-26-230. Penalties. —

Any person violating this part or any rule promulgated under this part commits a Class A misdemeanor.

[Acts 1990, ch. 780, § 24; 1989, ch. 591, § 111.]

62-26-231. Exemption from licensing requirement. —

(a) An individual exempted by § 62-26-223(b)(7) from the licensing requirements for private investigators must be:

- (1) Employed by and under the control of a licensed private investigation company;
- (2) Employed by a private business entity, the internal affairs of which are the subject of investigation by the individual; and
- (3) Engaged only in investigating the internal affairs of the private business entity by which they are employed.

(b) A private investigation company employing an individual exempted by § 62-26-223(b)(7) shall be held responsible for the actions of that individual in the individual's capacity as an undercover investigator as if that individual was a licensed private investigator.

[Acts 1995, ch. 234, § 2.]

NOTES: