

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Timothy J. Toomey, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to private security and armored car guards.

PETITION OF:

NAME:

Timothy J. Toomey, Jr.

DISTRICT/ADDRESS:

26th Middlesex

12 Section 1. As used in this chapter, the following words shall, unless the context requires otherwise, have
13 the following meaning:—

14 “Applicant” means an individual who has filed an application with the Department for a registration
15 card.

16 “Armored car company” means any company which, for itself or under contract with another, transports
17 currency, valuables, jewelry, food stamps, or any other item which requires secured delivery from one
18 place to another or provides services to ATM, so-called, machines and kiosks.

19 “Armored car guard” means an individual who is employed by an armored car company, who primarily
20 works on an armored vehicle and who is required to carry a weapon while in the performance of his
21 duties and who is licensed to do so under this chapter.

22 “Armored car industry advisory committee” means a committee appointed by the secretary and will
23 serve at the will of the secretary without compensation and consist of not more than six qualified
24 members of the armored car industry, academia, and other related fields as determined by the
25 secretary and will serve to advise the secretary and the council on matters pertaining to the armored car
26 industry.

27 “Certified instructor” means a person who has met the requirements of this chapter to teach pre-
28 assignment and renewal training for all courses except firearms courses.

29 “Company” means a sole proprietorship, partnership, firm, association, limited liability company, or
30 corporation.

31 “Corporate officer” means the chairman, president, vice president, treasurer, secretary or any other
32 person who performs the same function for the corporation as performed by these officers.

33 “Council” means Criminal Justice Training Council.

34 “Employer” means an armored car company licensed under this chapter.

35 “Firearms instructor” means a person who has met the requirements of this chapter to teach firearms

36 training required by this chapter.

37 "Licensee" means the holder of a license issued under this chapter.

38 "Qualified armored car guard training" means a minimum eight hour program which shall include but
39 not be limited to armored car orientation, operating procedures, prevention of theft and robbery,
40 defensive driving, company policies and procedures and general duties recommended by the armored
41 car advisory board and germane to the industry.

42 "Qualified firearms instructor" means an individual who holds a certificate as a firearms instructor from
43 an association or organization recognized by the secretary.

44 "Qualified firearms training course" means a minimum eight hour firearms training course for armored
45 car guards that is recommended by the armored car advisory board and is specific and germane to the
46 armored car industry and is recognized by the secretary.

47 "Qualified manager" means the individual owner or the person designated by an armored car company
48 who meets the qualifications set forth in this chapter, to operate an armored car and to represent the
49 employer for purposes of administering and supervising the company's compliance with this chapter
50 and with such rules as promulgated under this chapter.

51 "Registrant" means any person issued a registration permit under this chapter.

52 "Secretary" means the secretary of the executive office of public safety.

53 Section 2. Registration permits shall be granted according to this chapter.

54 Section 3. An applicant must meet the following requirements for a registration permit:

55 (a) File an application with the secretary sworn to or affirmed by the applicant in such form and
56 including such information as may be prescribed by the secretary, including but not limited to the
57 applicant's name, address, date of birth, citizenship status, immediately preceding three year work
58 history, three personal references with addresses and telephone numbers, and statement of convictions

- 59 for crimes;
- 60 (b) Submit two sets of classifiable fingerprints;
- 61 (c) Submit two passport sized photographs;
- 62 (d) Be at least 21 years old;
- 63 (e) Not have been convicted in any jurisdiction of a serious offense or misdemeanor which in the
64 discretion of the Secretary bears such a relationship to the performance of the duties of an armored car
65 guard as to constitute a bar to employment;
- 66 (f) Not have been declared by any court to be incompetent by reason of mental disease or defect which
67 has not been removed;
- 68 (g) Not have a physical or mental disability by reason of intoxication or the use of, addiction to or
69 dependence on, alcohol or drugs which, as determined by the secretary, renders the applicant unfit to
70 perform the usual duties of an armored car guard;
- 71 (h) Pay a fee as determined by section 19 of this chapter;
- 72 (i) Submit a statement from the employer or prospective employer that the employer has made a
73 reasonable effort to verify the work history information on the application form. The results of such
74 effort shall be part of the application. "Reasonable effort" shall be deemed to be the same effort
75 required to satisfy the Immigration Reform and Control Act of 1986 (PL 99-603, 8 USC 1324a) with
76 regard to verification of information contained on Form 1-9;
- 77 (j) Submit a statement by a certified trainer verifying that the pre-assignment training and testing as
78 prescribed by this chapter have been completed;
- 79 (k) Submit a statement by a firearms instructor verifying that the firearms training and range
80 qualification requirements as prescribed by this chapter have been completed.

