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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 2335** Session of 2004

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FEBRUARY 3, 2004

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 3, 2004

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 22 (Detectives and
2 Private Police) of the Pennsylvania Consolidated Statutes,
3 adding the offense of impersonating private detective;
4 codifying the Private Detective Act of 1953; and making a
5 repeal related to that codification.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 18 of the Pennsylvania Consolidated
9 Statutes is amended by adding a section to read:

10 § 4913.1. Impersonating private detective.

11 A person commits a misdemeanor of the first degree if the
12 person:

13 (1) falsely pretends to hold a private detective license
14 within this Commonwealth; or

15 (2) falsely pretends to be an employee of a holder of a
16 private detective license within this Commonwealth; and

17 (3) performs any action in furtherance of this false
18 pretense.

1 Section 2. Chapter 3 of Title 22 is repealed and Title 22 is
2 amended by adding a chapter to read:

3 CHAPTER 3

4 PRIVATE DETECTIVES

5 Sec.

6 301. Scope of chapter.

7 302. Definitions.

8 303. License required.

9 304. Application for license.
 10 305. Forged or counterfeit license.
 11 306. Enforcement.
 12 307. Investigations.
 13 308. Bond.
 14 309. Fee required.
 15 310. Prohibition.
 16 311. Issuance of license.
 17 312. License.
 18 313. Renewal.
 19 314. Employees.
 20 315. Pocket cards and badges.
 21 316. Prohibited acts.
 22 § 301. Scope of chapter.
 23 This chapter relates to any individual, corporation,
 24 partnership, firm, business or other legal entity that engages
 25 in the business of private investigation, the business of watch,
 26 guard or patrol agency or the business of a private detective.
 27 § 302. Definitions.
 28 The following words and phrases when used in the chapter
 29 shall have the meanings given to them in this section unless the
 30 context clearly indicates otherwise:
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1 "Private detective."
 2 (1) An individual, corporation, partnership, firm,
 3 business or other legal entity which for a fee primarily
 4 engages in any of the following activities:
 5 (i) The investigation of:
 6 (A) Crimes or wrongs done or threatened against
 7 an individual, group of individuals, corporation,
 8 business, partnership or other legal entity.
 9 (B) The identity, habits, conduct, movement,
 10 whereabouts, affiliations, associations,
 11 transactions, reputation or character of any
 12 individual, group of individuals, association,
 13 organization, society, partnership or corporation.
 14 (C) The credibility of witnesses or other
 15 individuals.
 16 (D) The whereabouts of missing individuals.
 17 (E) The location or recovery of lost or stolen
 18 property.
 19 (F) The causes or origins of or responsibility
 20 for fires or torts or losses, accidents, damage or
 21 injuries to personal or real property.
 22 (G) The conduct of employees, agents,
 23 contractors and subcontractors.
 24 (ii) The securing of evidence for any civil or
 25 criminal proceeding.
 26 (iii) The provision of watch, guard or private
 27 patrol personnel to protect individuals or property or to
 28 prevent the unlawful taking of personal property or other
 29 items of value.
 30 (2) The term does not include the following:
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1 (i) An individual employed by a credit bureau.
 2 (ii) An individual employed as an investigator or
 3 adjuster for an insurance company.
 4 (iii) An individual in the exclusive employment of a
 5 common carrier subject to Federal regulation or
 6 regulation by the Pennsylvania Public Utility Commission.
 7 (iv) An individual employed by a telephone,
 8 telegraph or other telecommunications company subject to
 9 regulation by the Federal Communications Commission or
 10 the Pennsylvania Public Utility Commission.
 11 "Prosecuting authority." The Attorney General or the
 12 district attorney in the county in which the private detective's
 13 principal place of business is located.
 14 § 303. License required.
 15 (a) Unlawful to act without license.--A private detective
 16 shall obtain a license as required in this chapter. A license is
 17 required for each bureau or agency, subagency, office and branch
 18 office owned, managed or maintained by a private detective.
 19 (b) Employees.--A private detective may employ individuals
 20 to assist the private detective. Nothing in this chapter shall
 21 require an employee of a private detective to obtain a license.
 22 § 304. Application for license.
 23 (a) General rule.--An individual, corporation, partnership,
 24 firm, business or other legal entity intending to be a private
 25 detective shall apply for a license as set forth in this
 26 chapter. Failure to do so shall subject the individual,
 27 corporation, partnership, firm, business or other legal entity
 28 to penalties as provided in this chapter and may subject the
 29 individual, corporation, partnership, firm, business or other
 30 legal entity to criminal prosecution under 18 Pa.C.S. § 4913.1
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1 (relating to impersonating private detective).
 2 (b) Prohibition.--
 3 (1) In addition to the other requirements of this
 4 chapter, a license shall not be issued unless the applicant
 5 can establish that for no less than three years the applicant
 6 has:
 7 (i) Held the rank of detective or a rank higher than
 8 that of patrol officer on a municipal police force.
 9 (ii) Has been:
 10 (A) A member of the Pennsylvania State Police.
 11 (B) A sheriff.
 12 (C) A member of a United States investigative
 13 service.
 14 (2) An applicant who knowingly gives false information
 15 about the applicant's law enforcement experience in order to
 16 satisfy the requirement of this subsection commits an offense
 17 under 18 Pa.C.S. § 4904 (relating to unsworn falsification to
 18 authorities).
 19 (3) This subsection shall apply regardless of whether
 20 the applicant is an individual, corporation, partnership,
 21 firm, business or other legal entity. In the case of a
 22 corporation, partnership, firm, business or legal entity
 23 other than a natural person, at least one officer or partner
 24 must meet the requirement of this subsection.

