

NAME OF AGENCY:

Council on Law Enforcement Education and Training (CLEET)

TYPE OF DOCUMENT:

Rule Impact Statement

PROPOSED RULES:

CHAPTER 35. REGULATION OF PRIVATE SECURITY INDUSTRY

Subchapter 5. License Requirements

390:35-5-2 [AMENDED]

390:35-5-3 [AMENDED]

390:35-5-11 [AMENDED]

Subchapter 7. Application Procedure

390:35-7-6 [AMENDED]

390:35-7-7 [AMENDED]

Subchapter 13. Use of Firearms

390:35-13-1 [AMENDED]

Subchapter 15. Training and Standards Requirements

390:35-15-7 [AMENDED]

SUMMARY:

Amendments reflect recent statutory changes to private security licensing fee structure and licensing periods. (Fees increased pursuant to 2010 amendments to 59 O.S., Section 1750.6) Changes address disciplinary action involving licensees who continue to work following suspension and extend period of temporary license. Amendments also clarify the types of firearms permissible under CLEET rules. Remaining changes are non-substantial and necessary to reflect current CLEET licensing procedures.

AUTHORITY:

Council on Law Enforcement Education and Training; 59 O.S., Section 1750.3(B)(1); 59 O.S., Section 1750.1 et seq., and 70 O.S., Section 3311(A).

CLASSES OF PERSONS AFFECTED:

Individuals licensed to work or conduct business as security guards and private investigators.

PERSONS WHO WILL BENEFIT:

Individuals licensed to work or conduct business as security guards and private investigators, and the public.

PROBABLE ECONOMIC IMPACT UPON AFFECTED CLASSES OF PERSONS OR POLITICAL SUBDIVISIONS: (Listing of fees and justification)

The Governor signed into law HB 3343 on May 28, 2010. This legislation, which took effect November 1, 2010, established partial fee increases for private security and private investigator licenses issued by the Council on Law Enforcement Education and Training (CLEET). CLEET is updating its rules to reflect this statutory change:

390:35-7-7. Changing from security guard license to armed security guard license

An existing security guard license may be changed to an armed security guard license, under the following conditions:

- (1) The applicant must request the change;
- (2) The applicant must meet all the additional requirements for an armed security guard license;
- (3) A criminal history update may be conducted by CLEET, but no additional fingerprint cards, nor additional fingerprint fees shall be needed;

- (4) If an applicant wants to retain the expiration date and the number of his original license, he must pay only an additional fee of ~~twenty-five~~ thirty dollars (~~\$25.00~~) (\$30.00);
- (5) If an applicant wants his armed security guard license to be effective for a full ~~two~~ three-year term, he must accept a new license number and pay the full ~~fifty~~ one-hundred dollar (~~\$50.00~~) (\$100.00) license fee;
- (6) If a change is requested under this sub-section while his license is still in a conditional status, the balance payable for issuance of the armed security guard license shall be the fee difference between the unarmed and armed license.

The list above reflects the fee references in CLEET's rules. An entire listing of the fee schedule may be found at 59 O.S. § 1750.6.

PROBABLE COSTS AND BENEFITS TO THE AGENCY OR ANY OTHER AGENCY OF THE IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE; SOURCE OF REVENUE TO BE USED FOR IMPLEMENTATION AND ENFORCEMENT; AND ANTICIPATED EFFECT ON STATE REVENUES:

Prior to the statutory fee change enacted pursuant to HB 3343, the fees generated from private security fees were insufficient to run and operate CLEET's private security division. As the increase takes effect, it is anticipated that the fee increase will fully fund the existing division.

ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS OR ASSISTANCE REQUIRED TO IMPLEMENT OR ENFORCE RULE:

None.

ADVERSE EFFECT ON SMALL BUSINESSES AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:

None. (The proposed permanent rules are required to implement statutory changes. No effect on small businesses as provided by the Small Business Regulatory Flexibility Act. 75 O.S. 504(D)).

MEASURES TAKEN TO MINIMIZE COMPLIANCE COSTS; ALTERNATIVES CONSIDERED:

There are no additional costs associated with this change.

EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF PROPOSED RULE IS NOT IMPLEMENTED; NATURE OF RISK TO PUBLIC HEALTH, SAFETY AND ENVIRONMENT AND EXTENT PROPOSED RULE WILL REDUCE THE RISK:

This proposed rule would not affect the public health, safety or environment.

DETRIMENTAL EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF PROPOSED RULE IS NOT IMPLEMENTED:

None.