81

82 Section 4. After receipt of an application for a registration permit, the secretary shall submit, or cause to

83 have submitted, to the criminal history systems board and to the federal bureau of investigation, the
84 fingerprint card submitted by the applicant for the purpose of a criminal background check. The
85 secretary is authorized to receive the record check information directly from the United States
86 department of justice. The secretary shall issue a registration permit when satisfied from an
87 examination of the application and criminal record check that the applicant is of good character,
88 competency and integrity and has fulfilled the application requirements of this chapter. The registration
89 permit shall display a picture of the registrant and contain other information as required by the
90 secretary.

91 All registration permits shall be valid for two years unless revoked by the secretary according to the
92 provisions of this chapter.

93 Not less than 90 days prior to the expiration date of the license, the secretary shall mail a written notice
94 and application for renewal to the last known address of the registrant with a copy sent to the
95 employer. Upon receipt of the renewal application form which will include certification that the
96 applicant has met the training standards established by the council and payment of a renewal fee, the
97 secretary shall issue a two year renewal license. No registration permit shall be renewed 90 days or
98 more after its expiration date. The applicant shall submit a new, complete application and respective
99 fee.

100 Section 5. The secretary shall collect information and maintain on a current basis, a registry of all
101 armored car guards and applicants for registration permits. Such registry shall include, but not be
102 limited to, with respect to each applicant, the applicant's name, address, date of birth, whether a
103 registration permit or license has been issued, the type of permit issued, denied, suspended, or revoked,
104 and the reason for denial, suspension, or revocation or has expired and the employer or employers by
105 whom the applicant has been employed and such other information as the secretary shall deem
106 appropriate, provided, however, that in no case shall such registry include criminal history information.

107 The secretary shall biannually compare the information in the registry with the records of the criminal
108 history systems board. Any registrant or licensee whose record indicates an outstanding warrant, arrest
109 or conviction for any disqualifying offense shall be suspended immediately, and the employer shall be
110 notified of such suspension immediately, pending further disposition. This biannual check shall meet the
111 background screening requirements of P.L. 103-55, the Armored Car Industry Reciprocity Act.

112 Companies which are defined as an employer under this chapter may, under the terms and conditions as
113 the secretary may prescribe, have timely access to information contained in the registry but limited to
114 the following information about the registrant or qualified agent: name, date of birth, social security
115 number, registration permit or license number, employment history and status of the registration
116 permit or license.

117 Section 6. An employer may issue a temporary armored car guard permit to a person, providing the
118 employer has submitted to the secretary the application required for a registration permit, including the
119 statement from a certified trainer verifying completion of the pre-assignment training requirements.

120 Under no circumstances may the holder of a temporary permit carry a weapon. If the employer has any
121 knowledge that the applicant has a record of a criminal conviction which would disqualify the applicant
122 pursuant to the secretary's regulations, the employer may not issue a temporary security officer permit
123 to the applicant. The employer must notify the secretary that it has issued a temporary permit.

124 The temporary armored car guard permit shall expire in 90 days and is non-renewable. However, the
125 secretary may issue a 45-day extension to any applicant whose application is otherwise complete except
126 for the receipt of the criminal background check.

127 Section 7. While on duty, a registrant shall have on his person his registration permit displayed in a
128 manner prescribed by the provisions of section 19 of this chapter. At the employer's request, a
129 registrant who is acting in the capacity of an armored car guard pursuant to this act may, while in
130 uniform and on duty, wear a badge or shield inscribed with the name of the employer and a number. No

131 such badge or shield shall include the word "police," "agent," "sheriff;" or "trooper" or any part of the
132 seal of the Commonwealth or any political subdivision thereof.

133 Section 8. (a)(1) All applicants shall complete a minimum of 8 hours of pre-assignment situational and
134 field training and a minimum 8 hours of pre-assignment range and classroom firearms training taught
135 and administered by a certified firearms instructor and approved by the council. Such training shall be
136 developed based on an analysis of the duties and responsibilities of armored car guards and shall be
137 recommended by the armored car advisory board. The provisions of this section shall be subject to
138 section 19 of this chapter.

139 (a)(2) Renewal applicants shall re-qualify for firearms purposes in a manner prescribed by the council.