25 (c) Form.--The Attorney General shall develop an application
26 form to be used in applying for a private detective license.
27 Application forms for a private detective license shall be
28 available at the office of clerk of courts of the court of
29 common pleas.

30 (d) Contents.--In addition to information provided by the
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1 applicant under subsection (b), the applicant shall:

2 (1) Provide a current photograph.

3 (2) State his full name, aliases, age, residence,
4 current and previous occupations, including prior law
5 enforcement experience pursuant to subsection (b).

6 (3) State whether the applicant is applying for a
7 license as an individual, corporation, partnership, firm,
8 business or other legal entity.

9 (4) Provide the location of the agency and any
10 subagency, branch, bureau, office or suboffice which is
11 owned, managed or maintained by the applicant.

12 (5) Provide other information which the Attorney General
13 deems appropriate.

14 (6) Sign the application.

15 (7) Provide a full set of fingerprints.

16 (e) Corporate and certain other entities.--If the applicant
17 is a corporation, partnership, firm, business or legal entity
18 other than a natural person, the requirements of this subsection
19 shall apply to the president, treasurer and secretary of the
20 corporation, or equivalent officers of a partnership, firm,
21 business or other legal entity, and shall include copies of the
22 articles of incorporation or similar documents evidencing
23 enterprise formation. In the case of death, resignation or
24 removal of an officer of a corporation, partnership, firm,
25 business or other legal entity, the successor must comply with
26 this section, and notice must be provided in writing regarding
27 the death, resignation or removal, along with a copy of the
28 minutes of any meeting of the board of directors or similar
29 body, indicating the removal of an officer and designation of a
30 successor.

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1 (f) Penalty.--The application shall state that if an
2 applicant makes a false written statement on the application
3 that the applicant does not believe to be true, the applicant
4 commits an offense under 18 Pa.C.S. § 4904.

5 (g) Filing.--The application and any notice of succession
6 required under subsection (c) shall be filed with the clerk of
7 courts of the court of common pleas in the judicial district in
8 which the applicant's principal place of business is located.
9 The clerk of courts shall forward the application as follows:

10 (1) In the case of an applicant who is an individual or
11 partnership, to the district attorney in the county in which
12 the applicant's principal place of business is located.

13 (2) In all other cases, to the district attorney in the
14 county in which the applicant's principal place of business
15 is located and to the Attorney General.

16 (h) Fingerprints required.--The clerk of courts shall submit
 17 the fingerprints of the applicant to the Pennsylvania State
 18 Police in order to obtain a report of criminal history record
 19 information from the central repository pursuant to 18 Pa.C.S.
 20 Ch. 91 (relating to criminal history record information) and a
 21 report of Federal criminal history record information. The clerk
 22 of courts shall be the intermediary for purposes of this
 23 subsection. The clerk of courts shall forward Federal and State
 24 criminal history record information to the appropriate
 25 prosecuting authority as follows:

26 (1) In the case of an applicant that is an individual or
 27 partnership, to the district attorney in the county in which
 28 the applicant's principal place of business is located.

