

FREQUENTLY ASKED QUESTIONS

PRIVATE INVESTIGATIONS

QUESTION: I am a computer forensics examiner. Do I need a private investigations license to engage in this business in South Carolina?

ANSWER: Yes. If you accept a fee to secure or obtain [extract] information from any source, including a computer drive, with reference to the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of a person, or in reference to the location, disposition or recovery of stolen property, or as evidence in a criminal or civil proceeding, or before a board, an administrative agency, an officer, or investigating committee, you are required to be licensed as a private investigator in South Carolina (SC Code Section 40-18-20). However, acceptance of a fee to merely examine such information after it is secured, obtained or extracted by another person for the purpose of offering your written and/or testimonial opinions concerning that information, then you are considered a consultant and are not required to be licensed as a private investigator in South Carolina.

QUESTION: I am an arson investigator residing outside of South Carolina. Must I have a South Carolina PI license to accept an investigation in South Carolina?

ANSWER: Yes. If you accept a fee to secure or obtain (in South Carolina) information with reference to the cause or responsibility for fires, libels, losses, accidents, damage, or injury to persons or property, or with reference to the location, disposition or recovery of lost or stolen property, or secure information for use as evidence in a criminal or civil proceeding, or before a board, an administrative agency, an officer, or investigating committee, you are required to be licensed as a private investigator in South Carolina (SC Code 40-18-20). However, your acceptance of a fee to merely examine such information after it is secured or obtained by another person and your role is merely to offer written and/or testimonial opinions concerning that information, then you are considered a consultant and are not required to be licensed as a private investigator in South Carolina.

QUESTION: From my home outside South Carolina, I identify unclaimed money using state computer databases and attempt to locate the people entitled to the money, charging a percentage of the "found" money to identify to them the location of the money. Do I need a South Carolina private investigator license to contact these people who live in South Carolina?

ANSWER: No. Your activities, as defined, do not clearly fall within the definition of private investigation business in South Carolina law (SC Code 40-18-20).

QUESTION: I am a process server for several attorneys in South Carolina. Do I need a private investigator license or registration?

ANSWER: If you accept a fee to merely serve [deliver] papers to an individual, you are not required to be licensed as a private investigator in South Carolina. This is true because the

primary activity you are paid to accomplish is the mere delivery of papers to an individual – not to obtain and report information. The fact that you must seek and report a correct address or location of the person is incidental to the primary purpose of your activity and does not trigger the requirement for a private investigation license or registration. If, however, you are seeking and/or reporting additional information, of the types listed in SC Code Section 40-18-20 that constitute the private investigation business, you might well be required to have a PI license to legally operate and should check with SLED to find out.

QUESTION: I have a private investigation license and I investigate cases for a number of private clients. Since I don't have enough business to work full time, is it legal for me to investigate cases for other licensed private investigation agencies?

ANSWER: Yes; provided you treat the employing licensed private investigation agency as your "client" for the investigation you are hired to conduct. You must complete and retain a written contract, on a contract form approved by SLED, on which the other agency is shown as your client, or a written waiver of contract for that particular employer.

QUESTION: I am a loss prevention employee and investigator working full time for a private trucking company and want to work as a private investigator to supplement my income. Am I eligible to hold a private investigator license or registration in South Carolina?

ANSWER: Your primary employment does not affect your eligibility to hold a license or registration in South Carolina unless you are employed as a sworn law enforcement officer. If you meet all the requirements, you may secure a PI license to open your own company or registration to work as an investigator for another licensed PI company. Experience as a loss prevention employee might or might not meet experience requirements. A SLED official would need to assess your precise duties, activities, job responsibilities and experiences. Qualifications for licensing are found in the Private Investigations Law section of this web-site at SC Code 40-18-70, 40-18-80(B).

QUESTION: What does "three years experience" mean in terms of qualifying for a PI license?

ANSWER: "Three years experience" means three years of full-time experience as an employee. The accepted definition of "full-time employment" is 2,000 hours per year. Therefore, the required (three years) experience for a PI license is 6,000 hours of employment as a registered PI employed by licensed private investigation agencies, as a sworn law enforcement officer for a public law enforcement agency, or in other employment that, in the opinion of SLED officials, provided the necessary knowledge, skills and abilities to lawfully, competently and professionally conduct a PI business. The employment may have consisted of a series of part-time and/or full-time jobs for different employers and there is no restriction on the period of time during which the experience must have been gained. The applicant must be able to provide documentation of the total requisite experience to the satisfaction of SLED officials.

