

Amendment to SB 467-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 Chapter Heading. Amend the chapter heading of RSA 106-F to read as follows:

4

CHAPTER 106-F

5

PRIVATE INVESTIGATIVE AGENCIES, BAIL ~~[ENFORCEMENT AGENCIES]~~

6

RECOVERY AGENTS, AND SECURITY SERVICES

7

2 Purpose; Bail Recovery Agents Added. Amend RSA 106-F:1, I to read as follows:

8

I. Provide reasonable supervision of private investigative agencies and their employees,
9 security guard services and their employees, and individuals licensed as private investigators ~~[and]~~,
10 security guards, **and bail recovery agents** doing business in this state.

10

11

3 Advisory Board; Membership. Amend RSA 106-F:3-a to read as follows:

12

106-F:3-a Advisory Board.

13

I. There is hereby established an advisory board to review complaints and licensing issues
14 relative to private investigative agencies, **bail recovery agent services**, and security **guards and**
15 **security** services. Each **appointed** member shall be appointed by the governor and approved by
16 the council. A member shall continue to serve until a successor is appointed by the governor and
17 council. Members of the board shall serve without compensation. **Appointed** members shall each
18 serve a term of 3 years. No appointed member shall be eligible to serve more than 3 full consecutive
19 terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year
20 term shall be deemed a full term. Initial appointments made by the governor shall be staggered for
21 terms of one, 2, or 3 years.

22

II. The board shall consist of:

23

(a) Three members licensed in New Hampshire as investigators and who have been so
24 licensed for the last 5 years~~[- one of whom shall be engaged in the practice of accident~~
25 ~~reconstruction or the practice of bail recovery].~~

26

(b) Two members of the general public who are not and have never been licensed in
27 New Hampshire or another jurisdiction as investigators, **private security guards, or bail**
28 **recovery agents** and who are not the spouse of any such person and who do not have and never
29 have had a material interest in either provision of private investigation services, **private security**
30 **services, or bail recovery services**, or an activity directly related to private investigation,
31 **private security services, or bail recovery services**, including representation of the board or
32 profession for a fee at any time during the 5 years preceding their appointments.

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1 (c) One member of the law enforcement community.

2 (d) ***One member licensed in New Hampshire as a private security guard or bail***
3 ***recovery agent and who has been so licensed for the last 3 years.***

4 (e) The commissioner of the department of safety, or designee.

5 III. The board shall elect a chairperson ***and vice-chairperson*** from its members. [~~The~~
6 ~~board shall hold its first meeting no later than 90 days after the effective date of this section.~~]

7 4 Definitions. Amend RSA 106-F:4, III is repealed and reenacted to read as follows:

8 III. "Bail recovery agent" shall have the same meaning as that term is defined in RSA
9 597:7-b, I(b).

10 5 License Required. Amend RSA 106-F:5, I and II to read as follows:

11 I. No person shall engage in the business of a private investigative agency, security guard
12 agency, or bail [~~enforcement~~] ***recovery*** agency without obtaining a private investigative, security
13 guard, or bail [~~enforcement~~] ***recovery*** agency license from the commissioner of safety and no person
14 shall engage in the business of [a] ***private investigative service***, security guard service or bail
15 [~~enforcement~~] ***recovery*** service without obtaining a [~~security guard service or bail enforcement~~
16 ~~service~~] license from the commissioner of safety.

17 II. No person shall become an employee of a private investigative agency, a security guard
18 agency, or a bail [~~enforcement~~] ***recovery*** agency without first obtaining a license to do so from the
19 commissioner of safety.

20 6 Application For License. Amend RSA 106-F:6, V through the introductory paragraph of
21 RSA 106-F:6, VII to read as follows:

22 V. In the case of an applicant for an armed security guard or armed private investigator or
23 ***armed*** bail [~~enforcement~~] ***recovery*** agent license, 2 sets of the applicant's fingerprints taken at
24 state police headquarters.

25 VI. Two photographs of the applicant taken at state police headquarters to be used for a
26 photo license card issued by the commissioner of safety identifying the private investigator, bail
27 [~~enforcement~~] ***recovery*** agent, or security guard and by whom he or she is employed.

28 VII. In addition to the requirements of paragraphs I-VI, applicants for private investigator
29 or bail [~~enforcement~~] ***recovery*** agent licenses shall meet the following qualifications:

30 7 Issuance of License. Amend RSA 106-F:7, I to read as follows:

31 I. Following review of the application and the applicant's references, and investigation into
32 the character, competency, and integrity of the applicant, the commissioner shall as soon as
33 practicable issue a license or renewal license in the form prescribed by the commissioner to the
34 applicant, or notify the applicant of denial of the application. Notification of licensure or the denial
35 of a license shall be forwarded to local law enforcement in the community in which the licensee
36 resides. Prior to approval of any armed private investigator, bail [~~enforcement~~] ***recovery agent***, or
37 security license issued under this chapter, the applicant shall submit to a fingerprint examination

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1 conducted by the Federal Bureau of Investigation, and the department of safety shall be authorized
2 to use the records of the Federal Bureau of Investigation in the screening of applicants. The
3 applicant shall be responsible for the cost of any background investigation or criminal records check
4 required under this section.

