
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: SB 385 **Hearing Date:** April 23, 2019
Author: Jones
Version: April 9, 2019
Urgency: No **Fiscal:** Yes
Consultant: JK

Subject: *Private Investigator Act*

HISTORY

Source: CA Association of Licensed Investigators

Prior Legislation: None

Support: Unknown

Opposition: None Known

PURPOSE

The purpose of this bill is to begin requiring a private investigator license by January 1, 2021 and prohibit a person from falsely representing themselves as a private investigator punishable as a misdemeanor.

Existing law establishes that no person shall engage in a business, act or assume to act as, or represent themselves to be, a licensee unless they are licensed; and no person shall falsely represent that they are employed by a licensee. (B&P Code, 7520.)

Existing law states that any person falsely engaging in a business as a private investigator is guilty of an infraction, punishable by a fine of one thousand dollars (\$1000). (B&P Code, 7520.1 (a)(c).)

Existing law states that the offense is an infraction unless the defendant after being advised of their rights can elect to have the case proceed as a misdemeanor. (B&P Code, 7520.1 (a)(1).)

Existing law states that upon the issuance of a license, a pocket card of the size, design, and content as may be determined by the director shall be issued by the bureau to each licensee, as follows:

- If the licensee is an individual, the pocket card shall be issued to the licensee and the licensee's qualified manager.
- If the licensee is a partnership, the pocket card shall be issued to each partner of the partnership licensee active in the business and the licensee's qualified manager.
- If the licensee is a corporation, the pocket card shall be issued to each officer active in the business and the licensee's qualified manager.

- If the licensee is a limited liability company, the pocket card shall be issued to each member, officer, and manager of the licensee active in the business and the licensee's qualified manager.

Existing law states that the pocket card is evidence that the licensee is licensed. The card shall contain:

- The signature of the licensee, signature of the chief, and a photograph of the licensee, or bearer of the card, if the licensee is other than an individual.
- Clearly state that the person is licensed as a private investigator or is the qualified manager, officer, member, or manager of the licensee.
- Be composed of a durable material and may incorporate technologically advanced security features.

Existing law states that the bureau may charge a fee sufficient to reimburse the department's costs for furnishing the pocket card. The fee charged shall not exceed the actual direct costs for system development, maintenance, and processing necessary to provide this service, and shall not exceed sixteen dollars (\$16). When a person to whom a card is issued terminates his or her position, office, or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the bureau for cancellation. Every person, while engaged in any activity for which licensure is required, shall display his or her valid pocket card as provided by regulation. (B&P Code, 7529 (a)(b).)

Existing law states that to renew an unexpired license or certificate, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the director, and pay the renewal fee. (B&P Code, 7558.1 (a).)

This bill states that the Bureau of Security and Investigative Services shall make available and provide to consumers, through its internet website, the ability to search and identify licensees by individual name.

This bill establishes that any person falsely engaging in a business as a private investigator is guilty of a misdemeanor and is punishable by a fine of one thousand dollars (\$1000) or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

This bill establishes that upon the issuance of a license, a pocket card of the size, design, and content as may be determined by the director or the director's designee shall be issued by the bureau to each licensee, as follows:

- If the licensee is an individual, the pocket card shall be issued to the licensee and to the licensee's qualified manager.
- If the licensee is a partnership, the pocket card shall be issued to each partner of the partnership licensee active in the business and to the licensee's qualified manager.
- If the licensee is a corporation, the pocket card shall be issued to each officer active in the business and to the licensee's qualified manager.
- If the licensee is a limited liability company, the pocket card shall be issued to each member, officer, and manager of the licensee's qualified manager.

This bill states that the pocket card is evidence that the licensee is licensed. The card shall contain the signature of the licensee, signature of the chief, and a photograph of the licensee, or bearer of the card, if the licensee is other than an individual. The card shall clearly state that the person is licensed as a private investigator or is the qualified manager, officer, member, or manager of the licensee. The pocket card is to be composed of a durable material and may incorporate technologically advanced security features.

This bill states that every person, while engaged in any activity for which licensure is required, shall display the person's valid pocket card as provided by regulation.

This bill states that this shall the pocket card shall become inoperative on January 1, 2021.

This bill states that upon the issuance of and with each biennial renewal of a license, a license in the form of an enhanced photo identification card of the size, design, and content as may be determined by the director or the director's designee shall be issued by the bureau to each licensee.

This bill states that this license shall become operative on January 1, 2021.

COMMENTS

1. Need for this Bill

According to the author of this bill:

Since at least 1994, Section 7520.1 of the Private Investigator Act [PI Act] has provided that the penalty for engaging as a private investigator without a license is an infraction punishable by a \$1,000 fine. However, another provision of the PI Act, Section 7523 of the Business and Professions Code, specifies that it is a misdemeanor to represent, use a letterhead or advertise oneself as a licensee without a license.

This bill conforms the two sections regarding the punishment for unlicensed activities.

An individual acting as a private investigator without a license presents a serious risk to the safety of individuals and businesses. They are provided the most intimate, personal, sensitive information from those who place them in a position of trust and who request that they perform investigations. Acting as a private investigator without a license should be a misdemeanor rather than an infraction.

2. Private Investigators Generally

Private Investigators (PIs) fall under the Department of Consumer Affairs' Bureau of Security & Investigative Services. PIs are individuals hired to undertake investigatory law services. Their duties can include:

- Investigate crimes,
- Investigates the identity, business, occupation, character, etc., of a person,
- Investigates the location of lost or stolen property,

- Investigates the cause of fires, losses, accidents, damage or injury,
- Secures evidence for use in court.

There are qualifications that prospective PIs must meet, including:

- 18 years or older.
- Undergo a criminal history background check through the California Department of Justice and the Federal Bureau of Investigation.
- Have experience in one or more of the following:
 - Investigative work,
 - A law degree or a four year course in police science plus investigative experience,
 - Associate's degree in police science, criminal law, or justice and investigative experience,
- Pass an examination,
- Pay associated fees.

PIs are not required to carry a firearm; however, they are allowed to apply for a firearm permit through the bureau.

These qualifications can be costly but when a PI meets all requirements, they can obtain their paper license. These licenses do not have the licensee's photo or an expiration date. If the licensee would like a pocket card, they can purchase one but it is not required. With the license paper and/or pocket card, a PI is able to enter gated communities, prisons and jails, and other secured facilities for the purposes of their investigation.

3. This Bill Elevates an Infraction to a Misdemeanor

This bill streamlines the license process by requiring all PIs to obtain a license with a photo and an expiration date, as well as simplifying the online database. This will aid in the identification of fraudulent PIs. Existing law establishes this fraudulent activity to be punishable as an infraction with a \$1000 fee. Unlike infractions, misdemeanors carry a potential for loss of liberty. Due to this potential punishment, persons charged with misdemeanors are provided attorneys if they cannot afford one, and they are guaranteed a trial by jury. While most misdemeanors in CA carry a possible punishment of up to 6 months in county jail, this bill carries a punishment of *up to one year* in county jail. The committee should consider whether this offense is best treated as an infraction or a misdemeanor.

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