QUESTION: Why am I required to get a surety bond to qualify for a PI license?

ANSWER: The surety bond of \$10,000 is required so that the State of South Carolina may recover a monetary penalty from the bonding agency on behalf a PI who violates state law and then closes the business to avoid paying the fine.

QUESTION: I paid a private investigator to conduct an investigation. I never heard from him and he refuses to return my calls. Will SLED make him return my money?

ANSWER: SLED has no authority to require a refund. A client may, however, contact a magistrate in South Carolina and inquire about filing a civil action (lawsuit) against the private investigator to recover. A private investigator is required by law to execute a detailed written contract with each client on a form approved in advance by SLED. The contract must state the amount of money paid by the client and what the private investigator will do in return for the money. The PI is required by law to perform the contracted services and to furnish the client a detailed written report of activities conducted, time spent, results of the investigation and an accounting for the expenditure of the client's money. SLED will investigate all client complaints to determine whether the PI complied with the law. A PI who violates the law is subject to suspension or revocation of his or her license and/or monetary penalties of from \$25.00 to \$1,000 per violation.

QUESTION: How do I get a contract form approved that I will be using with clients?

ANSWER: All private investigators are required by law to submit a copy of their contract form to SLED for approval (SC Code 40-18-70(F)) and to furnish each client with an approved detailed written contract. You may have your form reviewed by SLED by mailing a copy to the SLED Regulatory Services Unit, PO Box 21398, Columbia SC, 29221-1398 or faxing a copy to 803-896-7037 with a cover sheet explaining that the contract is for SLED review. A letter of approval, or notification of necessary amendments, will be mailed to you. While SLED does not dictate the language to be used in your contract, we require that certain elements be addressed so that you and your client have a clear and detailed understanding of your business arrangement before any billable work begins. Using a contract form not approved by SLED is a violation of South Carolina Code Section 40-18-130(3), punishable by suspension or revocation of your license and/or a fine of \$25.00 to \$1000 per offense. Approval of your contract remains valid unless and until you amend your form.

QUESTION: What do I do about "repeat" clients such as law firms, insurance companies or others who don't want a written contract for every investigation they refer to me?

ANSWER: South Carolina Code Section 40-18-70 allows for a written waiver of contract in lieu of a written contract. This written waiver of contract may be a "blanket" waiver covering all of your dealings with that client. You must maintain a copy of that written waiver in your files, available for inspection by a SLED agent. If a complaint is received by SLED about your services, the investigating agent will request a copy of your written contract or waiver. If you cannot produce one or the other, you will be found in violation of Section 40-18-70 and can be fined or face license suspension or revocation.

QUESTION: I know South Carolina and North Carolina have some kind of reciprocity agreement affecting licensed private investigators. What are the rules?

ANSWER: A limited reciprocity agreement was enacted between North Carolina and South Carolina on March 13, 2001, primarily to allow private investigators licensed in North or South Carolina to continue a surveillance or investigation into the other state. The agreement is structured so that it temporarily exempts a PI licensed or registered in either state from the other state's licensing and registration requirements for up to thirty days after entering the other state while conducting a specific investigation. The thirty day period begins when the PI first enters the other state and is valid only for the specific investigation being conducted at that time. Each new investigation starts its own new thirty-day period. For the temporary exemption to be valid, the actual physical activity of the case [surveillance or gathering of information] must begin in the state in which the PI is licensed or registered. The mere fact that the initial contact by the client occurs in the home state office of the PI does not constitute the beginning of the investigation. It is the beginning of physical investigative activity or surveillance that creates the reciprocal exemption. If, for example, a South Carolina PI accepts a case to begin an investigation or surveillance in North Carolina, the reciprocity agreement does not protect the South Carolina PI if he goes into North Carolina to begin the work without a North Carolina license. A copy of the reciprocity agreement is available from the SLED Regulatory Services Unit or the NC Private Protective Services Board.

