

"LETHAL WEAPONS TRAINING ACT"  
Act of 1974, P.L. 705, No. 235

AN ACT

Providing for the training and licensing of watch guards, protective patrolmen, detectives and criminal investigators, carrying and using lethal weapons in their employment; imposing powers and duties on the Commissioner of the Pennsylvania State Police; and providing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.--This act shall be known and may be cited as the "Lethal Weapons Training Act."

Section 2. Legislative Findings and Purpose.--(a) The General Assembly finds that there are private detectives, investigators, watchmen, security guards and patrolmen, privately employed within this Commonwealth who carry and use lethal weapons including firearms as an incidence of their employment and that there have been various tragic incidents involving these individuals which occurred because of unfamiliarity with the handling of weapons. The General Assembly also finds that there is presently no training required for such privately employed agents in the handling of lethal weapons or in the knowledge of law enforcement and the protection of rights of citizens, and that such training would be beneficial to the safety of the citizens of this Commonwealth.

(b) It is the purpose of this act to provide for the education, training and certification of such privately employed agents who, as an incidence to their employment, carry lethal weapons through a program administered or approved by the Commissioner of the Pennsylvania State Police.

Section 3. Definitions.--As used in this act:

"Commissioner" means the Commissioner of the Pennsylvania State Police.

"Full-time police officer" means any employee of a city, borough, town, township or county police department assigned to law enforcement duties who works a minimum of two hundred days per year. The term does not include persons employed to check parking meters or to perform only administrative duties, nor does it include auxiliary and fire police. (Def. added Feb. 20, 1982, P.L.88, No.32)

"Lethal weapons" include but are not limited to firearms and other weapons calculated to produce death or serious bodily harm. A concealed billy club is a lethal weapon. The chemical mace or any similar substance shall not be considered as "lethal weapons" for the purposes of this act. (Def. amended Nov. 23, 1976, P.L.1155, No.254)

"Privately employed agents" include any person employed for the purpose of providing watch guard, protective patrol, detective or criminal investigative services either for another for a fee or for his employer. Privately employed agents do not include local, State or Federal Government employees or those police officers commissioned by the Governor under the act of February 27, 1865 (P.L.225, No.228). The term shall include a

police officer of a municipal authority. (Def. amended Dec. 14, 1982, P.L.1209, No.278)

"Program" means the education and training program established and administered or approved by the commissioner in accordance with this act.

Section 4. Education and Training Program.--(a) An education and training program in the handling of lethal weapons, law enforcement and protection of rights of citizens shall be established and administered or approved by the commissioner in accordance with the provisions of this act.

(b) All privately employed agents, except those who have been granted a waiver from compliance herewith by the commissioner who, as an incidence to their employment, carry a lethal weapon shall be required to attend the program established by subsection (a) of this section in accordance with the requirements or regulations established by the commissioner and, upon satisfactory completion of such program, shall be entitled to certification by the commissioner. ((b) amended Nov. 23, 1976, P.L.1155, No.254)

(c) Except for colleges and universities, no nongovernment employer of a privately employed agent who, as an incidence to his employment, carries a lethal weapon, shall own, operate, or otherwise participate in, directly or indirectly, the establishment or administration of the program established by subsection (a) of this section.

Section 5. Power and Duties of Commissioner.--The commissioner shall have the power and duty:

(1) To implement and administer or approve the minimum courses of study and training for the program in the handling of lethal weapons, law enforcement and protection of the rights of citizens.

(2) To implement and administer or approve physical and psychological testing and screening of the candidate for the purpose of barring from the program those not physically or mentally fit to handle lethal weapons. However, candidates who are full-time police officers and have successfully completed a physical and psychological examination as a prerequisite to employment or to continued employment by their local police departments or who have been continuously employed as full-time police officers since June 18, 1974 shall not be required to undergo any physical or psychological testing and screening procedures so implemented. ((2) amended Feb. 20, 1982, P.L.88, No.32)

(3) To issue certificates of approval to schools approved by the commissioner and to withdraw certificates of approval from those schools disapproved by the commissioner.

(4) To certify instructors pursuant to the minimum qualifications established by the commissioner.

(5) To consult and cooperate with universities, colleges, community colleges and institutes for the development of specialized courses in handling lethal weapons, law enforcement and protection of the rights of citizens.

(6) To consult and cooperate with departments and agencies of this Commonwealth and other states and the Federal Government concerned with similar training.

(7) To certify those individuals who have satisfactorily completed basic educational and training requirements as

established by the commissioner and to issue appropriate certificates to such persons.