DATE PREPARED:

February 2, 2011.

Subchapter 5. License Requirements

390:35-5-2. Security guard, armed security guard, and private investigator licenses

- (a) Applicants for security guard, private investigator, or armed security guard licenses must meet and satisfy the requirements set forth in 59 O.S., Section 1750.1 et seq., The Oklahoma Security Guard and Private Investigator Act.
- (b) Applicants for Armed Security Guard or firearms authorized licenses must further:
- (1) Successfully pass a psychological evaluation by a licensed psychologist; provided that the applicant shall bear the cost of such evaluation.
 - (2) Successfully complete the firearms phase of private security training;
 - (3) Be twenty-one (21) years of age, and
 - (4) Applicants for an armed security guard license must submit an affidavit that they are gainfully employed as an armed security guard and that a firearm is required within the scope of their employment.
- (c) An Armed Security Guard License grants no authority to carry a firearm when not acting directly in the course and scope of employment.
- (d) No licensee shall brandish, point, exhibit, or otherwise display a firearm at any time, except as authorized by law, and the rules of this Chapter.
- (e) Continuing education training is required for renewal of an individual license.
- (1) Private Investigators must complete a minimum of sixteen (16) hours of continuing education training from an approved source, during the licensing period to maintain their license.
 - (2) Security Guards must complete a minimum of eight (8) hours of continuing education training from an approved source, during the licensing period to maintain their license.
 - (3) A person holding both a security guard license and private investigator license or a combination license must complete a total of sixteen (16) hours of continuing education training during the licensing period to maintain their license.
 - (4) Any expenses incurred for continuing education courses by any licensee shall be the responsibility of the licensee.
- ~~(5) For purposes of continuing education requirements, "licensing period" shall mean (730) calendar days from the date the license was issued.~~
- ~~(6)~~ (5) Firearms requalification courses will not count towards mandate training. Approved sources for mandated training are:
- (A) College credit hours. Fifteen hours of mandate training will be granted for each successfully completed college hour. Proof of attendance needed is a certified copy of the grade report. Requests for credit must be submitted within one (1) calendar year from the date the college credit is obtained;
 - (B) Established Entities (Recognized county, state, and federal associations, professional associations, vocational-technical schools). One hour of training will be granted for each hour attended in a topic which directly relates to the performance of duties under the respective license. Proof of attendance needed is a copy of a certificate, sign-in roster, electronic notification or other proof from the sponsor accepted by CLEET; or
 - (C) CLEET Accredited Schools, Seminars, and Conferences. One hour of mandate training credit will be granted for each hour of instruction. For approval to conduct mandate training, sponsors must:

- (i) Submit a written request for program accreditation to CLEET;
- (ii) Provide course outline, and course objectives;
- (iii) Provide Resume for Instructors; and
- (iv) After training, submit a roster of attendees completing the training to CLEET.

(D) Completion of training courses required for initial licensing will satisfy the continuing education requirements for the first licensing period of an initial license.

~~(7)~~ (6) Continuing education training may be reported to CLEET as it is completed or at the time of license renewal. Verification of the minimum hours of continuing education training will be made by CLEET when the licensee requests renewal. A licensee will be subject to the following disciplinary sanctions for failure to comply with the mandate training requirements:

- (A) Written Reprimand
- (B) Denial
- (C) Suspension
- (D) Revocation and/or
- (E) Disciplinary penalty or fine

~~(8)~~ (7) A renewal license will be issued only after CLEET receives a request for renewal, the renewal fee, current photographs, verification of current insurance or bond coverage, verification of the minimum hours of continuing education training for the license period.

~~(9)~~ (8) A licensee who has timely submitted a request for renewal with payment and has failed to meet the minimum training requirements will be issued official notification of CLEET's intent to impose a disciplinary action for failure to meet the mandated training requirements in compliance with Chapter 2 of this Title.

~~(10) This official notification shall provide that the licensee may temporarily continue to work for forty-five (45) days during which time the licensee must complete the training requirements and submit proof of such training to CLEET. The temporary work provisions of the Notice may be extended or cancelled by CLEET, as necessary to complete the administrative hearing process.~~ (9) A licensee who has failed to meet the minimum training requirements and continues to work will be subject to disciplinary action under Chapter 2 of this Title.