140 (b) This section shall conform to the requirements of P.L. 103-55, the Armored Car Industry Reciprocity
141 Act, requiring registration holders to submit a statement annually to the secretary certifying that the
142 registrant has completed the training required under subsection (a)(2) of this section.

143 (c) No instructor shall teach a course of instruction required by this chapter unless the instructor holds a
144 certified trainer permit, or for firearms instruction, a firearms instructor permit, issued by the secretary
145 according to rules for these permits as established by the provisions of this chapter.

146 (d) The curriculum for training, range qualifications and testing examinations required under this section
147 shall be established by the council. Such curriculum shall be developed based on an analysis of the
148 duties and responsibilities of armored car guards and shall be recommended by the armored car
149 advisory board. In the establishment of said curriculum, the council shall consult with the armored car
150 industry advisory committee. Said committee shall be appointed by the secretary and serve at will of the
151 secretary and without compensation and consist of not more than six qualified members of the armored
152 car industry, academia, and other related fields as determined by the secretary.

153 Section 9. All registrants shall possess a license to carry a firearm, as provided for in section 131 of
154 chapter 140. No employee shall carry or be furnished a firearm while on duty or while wearing a uniform

155 unless the carrying of a firearm is required by the employer. When carried by a uniformed employee,
156 the weapon shall be exposed to view.

157 The secretary, in consultation with the council and armored car industry advisory committee, shall
158 establish rules as to the type and caliber of weapons that may be carried under this chapter. A registrant
159 may only carry a firearm of the specific type and caliber with which the registrant is qualified pursuant
160 to the firearms training referenced in section eight of this chapter.

161 Whenever a registrant discharges a firearm in the course of the registrant's duties, except during range
162 firing, the registrant and the employer shall, within five business days, submit to the secretary an
163 explanation describing the nature of the incident, the necessity for using the firearm and the name of
164 any law enforcement agency to which this incident was reported. Furthermore, armored car companies
165 shall facilitate the purchase of protective vests by armored car guards who request them after a
166 probationary period of employment. Employers of armored car guards shall establish a program
167 whereby such armored car guards may pay for the vests through a payroll deduction plan.

168 The secretary, in consultation with the council and the armored car industry advisory committee, may
169 promulgate rules and regulations establishing minimum standards for weapons other than firearms.

170 Whenever a registrant ceases employment with the employer for which he is registered, the employer
171 shall, within five business days, notify the secretary. The secretary shall then notify the state or local
172 authority which issued the registrant's license to carry a firearm of said registrant's change in
173 employment.

174 Section 10. (a) No company shall employ in the Commonwealth an armored car guard as defined by this
175 chapter, or advertise its business as providing armored car services, or solicit customers for such a
176 business, without having first obtained from the secretary, a license to conduct such business as defined
177 by this chapter as an armored car company shall have a license for the company and copies of such
178 license to be displayed in each office of the company located in the Commonwealth.

179 (b) The application for a license submitted to the secretary must:
180 (1) be signed by the owner, partner, or in case of a corporation, a corporate officer;
181 (2) and include the name of the business and any fictitious names the business uses in the operation of
182 the business, the firm's principal address and the address of each branch operation within the
183 Commonwealth, the nature of the business, names and addresses and a statement of convictions of
184 crimes of all officers and of any investor who actively participates, directs or controls the business; any
185 other information as determined by the secretary to be reasonably necessary;
186 (3) submit two sets of classifiable fingerprints from the president, executive vice president, secretary
187 and treasurer of the corporation;
188 (4) be accompanied by the name of the qualified manager to be employed by the company; and,
189 (5) a certificate of insurance evidencing that the company meets the insurance requirements as defined
190 by rules and regulations to be promulgated by the secretary.

191 Section 11. An armored car company must employ a person licensed as a qualified manager. Such
192 qualified manager shall administer and supervise the licensee's compliance with this chapter. Such
193 qualified manager shall be subject to the rules of the secretary on behalf of the licensee and the
194 qualified manager's actions shall be deemed to be those of the licensee for the purposes of this chapter.
195 Upon application, the secretary shall issue a qualified manager license to a person who: (1) meets the
196 background check requirement for a registration permit; (2) be at least 21 years of age; and, (3) pass an
197 examination determined by the council with the input of the armored car industry advisory council to
198 measure the applicant's knowledge and competence in the armored car industry.

199 Section 12. A licensee shall file and maintain with the secretary a certificate of insurance from an
200 insurance company licensed to do business in the commonwealth, as evidence that the licensee has
201 comprehensive general liability coverage of at least \$100,000 per occurrence and \$300,000 in the
202 aggregate.

