S T A T E O F N E W Y O R K

3824

2015-2016 Regular Sessions

I N S E N A T E

February 18, 2015

Introduced by Sen. VENDITTO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to licenses for private investigators, bail enforcement agents and watch, guard or patrol agencies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 70 of the general business law, as amended by chapter 562 of the laws of 2000 and subdivision 3 as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

S 70. [Licenses] PRIVATE INVESTIGATOR LICENSE. 1. The department of state shall have the power to issue [separate] licenses to private investigators[, bail enforcement agents and to watch, guard or patrol agencies]. Nothing in this article shall prevent a private investigator licensed hereunder from performing the services of a watch, guard or patrol agency or bail enforcement agent as defined herein; however, a watch, guard or patrol agency or bail enforcement agent may not perform the services of a private investigator as defined herein.

2. No person, firm, company, partnership, limited liability company or corporation shall engage in the business of private investigator[, business of bail enforcement agents or the business of watch, guard or patrol agency,] or advertise his, their or its business to be that of private investigator[, bail enforcement agent or watch, guard or patrol agency,] notwithstanding the name or title used in describing such agency or notwithstanding the fact that other functions and services may also be performed for fee, hire or reward, without having first obtained from the department of state a license so to do, as hereinafter provided, for each bureau, agency, sub-agency, office and branch office to be owned, conducted, managed or maintained by such person, firm,

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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company, partnership, limited liability company or corporation for the conduct of such business.

3. No person, firm, company, partnership, limited liability company or corporation shall engage in the business of furnishing or supplying for fee, hire or any consideration or reward information as to the personal character or activities of any person, firm, company, or corporation, society or association, or any person or group of persons, or as to the character or kind of the business and occupation of any person, firm, company or corporation, or own or conduct or maintain a bureau or agency for the above mentioned purposes, except exclusively as to the financial rating, standing, and credit responsibility of persons, firms, companies or corporations, or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds or commercial credit or of claimants under insurance policies, provided the business so exempted does not embrace other activities as described in section seventy-one of this article, or except where such information is furnished or supplied by persons licensed under the provisions of section twenty-four-a or subdivision three-b of section fifty of the workers' compensation law or representing employers or groups of employers insured under the workers' compensation law in the state insurance fund, without having first obtained from the department of state, as hereafter provided, a license so to do as private investigator for each such bureau or agency and for each and every sub-agency, office and branch office to be owned, conducted, managed or maintained by such persons, firm, limited liability company, partnership or corporation for the conduct of such business. Nothing contained in this section shall be deemed to include the business of adjusters for insurance companies, nor public adjusters licensed by the superintendent of financial services under the insurance law of this state.

4. Any person, firm, company, partnership or corporation who violates any provision of this section shall be guilty of a class [B misdemeanor] E FELONY.

S 2. The general business law is amended by adding a new section 70-a to read as follows:

S 70-A. BAIL ENFORCEMENT AGENTS AND WATCH, GUARD OR PATROL AGENCIES. 1. THE DEPARTMENT OF STATE SHALL HAVE THE POWER TO ISSUE SEPARATE LICENCES TO BAIL ENFORCEMENT AGENTS AND TO WATCH, GUARD OR PATROL AGENCIES. NOTHING IN THIS ARTICLE SHALL PREVENT A PRIVATE INVESTIGATOR LICENSED HEREUNDER FROM PERFORMING THE SERVICES OF A WATCH, GUARD OR PATROL AGENCY OR BAIL ENFORCEMENT AGENT AS DEFINED IN THIS ARTICLE; HOWEVER, A WATCH, GUARD OR PATROL AGENCY OR BAIL ENFORCEMENT AGENT MAY NOT PERFORM THE SERVICES OF A PRIVATE INVESTIGATOR AS DEFINED IN THIS ARTICLE.

2. NO PERSON, FIRM, COMPANY, PARTNERSHIP, LIMITED LIABILITY COMPANY OR CORPORATION SHALL ENGAGE IN THE BUSINESS OF BAIL ENFORCEMENT AGENTS OR THE BUSINESS OF WATCH, GUARD OR PATROL AGENCY, OR ADVERTISE HIS, THEIR OR ITS BUSINESS TO BE THAT OF BAIL ENFORCEMENT AGENT OR WATCH, GUARD OR PATROL AGENCY, NOTWITHSTANDING THE NAME OR TITLE USED IN DESCRIBING SUCH AGENCY OR NOTWITHSTANDING THE FACT THAT OTHER FUNCTIONS AND SERVICES MAY ALSO BE PERFORMED FOR FEE, HIRE OR REWARD, WITHOUT HAVING FIRST OBTAINED FROM THE DEPARTMENT OF STATE A LICENSE SO TO DO, AS HEREINAFTER PROVIDED, FOR EACH BUREAU, AGENCY, SUB-AGENCY, OFFICE AND BRANCH OFFICE TO BE OWNED, CONDUCTED, MANAGED OR MAINTAINED BY SUCH PERSON, FIRM, COMPANY, PARTNERSHIP, LIMITED LIABILITY COMPANY OR CORPORATION FOR THE CONDUCT OF SUCH BUSINESS.

3. ANY PERSON, FIRM, COMPANY, PARTNERSHIP OR CORPORATION WHO VIOLATES ANY PROVISION OF THIS SECTION SHALL BE GUILTY OF A CLASS B MISDEMEANOR.

S 3. Section 85 of the general business law, as added by chapter 349 of the laws of 1938, is amended to read as follows:

S 85. [Attorney-general to prosecute] PROSECUTION. Criminal action for violation of this article shall be prosecuted by the [attorney-general] ATTORNEY GENERAL, [or his] HIS OR HER deputy, OR A DISTRICT ATTORNEY, in the name of the people of the state[, and in]. IN any such prosecution the [attorney-general] ATTORNEY GENERAL, or his OR HER deputy, shall exercise all the powers and perform all duties which the district attorney would otherwise be authorized to exercise or to perform therein. The [attorney-general] ATTORNEY GENERAL OR A DISTRICT ATTORNEY shall, upon a conviction for a violation of any provision of this article and within ten days thereafter, make and file with the department of state a detailed report showing the date of such conviction, the name of the person convicted and the nature of the charge.

S 4. This act shall take effect one year after it shall have become a law.