(f) Any person seeking an Oklahoma Security Guard or Private Investigators license, who has been licensed by a state whose training and standards have been deemed comparable to and approved by the Oklahoma Council on Law Enforcement Education and Training may obtain a license by reciprocity, under the following conditions:

- (1) The applicant must meet the minimum license requirement standards set forth by Oklahoma Law including fingerprint requirements. Such fingerprints requirement may be waived by CLEET where a verified records check has been made within a reasonable period of time in the context of existing law requiring fingerprint checks.
- (2) The applicant must have an active license in the original licensing state, and not be subject to any administrative action regarding the active status in the licensing state.
- (3) The applicant receiving a license by reciprocity in Oklahoma shall at all times while working as a security guard or private investigator in Oklahoma be subject to all laws regarding security guards and private investigators including all applicable fees for such license.
- (4) Reciprocity may be granted only from the state in which the applicant was originally

licensed and not from any intervening state by reciprocity to the original licensing state.

(5) The applicant must sign a statement of irrevocable consent that service of process, in any complaint or disciplinary action filed against the applicant, arising out of the applicant's private investigative activities in the reciprocating state, may be made by the delivery of such process on the administrator of the private investigation regulatory agency in his/her/its state of residence.

(6) An armored car employee who is primarily employed by an armored car company in another state, and is properly licensed by that state to carry a weapon while acting in the services of that company in the home state, and meets the minimum home state requirements, would be exempt from other requirements of 59 O. S. Section 1750.1 et seq. during such time as the armored vehicle from that state is actively engaged in interstate commerce within Oklahoma pursuant to 15 U.S.C. Section 5901, the "Armored Car Industry Reciprocity Act of 1993."

390:35-5-3. Conditional licenses

(a) Conditional licenses may be issued only to employees of security or investigative agencies.

(b) Conditional licenses may be issued to such employees when the following requirements have been met:

(1) Receipt of an applicant's completed license application form. An application form shall be considered complete when all applicable spaces have been filled in properly, and it has been signed and notarized;

(2) Receipt of two (2) properly completed, CLEET-issued "applicant" fingerprint cards or fingerprints submitted electronically through a fingerprint system approved by CLEET;

(3) Receipt of correct license fees;

(4) Receipt of three (3) personal photographs, in color and of the prescribed size or submission of a photograph electronically such as a digital photograph or scanned photograph;

~~(5) Receipt of proof of bond or liability insurance coverage, in the prescribed amount.~~

390:35-5-11. Temporary licenses; out-of-state practitioners

Any private investigator, or security guard who is duly licensed in another state as a security guard or private investigator may obtain a temporary license to conduct business in this state subject to the following provisions:

(1) Said private investigator or security guard must immediately, or as soon as possible, register with CLEET;

(2) Provide proof of a valid license granted by another state;

(3) Provide proof of adequate financial responsibility in the form of insurance or surety bond as set forth in the rules of this Chapter; and

(4) Provide a general description of business to be conducted.

(5) No temporary license shall be granted to authorize the possession or use of firearms.

(6) A person obtaining temporary authorization shall not violate any federal, state or municipal laws, or the provisions of the rules of this Chapter.

(7) Any security guard or private investigator who is licensed in another state and conducts business pursuant to this Act for a period of longer than thirty (30) ~~fifteen (15)~~ days, shall be required to obtain a regular license.

Subchapter 7. Application Procedure

390:35-7-6. Conditional license fees

- (a) All conditional license and fingerprint fees shall be non-refundable, and must accompany the license application.
- (b) Conditional licenses shall be issued for a period of 180 days. The fee for a conditional license is the same as the regular license.
- (c) The holder of a conditional license shall be issued a regular license when the following conditions have been satisfied:
 - (1) All required training and tests have been successfully completed; and
 - (2) The applicant's background investigation is satisfactorily completed.
- (d) Regular licenses so issued shall expire ~~two (2)~~ three (3) years from the effective date of the conditional license.

390:35-7-7. Changing from security guard license to armed security guard license

An existing security guard license may be changed to an armed security guard license, under the following conditions:

- (1) The applicant must request the change;
- (2) The applicant must meet all the additional requirements for an armed security guard license;
- (3) A criminal history update may be conducted by CLEET, but no additional fingerprint cards, nor additional fingerprint fees shall be needed;
- (4) If an applicant wants to retain the expiration date and the number of his original license, he must pay only an additional fee of ~~twenty-five~~ thirty dollars (~~\$25.00~~) (\$30.00);
- (5) If an applicant wants his armed security guard license to be effective for a full ~~two~~ three-year term, he must accept a new license number and pay the full ~~fifty~~ one-hundred dollar (~~\$50.00~~) (\$100.00) license fee;
- (6) If a change is requested under this sub-section while his license is still in a conditional status, the balance payable for issuance of the armed security guard license shall be the fee difference between the unarmed and armed license.