29 (2) In all other cases, to the district attorney in the
 30 county in which the applicant's principal place of business

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1 is located and to the Attorney General.

2 (i) Review.--The appropriate prosecuting authority shall
 3 review the application and the criminal history record
 4 information to ensure that an applicant meets the requirements
 5 for issuance of a license or renewal of a license under section
 6 313 (relating to renewal), including the posting of a bond as
 7 required in section 308 (relating to bond). The prosecuting
 8 authority shall also conduct any investigation of the applicant,
 9 or the licensee seeking renewal of a license, that the
 10 prosecuting authority deems necessary to ensure that the
 11 applicant or licensee is one of good character, competency and
 12 integrity.

13 § 305. Forged or counterfeit license.

14 An individual who uses a forgery or a counterfeit license or
 15 who performs the duties of a private detective without complying
 16 with section 304 (relating to application for license) or
 17 without a license issued by the court of common pleas commits a
 18 felony of the third degree.

19 § 306. Enforcement.

20 (a) Individuals and partnerships.--For an applicant which is
 21 an individual or a partnership, the district attorney shall have
 22 the exclusive authority to enforce this chapter and shall also
 23 have the exclusive duty to conduct investigations as provided in
 24 sections 304(i) (relating to application for license) and 307
 25 (relating to investigations).

26 (b) Corporations and businesses.--Subject to subsection (c),
 27 for an applicant other than an individual or partnership, the
 28 district attorney shall have the authority to enforce this
 29 chapter and the duty to conduct investigations as provided in
 30 sections 304(i) and 307.

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1 (c) Referral.--For an applicant under subsection (b), a
 2 district attorney may refer a matter relating to enforcement or
 3 investigation to the Attorney General. In such a case, the
 4 Attorney General shall have the exclusive duty to enforce the
 5 provisions of this chapter and to conduct any investigation as
 6 provided in sections 304(i) and 307.

7 § 307. Investigations.

8 (a) General rule.--The prosecuting authority shall have the
9 power upon his own initiative or upon complaint of an individual
10 to:

11 (1) Investigate the business practices of an applicant
12 or private detective.

13 (2) Investigate alleged violations of this chapter by an
14 applicant or private detective.

15 (3) Conduct an investigation as set forth in section
16 304(i) (relating to application for license).

17 (4) Investigate any other matter arising under this
18 chapter.

19 (b) Method.--The prosecuting authority shall have the power
20 to:

21 (1) Issue subpoenas to bring before the prosecuting
22 attorney any individual or to require the production of any
23 books or papers which the prosecuting authority deems
24 relevant to the investigation.

25 (2) Take depositions.

26 (3) Take testimony.

27 (4) Administer oaths.

28 (c) Penalty.--An individual who, without reasonable cause,
29 fails to obey a subpoena issued by a prosecuting authority or
30 fails, without reasonable cause, to be examined by a prosecuting
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1 authority commits a misdemeanor of the third degree.

2 § 308. Bond.

3 (a) General rule.--An applicant for a private detective
4 license shall deliver to the clerk of courts a bond in the
5 amount of \$10,000 for an individual or partnership or a bond in
6 the amount of \$25,000 in all other cases.

7 (b) Surety required.--The bond shall be written by a
8 corporate surety company authorized to do business in this
9 Commonwealth as a surety and shall be executed to the
10 Commonwealth of Pennsylvania.

11 (c) Clerk of courts.--The clerk of courts shall forward
12 evidence of the bond to the appropriate prosecuting authority.

13 § 309. Fee required.

14 (a) General rule.--The license fee for a private detective
15 meeting the requirements of this chapter shall be paid to the
16 court of common pleas in the judicial district where the
17 principal place of business of the private detective is located.
18 License fees are as follows:

19 (1) For an individual or partnership, \$300.

20 (2) For a private detective not included under paragraph
21 (1), \$1,000.