QUESTION: Does South Carolina have reciprocity with any other States for private investigators?

ANSWER: No.

QUESTION: Are private investigators allowed to carry a firearm (handgun) in South Carolina?

ANSWER: Licensed or registered private investigators who are retired law enforcement officers are eligible to carry a handgun in South Carolina without a permit of any kind (SC Code 16-23-20(1)). A private investigator who is a resident of South Carolina and meets background and training standards is entitled to a South Carolina Concealable Weapons Permit (CWP) (23-31-210 *et seq.*). A CWP entitles the private investigator to carry a handgun concealed upon his or her person at any place in the State except places where such possession is prohibited by authority of Federal or State law (prohibited carry locations) (SC Code 23-31-215(M), 16-23-420, 16-23-430, 16-23-465). The list of prohibited carry locations and other gun laws may be viewed on this web-site in the Concealed Weapons Permit Program section.

QUESTION: I'm a licensed PI in South Carolina and want to furnish bodyguard services for executives and entertainers. How do I legally do it?

ANSWER: South Carolina Code Section 40-18-20 defines bodyguard services as private security services. Therefore, you must hold a license to operate a contract private security business (SC Code 40-18-50) or be a registered security officer employed by a licensed private security business. Additionally, each of your employees who performs such services must be registered as private security officers (SC Code 40-18-80). Private security officers furnishing bodyguard services do not have law enforcement authority unless they are performing such duties on real property they have been hired to protect (SC Code 40-18-110), are not required to wear uniforms and may be armed if SLED, in its discretion, issues the individual a Security

Concealed Weapons Permit to enable the permittee to better perform his or her assigned duties (SC Code 40-18-100). South Carolina gun laws allow possession of a firearm upon the person by a person who is granted a permit to carry a handgun about the person (SC Code 16-23-20(12)).

Possession of a Security Weapons Permit does not allow possession of a firearm on property where such possession is prohibited by Federal or State law:

(1) Federal property and buildings where the prohibition against carrying firearms is posted conspicuously at each public entrance (18 U.S.C. 930);

(1) Property or premises of a private or public school, college, university, technical college, other post-secondary institution, without the express permission of the official in charge of the school property (SC Code 16-23-420, 16-23-430). It is your responsibility get such permission and be able to document it. Violation of either section of law is a felony.

(2) Inside any publicly-owned building, without the express permission of the person in charge of the premises or property (SC Code 16-23-420). It is your responsibility get such permission and be able to document it. Violation of this section is a felony punishable by a fine of five thousand dollars and/or imprisonment for five years.

(3) Inside a business that sells liquor, beer or wine for consumption on the premises (SC Code 16-23-465). Violation of this law is a misdemeanor with a fine of not more than two-thousand dollars and/or imprisonment for three years.

QUESTION: What are the rules concerning continuing education requirements for private investigators in South Carolina?

ANSWER: Every licensed and registered private investigator must document to SLED 12 hours of SLED-approved continuing education hours every 24 months, 4 hours of which must have been presented or otherwise specifically approved by SLED. Applications for continuing education credit hours may be submitted upon completion of the training. You have until your license or registration renewal date in 2006 to complete and report to SLED at least 12 hours of training. All hours of approved training that you have received will be credited to you. This accommodation is made to ease the transition from an annual to a biennial program. Arrangements will be made for licensed and registered investigators who maintain South Carolina licenses and registrations, but reside out-of-state, to have access to the necessary SLED-presented training. SLED-approved training sufficient to meet other requirements of the program should be available in the licensees' home areas, at PI association conferences or meetings, local bar association or other approved programs or on-line. Before attending training for which you intend to seek SLED credits, it is your responsibility to ensure that the program you intend to take is approved by SLED for such credit. The complete policy governing the Private Investigations Continuing Education Program is posted on this Website.

QUESTION: If I want to provide training to private investigators for continuing education credits, what do I need to do?

ANSWER: On this Internet Website you will find the SLED policy concerning the continuing education program and the documents you must use to apply for approval for your training program. Submit a properly completed application form to SLED and you will get

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written notice of approval or disapproval. If your program is approved, it will be listed on this Website with other approved programs.