Subchapter 13. Use of Firearms

390:35-13-1. Authorized firearms

- (a) 59 O.S., Section 1750.1 et seq. is not intended to be used as a means to obtain authority to carry a weapon except in the course and scope of gainful employment as an armed security guard.
- (b) All armed security guards not in uniform apparel must carry their firearm concealed from view.
- (c) Under no condition shall an armed security guard licensee carry an inoperative, unsafe, or replica model firearm while on duty or any firearm in violation of a federal or state law, while in the course and scope of his employment.
- (d) No armed security guard or private investigator shall carry a type of firearm with which he has not been formally trained to handle and operate. Formal training must be conducted by an accredited and recognized firearms instructor and training program. Compliance with this requirement is incumbent upon the licensee and notification to CLEET shall be required by

submitting a certificate of training or a copy thereof upon completion of said training. Said notification shall include:

- (1) Type of firearms
- (2) Entity and instructor providing training
- (3) Number of training hours
- (4) Qualification scores
- (5) Date(s) of training

(e) The only weapons authorized by CLEET for use by armed security guards or armed private investigators are revolvers, semi-automatic weapons, and shotguns. The prescribed revolver or semi-automatic weapon ammunition shall be "factory-loaded". Ammunition commonly referred to as "re-loads" is strictly prohibited for use as service ammunition.

(f) The pump (slide action) 12 gauge shotgun shall be the only authorized shotgun weapon. Pump shotguns which have a hammer safety are prohibited. The pump shotgun nomenclature shall be similar to the type indicated in Appendix B of this Chapter.

(g) The authorized shotgun service ammunition shall be the standard 12-gauge shell which is 2 3/4 inches in length and ordinarily carries from 1 to 1 5/8 ounces of shot with pellets ranging from light bird shot to heavy buckshot.

(h) The prescribed shotgun ammunition shall be "factory loaded". Ammunition commonly referred to as "re-loads" is strictly prohibited for use as service ammunition.

(i) No licensee shall brandish, point, exhibit, or otherwise display a firearm at anytime, except as authorized by law, and the rules of this subchapter.

Subchapter 15. Training and Standards Requirements

390:35-15-7. Attendance and administrative requirements

(a) School coordinators shall provide the following information to CLEET, thirty (30) days in advance of each training course conducted, on forms to be provided by CLEET:

- (1) Training facility location;
- (2) Chief Administrative Officer of the school;
- (3) School coordinator and resume;
- (4) Course schedule, to include dates, hours and instructors for each unit of instruction; and
- (5) Resumes on all Instructors.

(b) Any changes in an approved school curriculum, instructors, or training schedules, shall be reported to CLEET in advance of the changes.

(c) Private security personnel enrolled in an approved training school are required to attend all prescribed units of instruction. Tardiness and absenteeism will not be permitted. Students will be required to make up any training missed.

(d) It shall be incumbent upon students enrolled at an approved school to comply with the rules and policies promulgated by the school and any rules established by, and within the authority of the school coordinator. If a school coordinator considers violations of such rules to be detrimental to the welfare of the school, the school coordinator may expel offending individuals from the school. Notification of such actions shall be reported immediately to the employing agency and to CLEET. School coordinators shall be responsible for ensuring compliance with the provisions of these rules and regulations.

(e) At the end of each training course, each student shall be given the opportunity to evaluate the

performance of the school coordinator and each instructor on a form provided by CLEET. CLEET staff may conduct these evaluations, at their discretion.

(f) School coordinators shall submit a roster of graduating students, certifying that each student has met the requirements of the course conducted. This certification shall be submitted to CLEET within seven (7) days after the completion of the course, on a form provided by CLEET.

(g) Each training school coordinator will be required to maintain class files for a period of five (5) years from the completion date of each course conducted. Class files shall contain the following:

- (1) Roster of students who attended and/or successfully complete the course;
- (2) Accurate attendance records;
- (3) Examination scores (including firearms familiarization scores), and
- (4) Unit instructors.

(h) Applicants must successfully complete a licensing examination administered by CLEET, based on the official private security curricula, prior to issuance of a license.

(1) Applicants will be given five opportunities to successfully complete the state licensing examination.

(2) If the applicant is unable to successfully pass the examination after ~~five~~ three (3) attempts, he/she must retake the course.

(3) After repeating the course, applicants will be given two opportunities to successfully pass the examination.

(4) Training costs will be paid by the applicant.