

38 N.J.R. 3242(a)

1 of 250 DOCUMENTS

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RULE PROPOSALS

**LAW AND PUBLIC SAFETY
DIVISION OF STATE POLICE**

38 N.J.R. 3242(a)

Proposed Readoption: N.J.A.C. 13:55

Private Detectives

Authorized by: Colonel Joseph R. Fuentes, Superintendent of State Police.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2006-253.

Submit written comments by October 20, 2006 to:

Colonel Joseph R. Fuentes
Superintendent of State Police
Division Headquarters
P.O. Box 7068
West Trenton, NJ 08638
Attn: Private Detective Unit

Summary

The rules governing private detectives were originally promulgated by the Division of State Police in 1972 and were not subject to Executive Order No. 66 (1978). Pursuant to N.J.S.A. 52:14B-5.1c, these rules are scheduled to expire on December 28, 2006. The Division has reviewed the rules and has determined that they are still necessary for the purposes for which they were promulgated and proposes to readopt the chapter without amendment. The Legislature enacted P.L. 2004, c.134, effective September 1, 2005, to regulate security officer companies, which were previously included within the definition of private detective business, and were therefore subject to

these rules. The rules proposed for readoption will apply to persons engaged in the private detective business as that term is now defined in N.J.S.A. 45:19-9. The definition now excludes "the business of watch, guard or patrol agency."

N.J.A.C. 13:55-1.1 provides that any person desiring to engage in the private detective business must request in writing and file an application on a form provided by the Superintendent. The content of the application is prescribed in N.J.S.A. 45:19-11.

N.J.A.C. 13:55-1.2 prohibits the duplication of a license without the approval of the Superintendent.

N.J.A.C. 13:55-1.3 requires employees' statements and fingerprint cards to be consecutively numbered and requires the licensee to submit a list of employees on July 1 of each year. The requirement for employees to submit fingerprints for a criminal history record background check is contained in N.J.S.A. 45:19-16.

N.J.A.C. 13:55-1.4 requires licensees and employees to carry and exhibit the identification card required by N.J.S.A. 45:19-17 and to surrender the card on termination of employment.

N.J.A.C. 13:55-1.5 prohibits licensees from using any uniform or badge with intent to confuse the public or using a title, badge, uniform or other insignia likely to be confused with a law enforcement officer.

N.J.A.C. 13:55-1.6 contains restrictions on the content of advertising by licensees.

N.J.A.C. 13:55-1.7 prohibits licensees from being parties to a franchise agreement and from agreeing to compensation based on the results achieved for services rendered.

N.J.A.C. 13:55-1.8 prohibits active members of a State, political subdivision or Federal law enforcement agency from being issued a private detective license.

N.J.A.C. 13:55-1.9 concerns continuation of a license when the licensee no longer qualifies.

N.J.A.C. 13:55-1.10 requires a licensee to reapply if the form of the business changes.

N.J.A.C. 13:55-1.11 states the grounds for which the Superintendent may deny, revoke, suspend or refuse to renew a license.

N.J.A.C. 13:55-1.12 contains the procedure for requesting a hearing.

N.J.A.C. 13:55-1.13 states the location and mailing address of State Police Headquarters.

The proposal is exempt from the rulemaking calendar requirement of N.J.A.C. 1:30-3.3 because the Division has provided a 60-day comment period.

Social Impact

The rules proposed for readoption provide for the regulation of the private detective business as mandated by statute and set standards for qualifications of licensees and conduct of the private detective business to ensure the protection of the public.

Economic Impact

The rules proposed for readoption may impose costs on licensees who violate the restrictions on conduct. The Superintendent may deny, revoke, suspend or refuse to renew a license. Licensees may incur nominal costs in filing the required application and renewal applications and in filing the

annual list of employees. The rules do not impose any direct costs on licensees. However N.J.S.A. 45:19-12 and 12.1 impose license fees and fees for each employee. N.J.S.A. 45:19-16 requires applicants to bear the cost of criminal history record checks.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption are not subject to any Federal standards or requirements.

Jobs Impact

The rules proposed for readoption will have no impact on the creation or loss of jobs in New Jersey.

Agriculture Industry Impact

The rules proposed for readoption will have no impact on the agriculture industry in the State of New Jersey.

Regulatory Flexibility Analysis

Persons engaged in the private detective business may qualify as small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption impose recordkeeping, reporting and other compliance requirements on the private detective business. All requirements apply uniformly to licensees and their employees. There is no provision in the Private Detective Act for varying compliance requirements based on business size. N.J.A.C. 13:55-1.1 requires all licensees to request an application in writing. N.J.A.C. 13:55-1.2 prohibits duplication of a license without written approval. N.J.A.C. 13:55-1.3 requires licensees to maintain sequentially numbered employee statements and fingerprint cards. N.J.A.C. 13:55-1.4 requires licensees and employees to carry and exhibit the identification card authorized by N.J.S.A. 45:19-17. N.J.A.C. 13:55-1.5 prohibits badges or uniforms that may be confused with law enforcement agencies. N.J.A.C. 13:55-1.6 regulates the content of advertising. N.J.A.C. 13:55-1.7 prohibits certain types of contracts and business relationships. N.J.A.C. 13:55-1.8 prohibits active law enforcement officers from being licensed as private detectives. N.J.A.C. 13:55-1.9 provides for the continuation of a license. N.J.A.C. 13:55-1.10 requires licensees who change their form of business to submit a new application. N.J.A.C. 13:55-1.11 describes prohibited conduct. N.J.A.C. 13:55-1.12 states requirements for requesting a hearing. No professional services are required for compliance. The costs of compliance are discussed in the Economic impact above. The rules are designed to minimize adverse impact on small businesses by imposing requirements mandated by the Private Detective Act of 1939 uniformly.

Small Growth Impact

The rules proposed for readoption will not have any impact upon the achievement of smart growth or upon the implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:55.