203 In addition to a general liability certificate of insurance, a company licensed as an armored car company
204 shall file and maintain with the secretary a certificate of insurance from an insurance company licensed
205 to do business in the commonwealth, showing evidence of all risk cargo insurance coverage for a
206 minimum of \$10,000,000 per occurrence and such additional amounts as are sufficient to cover the
207 value of goods safeguarded in such company's vaults.

208 The certificate for insurance shall provide that the insurance may not be modified or canceled unless
209 thirty days prior notice is given to the secretary.

210 Section 13. When satisfied, from the examination of the application and such further inquiry and
211 investigations as the secretary shall deem proper as to the good character, competency and integrity of
212 the applicant and that the applicant has met the standards established by the council, the secretary shall
213 issue a license to the applicant, principal and branch offices, as appropriate, to conduct such business
214 employing armored car guards and providing armored car services.

215 The license shall be valid, unless otherwise provided for in this chapter, for a period of three years.

216 Branch office licenses shall have the same expiration date as the principal license. No less than 90 days
217 prior to the expiration date of the license, the secretary shall mail a written notice for renewal to the
218 last known address of the license holder. Upon meeting the renewal standards established by the
219 council, and payment of the renewal fee, the secretary shall issue a three-year renewal license.

220 All licenses issued pursuant to this chapter shall be on a form prescribed by the secretary and subject to
221 rules and regulations as outlined in section 19 of this chapter. Notwithstanding the existence of a valid
222 corporate registration, no licensee may conduct activities regulated under this chapter under any
223 fictitious name without prior written authorization from the secretary to use that name in the conduct
224 of activities regulated under this chapter. The secretary may not authorize the use of a name which is so
225 similar to that of a public law enforcement officer or agency, or of that used by another licensee, that
226 the public may be confused or misled.

227 A license issued under this chapter may not be sold, assigned or transferred without the written
228 approval of the secretary.

229 Section 14. The licensee, if a corporation, shall notify the secretary within 30 days of any change in the
230 licensee's corporate officers or in any material information furnished or required to be furnished to the
231 secretary under this chapter.

232 The licensee shall submit to the secretary, within 30 days, the name and registration permit number and
233 personnel action taken for each person registered under this chapter as an armored car guard who has
234 been employed by the company and who has retired or resigned or whose employment terminated for
235 any reason.

236 A licensee shall notify the secretary within 10 days upon receipt of information affecting a registrant's
237 eligibility to hold a registration permit under the provisions of this chapter.

238 If the qualified manager upon whom the licensee relies upon to comply with this chapter ceases for any
239 reason to perform his duties on a regular basis, the licensee must within 10 days mail to the secretary,
240 by certified or registered mail, notice of this failure to perform duties. Within 120 days of sending the
241 notice, the licensee must employ a substitute qualified manager.

242 A registrant who has been arrested shall report said arrest to the secretary within 72 hours of the arrest.
243 Any employer who becomes aware of the arrest of an employee armored car guard shall notify the
244 secretary within 72 hours of gaining that information.

245 Section 15. (a) The secretary, acting within promulgated rules and regulations as defined in section 19 of
246 this chapter, shall have the power, upon notice and opportunity for a hearing to take disciplinary action
247 against any licensee, registrant or any unlicensed armored car company or unregistered person engaged
248 in activities regulated by this chapter who violate, or cause to be violated, any provision of this chapter.

249 The secretary may issue criminal penalties and by administrative sanctions against anyone found to be
250 in violation of this chapter as established by promulgated rules and regulations.

251 (b) The secretary, acting within promulgated rules and regulations as defined in section 13 of this
252 chapter, shall have the power to review the mental or physical condition of an armored car guard to
253 carry out the duties of his position if the secretary believes that the individual may be unable to practice
254 with reasonable skill and safety to the public due to a mental or physical infirmity.

255 Section 16. The secretary shall have the power to enforce the provisions of this chapter, irrespective of
256 the place or location in which the violation occurred, as established by promulgated rules and
257 regulations.

258 Section 17. If the secretary determines upon investigation that there is reason to believe a violation of
259 this chapter has occurred, promulgated rules and regulations as set forth in section 18 shall govern
260 procedures and penalties which may be assessed against a company or an individual. Any company or
261 person shall be entitled to appeal to a court of competent jurisdiction.

262 Section 18. The secretary, in consultation with the council and the armored car industry advisory
263 committee, shall promulgate any rules and/or regulations necessary to carry out the provisions of this
264 chapter.