5 8 License Fees. Amend RSA 106-F:8, I to read as follows:

6 I. The fee for a private investigative agency license, **a bail recovery service license**, or a
7 security guard service license shall be \$150 for an agency or service employing one person licensed
8 under this chapter and \$500 for an agency or service employing more than one such person. A
9 person may hold one or more types of license at any given time, provided that a separate fee shall be
10 paid for each license so held. Licenses shall be valid for 2 years after the date of issue and shall be
11 renewed every 2 years thereafter, upon application and payment of the fee and submission of
12 certified evidence that the surety bond remains in force. The application for renewal shall be
13 submitted at least 15 days before the expiration of the previously granted license.

14 9 Licensee Proficiency. Amend RSA 106-F:8-a to read as follows:

15 106-F:8-a ~~[Firearm]~~ **Licensee** Proficiency.

16 I. All armed security guards, armed private investigators, and armed bail ~~[enforcement]~~
17 **recovery** agents shall meet minimum requirements in the proficiency in the use of firearms **upon**
18 **initial licensure and** at least once per year. The requirements shall be as follows:

19 (a) The practical ~~[police]~~ **pistol or revolver** course or the tactical revolver **or pistol**
20 course, **as determined by the commissioner for the weapon being carried**, with a minimum
21 qualification score of 75 percent.

22 (b) Shotgun familiarization course required for all security officers and bail
23 ~~[enforcement]~~ **recovery** agents whose employers issue, or have as part of their equipment,
24 shotguns, **and a rifle qualification course if a rifle is part of their equipment**.

25 (c) Four hours of instruction, to include firearms techniques and safety, laws on the use
26 of deadly force, and the moral and ethical use of force. Only qualified firearms instructors shall be
27 used to certify the successful completion of the requirements.

28 II. Individuals shall be considered for ~~[qualification]~~ **firearms instructor certification** if
29 they successfully complete one of the following courses:

30 (a) Police standards and training council firearms instructor school **or a firearms**
31 **instructor school accredited by the police officer standards and training agency of**
32 **another state, the F.B.I. firearms instructor school, the Smith and Wesson, Sig Sauer, or**
33 **Ruger firearms instructor schools, the National Rifle Association police firearms**
34 **instructor course; or**

35 (b) ~~[F.B.I. firearms instructor school];~~

36 (c) ~~Smith & Wesson or Sig Sauer firearms instructor school;~~

37 (d) ~~National Rifle Association police firearms instructor course;~~

1 ~~(e) Equivalent courses~~ *An equivalent course* as determined by the commissioner of
2 safety on an individual basis.

3 **III. The commissioner of safety may adopt, pursuant to RSA 541-A, certain initial**
4 **and continuing education requirements for licensed security guards, private**
5 **investigators, and bail recovery agents, including but not limited to the statutory and case**
6 **laws on the use of force, the laws of arrest by non-law enforcement personnel, and other**
7 **issues relative to their respective occupations after consultation with the advisory board,**
8 **and may certify individuals or entities including professional associations and employees**
9 **of agencies deemed qualified to provide such training or education to licensees.**

10 10 Employees. Amend RSA 106-F:11, I to read as follows:

11 I. A person licensed under this chapter may employ agents, *investigators*, or guards as
12 such licensee deems necessary. The licensee shall be responsible for the conduct of any such
13 employees who shall be covered under the licensee's surety bond.

14 11 Penalty. Amend RSA 106-F:16 to read as follows:

15 106-F:16 Penalty. Any person who engages in business as a private investigative agency, bail
16 ~~enforcement~~ *recovery* agency, or security guard service without first having obtained a license
17 therefor or who violates any other provisions of this chapter shall be guilty of a misdemeanor for a
18 natural person and a felony for any other person.

19 12 Bail Agents and Bail Recovery Agents. Amend RSA 597:7-b to read as follows:

20 597:7-b Bail Agents and Recovery Agents; ~~[Certification and Registration]~~ **Licensure**;
21 Notification to Local Law Enforcement Required.

22 I. In this section:

23 (a) "Bail agent" means any person appointed by an insurer by power of attorney to
24 execute or countersign bail bonds for the insurer in connection with judicial proceedings and who
25 receives a premium.

