



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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LICENSED OCCUPATIONS:
Persons Required to Obtain
a Certificate of Registration
As a Private Detective

Honorable Terrence J. Hopkins
State's Attorney
Franklin County
202 West Main Street
Benton, Illinois 62812

Dear Mr. Hopkins:

I have your letter wherein you state that there are persons who are employed within your county who perform the functions of checking merchants' doors and other security systems during the late night and early morning hours. You have indicated that they make sure the doors are locked and the lights are on. You further state that they perform a very valid and successful crime prevention function. You have asked whether these persons are required to be licensed with the Department of Registration and Education. It is my opinion that they are.

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Your question necessarily requires an interpretation of certain provisions of "AN ACT to provide for licensing and regulating detectives and detective agencies, and to safeguard the interest of the public" (Ill. Rev. Stat. 1977, ch. 111, pars. 2601 through 2639). So far as relevant, section 1 of this Act (Ill. Rev. Stat. 1977, ch. 111, par. 2601) provides:

"The private detective business, as used in this Act, shall consist of the business of making for hire or reward, an investigation or investigations by a person or persons for the purpose of obtaining information with reference to any of the following matters: * * * . The business of furnishing for hire or reward guard or guards, watchman or watchmen, patrolman or patrolmen, or other persons to protect persons or property both real and personal or to prevent the theft or the unlawful taking of goods, wares and merchandise, or to prevent the misappropriation or concealment of goods, wares and merchandise, money, bonds, stocks, choses in action, notes or other valuable documents or papers and shall include any individual who shall for hire patrol, watch or guard any residential, industrial or business property or district, or the business of performing the service of such guard, or other person for any of said purposes.

A detective agency, as used in this Act, shall mean and include any person, firm or corporation engaged in the private detective business who employs one or more persons in conducting such business.

A private detective, as used in this Act, shall mean and include any person who, singly, conducts a private detective business without the assistance of any employee, and who is the holder of a certificate of registration issued under the provisions of this Act.

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Section 2 of this Act (Ill. Rev. Stat. 1977, ch. 111, par. 2602) enumerates exemptions from the Act and one of the provisions of this section is that the Act does not apply to "any person or persons, watchman or guard employed exclusively and regularly by one employer in connection with the affairs of such employer only and there exists an employer-employee relationship."

The question requiring determination is whether the statute applies to the persons whose services are described in your letter. Section 1 of this Act describes the private detective business as the furnishing for hire or reward guard or guards, watchman or watchmen, patrolman or patrolmen, or other persons to protect persons or property both real or personal or to prevent the theft or the unlawful taking of goods and it includes any individual who shall for hire patrol, watch or guard any industrial or business property or district. The Illinois Supreme Court in The People v. Jerry (1941), 377 Ill. 493, held that a person who checked merchants' doors at certain intervals during the night was not a guard; however, at the time of this decision the statute was not as broad as it is at the present time. In 1951, House Bill 705 (Laws of 1951, p. 1672), which was approved and became effective on July 17, 1951, broadened

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the statute so that the furnishing of a watchman or patrolman was included within the definition of a private detective business. Neither the terms "watchman", "patrolman", "watch" or "patrol" were defined in the Act except that the Act stated that a private detective business includes any individual who shall for hire patrol or watch any industrial or business property or district.

It has been held that courts will apply to words appearing in legislative enactments the common dictionary meaning or commonly accepted use of the words unless the words are otherwise defined by the General Assembly. (Bowes v. City of Chicago (1945), 3 Ill. 2d 175.) In Webster's New World Dictionary 1604 (2d College Ed. 1976) the word "watch" is defined as:

- " * * * 3. to be on the alert; be on the lookout
- 4. to look or observe, esp. attentively * * * "

It is clear that a person who checks merchants' doors and other security systems during the late night and early morning hours in order to prevent crime would be a watchman of business property within the meaning of section 1 of the Act.

Also, such a person, in my opinion, would be a patrolman.

In Webster's New World Dictionary 1042 (2d College Ed. 1976) the word "patrol" is defined as:

"to make a regular and repeated circuit in guarding or inspecting."

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Persons who check merchants' doors and other security systems during the night would be persons who make regular and repeated circuits inspecting, even though they may be said not to be guarding.

As I have mentioned, at the time of the decision of The People v. Jerry (1941), 377 Ill. 493, the statute under consideration did not include a person who watches or patrols business property. This was accomplished by the amendment in 1951 already referred to. The presumption is that every amendment of a statute is made to effect some purpose. (McLaughlin v. People (1949), 403 Ill. 493.) A change in phraseology of a law by amendment creates a presumption that it was intended to change the law as it formerly existed. Houghton Mifflin Co. v. Continental Illinois National Bank and Trust Company of Chicago (1938), 293 Ill. App. 423; Dworak For the Use of Allstate Insurance Company v. Tempel (1958), 28 Ill. App. 2d 225, aff'd. 17 Ill. 2d 181.

Since section 1 of "AN ACT to provide for licensing and regulating detectives and detective agencies, and to safeguard the interest of the public" was broadened by amendment in 1951 so that a private detective business included a person who for hire watches or patrols business

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property, I am of the opinion that the persons described in your letter are private detectives within the meaning and intention of this Act. They are required to obtain a certificate of registration as a private detective from the Department of Registration and Education.

Very truly yours,

A T T O R N E Y G E N E R A L