

Chapter SPS 30

PRIVATE DETECTIVE AND AGENCY AUTHORITY AND DEFINITIONS

SPS 30.01 Authority.

SPS 30.02 Definitions.

Note: Chapter RL 30 was renumbered chapter SPS 30 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

SPS 30.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2) and 440.26, Stats.

History: Cr. Register, October, 1988, No. 394, eff. 11-1-88; am. Register, November, 1997, No. 503, eff. 12-1-97.

SPS 30.02 Definitions. In chs. SPS 30 to 35:

(1) "Agency" or "private detective agency" means an individual, partnership, limited liability company, or corporation holding a private detective agency license issued by the department or having a right to renew a license issued by the department to act as or employ private detectives or private security persons.

(1m) "Client" means a person for whom a private detective agency agrees to provide private detective services, as described in sub. (12) (a), or to supply private security personnel.

(1n) "Credential" has the meaning in s. 440.01 (2) (a), Stats.

(2) "Department" means the department of safety and professional services.

Note: The department is located at 1400 East Washington Avenue, Madison, Wisconsin 53702, telephone (608) 266-1212.

(3) "Employee" means any person who receives earnings as payment for personal services rendered for the benefit of an employer. A person who is listed on an employer's payroll records and for whom federal and state payroll deductions are taken and payroll taxes paid is presumed to be an employee. However, a person is not an employee unless the employer has a right to control and direct the employee who performs the services as to the result to be accomplished by the services and as to the details and means by which the result is to be accomplished.

(4) "Firearm" means a weapon from which a shot is discharged by gunpowder, including but not limited to handguns and shotguns.

(5) "License" means a license issued by the department to a private detective agency or to a private detective under s. 440.26, Stats.

(6) "Officer" means the president, vice-president, secretary or treasurer of a corporation.

(7) "On duty" means that time during which a private detective or private security person:

(a) Receives or is entitled to receive fees or other compensation for services as a private detective or a private security person; or

(b) Acts as a private detective or private security person.

(8) "Original agency license" means:

(a) A license issued to an agency which does not hold an agency license at the time it makes application and which is not eligible to renew a license; or

(b) A license issued to an agency which has applied for a license under s. SPS 32.07 after undergoing a change of controlling ownership.

(9) "Original private detective license" means a license issued to a person who does not hold a private detective license at the time the person makes application and who is not eligible to renew the license.

(10) "Owner" means the owner of an agency. For the purpose of chs. SPS 30 to 35:

(a) The owner of a sole proprietorship is the license holder.

(b) The owners of a corporation are the officers of the corporation.

(c) The owners of a partnership are the partners.

(d) The owners of a limited liability company are the members.

(10g) "Peace officer" has the meaning given in s. 939.22 (22), Stats.

(11) "Permit" means the private security permit described in s. 440.26 (5m), Stats., or a firearms permit described in s. SPS 34.015.

(12) (a) "Private detective" means any of the following:

1. A person who acts as, advertises or otherwise represents that the person is a private detective, private investigator or special investigator.

2. A person engaged for compensation or other consideration on behalf of another, in investigating or otherwise obtaining or furnishing information relating to any of the following:

a. Crimes or wrongs done or threatened against the United States, any state or territory, or any political subdivision thereof.

b. The identity, conduct, business, honesty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person, if such information is obtained in secret, without the knowledge of the person being observed.

c. The location, disposition or recovery of lost or stolen property.

d. The cause or responsibility for fires, libels, losses, accidents, damage, injury or death.

e. Securing evidence to be used before any court, public board, officer, or investigating committee.

3. A person who acts as a private security person and does not wear a uniform, including one who provides personal protection of individuals from bodily harm or death.

(b) "Private detective" does not include any of the following:

1. A public officer or employee while performing an official duty.

2. A person exempt from the licensing requirement under s. 440.26 (5), Stats.

4. An individual, the members of a partnership and the officers of a corporation having a private detective agency license who are not engaged in the work of a private detective.

5. Off-duty law enforcement officers when employed by a person or entity and when such employment has been officially authorized by the officer's law enforcement employment department or agency as an appropriate extension of the officer's function; provided that the law enforcement agency gives the hiring person or entity a written statement concerning who is responsible or liable for the actions of the off-duty law enforcement officer while that person is performing services for the hiring person or entity.

6. Persons licensed by this state for activities other than those under s. 440.26, Stats., when performing acts within the scope of their license.

7. Persons directly employed by an insurer and persons working as insurance adjusters under contract with an insurer.

8. Persons employed to act as shoppers in business establishments and report on the efficiency of employees, the quality of services or the condition of the premises.

Note: Persons engaged in posing as patrons for the purpose of checking honesty of employees and then reporting to the employer are required to be licensed.

9. Persons contracted as consultants to a private detective or private detective agency and who perform no investigatory work of any kind themselves.

10. Scientific researchers, laboratory personnel and expert consultants who may provide testimony to any court, board, officer or investigating committee.

11. A person who is not licensed as a private detective in Wisconsin, who commences an investigation in another jurisdiction and who physically enters into Wisconsin for the purpose of pursuing that investigation, provided that the person is accompanied by a licensed private detective while conducting the investigation and that the person is not armed with a firearm.

(13) (a) "Private security person" means any private police, guard or any person who stands watch for security purposes. Except as provided in par. (b) 2., "private security person" includes a person employed by a private detective agency to act as an usher, a ticket-taker or an event attendant at events which include, but are not limited to, athletic events, concerts, fairs, festivals and trade shows.

(b) "Private security person" does not include any of the following:

1. An off-duty law enforcement officer when employed by a person or entity and when such employment has been officially authorized by the officer's law enforcement employment department or agency as an appropriate extension of the officer's function; provided that the law enforcement agency gives the hiring person or entity a written statement concerning who is responsible or liable for the actions of the off-duty law enforcement officer while that person is performing services for the hiring person or entity.

2. A person employed by a private detective agency who acts as an usher, ticket-taker or event attendant at events which include, but are not limited to, athletic events, concerts, fairs, festivals and trade shows, provided that all of the following conditions are met:

a. The person does not wear any clothing, badge, patch or lettering which identifies the person as one who provides a security function at the event or who refers to himself or herself by a title, such as a private security person, a private police officer or a private public safety person.

b. The person is not armed with a dangerous weapon.

(14) "Uniform" means any clothing, badge, patch or lettering which clearly identifies to the public a person being a security guard.

History: Cr. Register, October, 1988, No. 394, eff. 11-1-88; cr. (12) (b) 11., Register, December, 1994, No. 468, eff. 1-1-95; am. (1), (7) (b), (11), (12) (a) 1., 2. e., (b) 2. and 5., cr. (1m), (1n), (10) (d), r. (12) (b) 3. and r. and recr. (13), Register, November, 1997, No. 503, eff. 12-1-97; am. (9), cr. (10g), Register, January, 2001, No. 541, eff. 2-1-01; correction in (intro.), (2), (8) (b), (10) (intro.), (11) made under s. 13.92 (4) (b) 6., 7., Stats., Register November 2011 No. 671.