26 (b) "**Bail** recovery agent" means a person who meets the requirements of paragraph II
27 of this section and who is offered or given any compensation ~~[by a bail agent or surety in exchange]~~
28 for assisting ~~[the bail agent]~~ **a professional bondsmen under RSA 598-A** or **a** surety in
29 apprehending or surrendering any defendant, or keeping the defendant under necessary
30 surveillance.

31 II. Any person who operates as a **bail** recovery agent in this state, excluding licensed
32 private detectives, shall be trained and certified through a program approved by the Professional
33 Bail Agents of the United States **or other training program approved by the commissioner of**
34 **safety** and shall ~~[register]~~ **be licensed** annually with the ~~[secretary of state]~~ **department of safety**
35 **under RSA 106-F. Licensees shall also meet proficiency requirements under RSA 106-F:8-**
36 **a.** The ~~[secretary of state]~~ **department of safety** shall issue to each ~~[registered]~~ **licensed bail**
37 recovery agent proof of such ~~[registration]~~ **licensure**. ~~[Effective July 1, 2000,]~~ Each bail ~~[agency]~~

1 *recovery agent* operating in this state shall annually provide to the ~~[secretary of state]~~
2 *department of safety* proof of liability insurance coverage in the amount of \$300,000 for bail
3 recovery activities ~~[of the agency's bail agents and bail recovery agents]~~. This proof of insurance
4 coverage shall be provided before the ~~[agency's]~~ bail ~~[agents are]~~ *recovery agent is* licensed or
5 relicensed~~[, and before the agency's bail recovery agents are registered or reregistered]~~ *by the*
6 *department of safety*. ~~[Bail recovery agents acting as independent contractors shall provide proof~~
7 ~~of liability insurance coverage in the amount of \$300,000 to the secretary of state before~~
8 ~~registration or reregistration.]~~ Any person who operates as a *bail* recovery agent in this state
9 without meeting ~~[such certification, insurance, and registration]~~ *the licensure and relicensure*
10 requirements shall be guilty of a class [A] *B* misdemeanor *for the first offense and a class A*
11 *misdemeanor for a second offense within a 7-year period.*

12 III. A bail ~~[agent or]~~ recovery agent searching for a person who has violated conditions of
13 release shall notify a municipality's chief law enforcement officer if the search is to be conducted in
14 the municipality's jurisdiction. A bail ~~[agent or]~~ recovery agent who violates the provisions of this
15 paragraph shall be guilty of a class A misdemeanor

16 13 Commissioner of Safety; Rulemaking. Amend RSA 21-P:14, II(d) to read as follows:

17 (d) Licensing ~~[detective]~~ *private investigative* agencies ~~[and]~~, security guard services,
18 *and bail recovery agents*, as authorized by RSA 106-F:3.

19 14 Unsworn Falsification; Forms. Amend RSA 641:3 to read as follows:

20 641:3 Unsworn Falsification.

21 *I.* A person is guilty of a misdemeanor if:

22 ~~[I.]~~ (a) He or she makes a written or electronic false statement which he or she does not
23 believe to be true, on or pursuant to a form bearing a notification authorized by law to the effect
24 that false statements made therein are punishable; or

25 ~~[II.]~~ (b) With a purpose to deceive a public servant in the performance of his or her official
26 function, he or she:

27 ~~[(a)]~~ (1) Makes any written or electronic false statement which he or she does not
28 believe to be true; or

29 ~~[-(b)]~~ (2) Knowingly creates a false impression in a written application for any
30 pecuniary or other benefit by omitting information necessary to prevent statements therein from
31 being misleading; or

32 ~~[(c)]~~ (3) Submits or invites reliance on any writing which he or she knows to be lacking
33 in authenticity; or

34 ~~[(d)]~~ (4) Submits or invites reliance on any sample, specimen, map, boundary mark, or
35 other object which he or she knows to be false.

36 ~~[III.]~~ *II.* No person shall be guilty under this section if he or she retracts the falsification
37 before it becomes manifest that the falsification was or would be exposed.

1 *III. A form adopted by a state agency pursuant to RSA 541-A, or in use by a state*
2 *agency prior to January 1, 2016, containing a notification that false statements made*
3 *therein are punishable under this section shall be considered authorized by law.*

4 15 Effective Date.

5 I. Section 14 of this act shall take effect 60 days after its passage.

6 II. The remainder of this act shall take effect January 1, 2017.

2016-0404s

AMENDED ANALYSIS

This bill makes various changes to the licensing and regulation of private investigators, security guard services, and bail recovery agents by the commissioner of safety. The bill also provides that a form adopted in a rule by a state agency or in use prior to January 1, 2016, containing a notification that false statements made therein are punishable as unsworn falsification shall be considered authorized by law.