22 (b) Additional fee.--In accordance with section 303
23 (relating to license required), a fee of \$100 shall be paid for
24 the license required for each bureau or agency, subagency,
25 office or branch office owned, maintained or managed by a
26 private detective. Each fee of \$100 shall be paid to the court
27 of common pleas in the judicial district where each bureau or
28 agency, subagency, office or branch is located.

29 (c) Duration.--A license under subsection (a)(1) shall last
30 for two years. A license under subsection (a)(2) shall last for

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1 five years.

2 (d) Revocation.--The court of common pleas shall revoke the
3 license for good cause shown. In the case of revocation, no
4 refund of license fees paid pursuant to this chapter shall be
5 made.

6 § 310. Prohibition.

7 In no case shall a private detective license be issued to an
8 applicant if the applicant's criminal history record information
9 indicates the applicant has been convicted of any of the
10 following:

11 (1) An offense designated as a felony under the act of
12 April 14, 1972 (P.L.233, No.64), known as The Controlled
13 Substance, Drug, Device and Cosmetic Act.

14 (2) An offense under one or more of the provisions of 18
15 Pa.C.S. (relating to crimes and offenses):

16 Chapter 25 (relating to criminal homicide).

17 Chapter 27 (relating to assault) where the offense is
18 graded higher than a summary offense.

19 Chapter 29 (related to kidnapping).

20 Chapter 31 (relating to sexual offenses).

21 Section 3301 (relating to arson and related
22 offenses).

23 Section 3502 (relating to burglary).

24 Chapter 37 (relating to robbery).

25 Chapter 39 (relating to theft and related offenses)
26 where the offense is graded higher than a summary
27 offense.

28 Chapter 41 (relating to forgery and fraudulent
29 practices).

30 Chapter 43 (relating to offenses against the family).

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1 Chapter 47 (relating to bribery and corrupt
2 influence).

3 Chapter 49 (relating to falsification and
4 intimidation).

5 Chapter 53 (relating to abuse of office).

6 Chapter 55 (relating to riot, disorderly conduct and
7 related offenses) where the offense is graded higher than
8 a summary offense.

9 Chapter 59 (relating to public indecency).

10 Chapter 63 (relating to minors) where the offense is
11 graded higher than a summary offense.

12 (3) A Federal or out-of-State offense similar in nature
13 to those listed in paragraphs (1) and (2).

14 (4) An attempt, solicitation or conspiracy to commit any
15 of the offenses listed in paragraphs (1) and (2).

16 § 311. Issuance of license.

17 (a) Clerk of courts.--The clerk of courts shall issue a
18 private detective license within ten days of being notified by
19 the prosecuting authority that all of the requirements for a
20 license under this chapter have been met.

21 (b) Requirements.--In no case shall the clerk of courts

22 issue a license unless:

- 23 (1) The application and the criminal history record
 24 information have been examined by the prosecuting authority
 25 in order to ensure compliance with the requirements of this
 26 chapter.
 27 (2) The bond and license fee have been paid by the
 28 applicant.
 29 (3) The prosecuting authority is satisfied that the
 30 applicant is one of good character, competency and integrity.

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1 (c) Notification.--The prosecuting authority shall notify
 2 the clerk of courts when all requirements of this chapter have
 3 been met by an applicant. The prosecuting authority shall also
 4 notify the clerk of courts of the failure of an applicant to
 5 meet the requirements of this chapter.

6 § 312. License.

7 (a) Contents.--The Attorney General shall prescribe the form
 8 of a private detective license. It shall contain the following
 9 information:

10 (1) The full name of the licensee.

11 (2) The location of the principal place of business and
 12 the location of the bureau, agency, subagency, office or
 13 branch office for which the license is issued.

14 (3) The date on which the license will expire.

15 (4) The names and residences of the individuals that
 16 applied for the license.

17 (5) Other information the Attorney General deems
 18 appropriate.

19 (b) Change of residence.--A licensee shall notify the clerk
 20 of courts in writing within 24 hours of a change of residence of
 21 the licensee. Failure to meet the requirements of this
 22 subsection shall constitute grounds for revocation of the
 23 license by the court of common pleas.

24 (c) Change of location.--A licensee shall notify the clerk
 25 of courts in writing within 24 hours of a change of location of
 26 the principal place of business or the location of the bureau,
 27 agency, subagency, office or branch for which the license was
 28 issued. Notice shall include the new location of the principal
 29 place of business or the bureau, agency, subagency, office or
 30 branch office and the date on which the change was made. Failure

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1 to meet the requirements of this subsection shall constitute
 2 grounds for revocation of the license by the court of common
 3 pleas.

4 (d) License.--In the case of a change of location as
 5 described in subsection (c), the licensee shall deliver the
 6 license to the clerk of courts. The clerk of courts shall note
 7 the change on the license and return it to the licensee.

8 (e) License to be posted.--A licensee shall post his private
 9 detective license in a conspicuous place in the bureau, agency,
 10 subagency, office or branch office. Failure to post the license
 11 as provided in this subsection shall constitute a misdemeanor of
 12 the third degree.

13 (f) Expiration.--A private detective shall surrender his
 14 license to the clerk of courts within 72 hours of its expiration
 15 or within 72 hours after notice has been provided to the private
 16 detective that the license has been revoked. A private detective
 17 who fails to comply with this subsection commits a misdemeanor
 18 of the third degree.

19 § 313. Renewal.

20 (a) General rule.--Within six months of expiration, a
 21 licensee may apply for renewal of a private detective license.

22 (b) Form.--The Attorney General shall prescribe a renewal
 23 form.

24 (c) Requirements.--In the case of an application for renewal
 25 of a license, the applicant must:

26 (1) Pay a bond as required in section 308 (relating to
 27 bond).

28 (2) Pay a fee as required in section 309 (relating to
 29 fee required).

30 (3) Meet the requirements of section 310 (relating to
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1 prohibition).

2 (d) Prohibition.--A license shall not be renewed by the
 3 clerk of courts until the requirements of section 311(b) and (c)
 4 (relating to issuance of license) have been met.

5 (e) Prosecuting authority.--The appropriate prosecuting
 6 authority shall conduct a review of the licensee as provided in
 7 section 304(i) (relating to application for license).

8 § 314. Employees.

9 (a) General rule.--A private detective may employ as many
 10 individuals as necessary to assist the private detective in the
 11 work of a private detective. The private detective shall at all
 12 times during such employment be responsible for the reasonable
 13 supervision of each individual.

14 (b) Prohibition.--In no case shall a private detective
 15 knowingly, recklessly or negligently hire an individual who has
 16 been convicted of any of the offenses listed in section 310
 17 (relating to prohibition) or who fails to fill out an employee
 18 statement as specified in subsections (c) and (d).

19 (c) Application.--A prospective employee of a private
 20 detective shall complete an application form which is prescribed
 21 by the Attorney General. A private detective shall act with due
 22 diligence to reasonably verify the truthfulness of the employee
 23 statement.

24 (d) Attorney General.--

25 (1) The Attorney General shall develop a form for an
 26 applicant seeking employment with a private detective to be
 27 known as the employee statement. The applicant shall:

28 (i) Provide a current photograph.

29 (ii) State the applicant's name, aliases, prior
 30 employment history, address, prior residences and Social

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1 Security number.

2 (iii) State whether the applicant has met the
 3 requirements of the act of October 10, 1974 (P.L.705,

4 No.235), known as the Lethal Weapons Training Act.
5 (iv) State the country of which the applicant is a
6 citizen.
7 (v) Provide a physical description.
8 (vi) Provide a statement that the applicant has not
9 been convicted of any of the offenses in section 310.
10 (vii) Comply with any other requirement the Attorney
11 General deems appropriate.
12 (2) The employee statement shall state that if the
13 applicant knowingly provides false information, the applicant
14 commits an offense under 18 Pa.C.S. § 4904 (relating to
15 unsworn falsification to authorities).
16 (e) Criminal history.--The applicant shall submit two sets
17 of fingerprints with the employee statement to the private
18 detective. The private detective shall keep one set of
19 fingerprints on file with the employee statement and shall
20 forward the other set of fingerprints to the clerk of courts
21 along with a copy of the employee statement. The clerk of courts
22 shall submit the fingerprints of the applicant to the
23 Pennsylvania State Police in order to obtain a report of
24 criminal history record information from the central repository
25 pursuant to 18 Pa.C.S Ch. 91 (relating to criminal history
26 record information) and a report of Federal criminal history
27 record information. The clerk of courts shall be the
28 intermediary for the purposes of this subsection. The clerk of
29 courts may from time to time and shall upon request of a
30 prosecuting authority cause the fingerprints of an applicant to
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1 be checked against the fingerprints on file in the central
2 repository or the national fingerprint file.
3 (f) Review.--If the clerk of courts finds any record
4 affecting the fingerprints of the applicant, the clerk of courts
5 shall immediately notify the private detective and the district
6 attorney. The clerk of courts shall forward the criminal history
7 record information and a copy of the employee statement to the
8 district attorney. The district attorney shall review the
9 criminal history record information of the applicant to
10 determine whether the applicant has been convicted of any
11 offense listed in section 310. When the review is complete, the
12 district attorney shall notify the clerk of courts and the
13 private detective whether the applicant is prohibited from being
14 employed by a private detective.
15 (g) District attorney.--The district attorney when
16 conducting a review pursuant to subsection (f) may also review
17 the employee statement in order to determine the applicant's
18 compliance with this section.
19 (h) Employer.--A private detective who knowingly, recklessly
20 or negligently employs an applicant in violation of this section
21 commits a misdemeanor of the first degree. A private detective
22 who knowingly, recklessly or negligently files the fingerprints
23 of an individual other than the applicant under the applicant's
24 name with the clerk of courts commits a misdemeanor of the third
25 degree.
26 (i) Revocation.--Failure to comply with the provisions of
27 this section shall constitute grounds for the revocation of a

28 license by the court of common pleas. In such a case, the court
29 may revoke a license upon its own motion or upon the motion of
30 another.

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1 § 315. Pocket cards and badges.

2 (a) Private detectives.--When the prosecuting authority
3 notifies the clerk of courts pursuant to section 311 (relating
4 to issuance of license) that all of the requirements for the
5 issuance of a private detective license have been met, the clerk
6 of courts shall issue to the private detective a pocket card and
7 a badge. The pocket card shall be of the size and design as the
8 Attorney General shall designate and shall be nontransferable.

9 At minimum, the pocket card shall include the following:

10 (1) The private detective's name.

11 (2) The private detective's photograph.

12 (3) The name and business address of the legal entity
13 holding the license.

14 (b) Employees.--If the clerk of courts finds no record
15 affecting the fingerprints of an applicant seeking employment
16 with a private detective or if the clerk of courts has been
17 notified by the district attorney that an applicant is not
18 prohibited from being hired due to criminal history record
19 information in accordance with section 314(f) (relating to
20 employees), the clerk of courts shall issue to the private
21 detective a pocket card and badge for use by the employee. If
22 the private detective does not employ the applicant for any
23 reason, the private detective shall return the pocket card and
24 badge to the clerk of courts. The clerk of courts shall destroy
25 a returned pocket card and badge. Failure of the private
26 detective to return the pocket card and badge shall constitute
27 grounds for revocation of a license and shall constitute a
28 summary offense.

29 (c) Holders of pocket cards and badges.--It shall be
30 unlawful for a private detective or an employee of a private

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1 detective to lend or to transfer the pocket card or badge to
2 another or to allow any other individual to use, wear or display
3 a pocket card or badge. A private detective or employee who
4 violates this subsection commits a misdemeanor of the third
5 degree.

6 (d) Attorney General.--The Attorney General shall design a
7 pocket card and badge for use by private detectives and their
8 employees.

9 § 316. Prohibited acts.

10 (a) Information.--Except as otherwise provided by law, no
11 employee of a private detective shall divulge information
12 learned in the employee's capacity of employee of a private
13 detective to anyone other than the private detective or to an
14 individual designated by the private detective.

15 (b) Penalty.--An employee who violates subsection (a)
16 commits a misdemeanor of the third degree.

17 Section 3. A private detective who is licensed in accordance
18 with the act of August 21, 1953 (P.L.1273, No.361), known as The

19 Private Detective Act of 1953, as of the effective date of this
20 act shall be deemed to be licensed under and in compliance with
21 22 Pa.C.S. Ch. 3 for the balance of the private detective's
22 current term of license.
23 Section 4. The act of August 21, 1953, (P.L.1273, No.361),
24 known as The Private Detective Act of 1953, is repealed.
25 Section 5. This act shall take effect in 180 days.

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