(8) To visit and inspect approved schools at least once a year.

(9) In the event that the commissioner implements and administers a program, to collect reasonable charges from the students enrolled therein to pay for the costs of the program.

(10) To make such rules and regulations and to perform such other duties as may be reasonably necessary or appropriate to implement the education and training program.

(11) To grant waivers from compliance with the provisions of this act applicable to privately employed agents who have completed a course of instruction in a training program approved by the commissioner. ((11) added Nov. 23, 1976, P.L.1155, No.254)

Section 6. Certificate of Qualification.--(a) Any person desiring to enroll in such program shall make application to the commissioner, on a form to be prescribed by the commissioner.

(b) The application shall be signed and verified by the applicant. It shall include his full name, age, residence, present and previous occupations and such other information that may be required by the commissioner to show the good character, competency and integrity of the applicant.

(c) The application shall be personally presented by the applicant at an office of the Pennsylvania State Police where his fingerprints shall be affixed thereto. The application shall be accompanied by two current photographs of the applicant of a size and nature to be prescribed by the commissioner and a thirty-five dollar (\$35) application fee, unless the applicant is a full-time police officer, in which case no application fee shall be required. Thereafter the application shall be forwarded to the commissioner. ((c) amended Feb. 20, 1982, P.L.88, No.32)

(d) The fingerprints of the applicant shall be examined by the Pennsylvania State Police and the Federal Bureau of Investigation to determine if he has been convicted of or has pleaded guilty or nolo contendere to a crime of violence. The commissioner shall have the power to waive the requirement of Federal Bureau of Investigation examination. Any fee charged by the Federal agency shall be paid by the applicant. ((d) amended Dec. 14, 1982, P.L.1209, No.278)

(e) No application shall be accepted if the applicant is under the age of eighteen.

(f) After the application has been processed and if the commissioner determines that the applicant is eighteen years of age and has not been convicted of or has not pleaded guilty or nolo contendere to a crime of violence, and has satisfied any other requirements prescribed by him under his powers and duties pursuant to section 5, he shall issue a certificate of qualification which shall entitle the applicant to enroll in an approved program.

Compiler's Note: The act of July 1, 1981, P.L.143, No.48, which provided for the fixing of fees charged by administrative agencies also repealed subsection (c) of section 6 of this act insofar as it establishes a set fee for any activity inconsistent with the fees set forth in the 1981 act.

Section 7. Certification and Fee.--(a) A certification fee

of not more than fifteen dollars (\$15) shall be paid by each individual satisfactorily completing the program prior to the receipt of a certificate.

(b) The commissioner shall furnish to each individual satisfactorily completing the program, an appropriate wallet or billfold size copy of the certificate, which shall include a photograph of the individual thereon.

(c) Every certified individual shall carry his wallet or billfold size certificate on his person as identification during the time when he is on duty or going to and from duty and carrying a lethal weapon.

(d) Certification shall be for a period of five years.

(e) Privately employed agents who, as an incidence to their employment, carry a lethal weapon shall be required to renew their certification within six months prior to the expiration of their certificate. The commissioner shall prescribe the manner in which the certification shall be renewed, and may charge a nominal renewal fee therefore, not to exceed fifteen dollars (\$15).

Compiler's Note: The act of July 1, 1981, P.L.143, No.48, which provided for the fixing of fees charged by administrative agencies also repealed subsections (a) and (e) of section 7 of this act insofar as it establishes a set fee for any activity inconsistent with the fees set forth in the 1981 act.

Section 8. Good Standing.--(a) Privately employed agents must possess a valid certificate whenever on duty or going to and from duty and carrying a lethal weapon.

(b) Whenever an employer of a privately employed agent subject to the provisions of this act discharges him for cause, the employer shall notify the commissioner of such within five days of the discharge.

(c) The commissioner may revoke and invalidate any certificate issued to a privately employed agent under this act whenever he learns that false, fraudulent or misstated information appears on the original or renewal application or whenever he learns of a change of circumstances that would render an employee ineligible for original certification.

Section 8.1. Retired Police Officer.--(a) A nondisability retired police officer of a Pennsylvania municipality or the Pennsylvania State Police shall be initially certified under this act, and need not meet the training and qualification standards or physical and psychological qualifications hereunder, if he was a full-time police officer for at least twenty years, retired in good standing and has assumed the duties of a privately employed agent on or before three years from the date of his retirement. If a retired police officer commences his duties as a privately employed agent after three years from the date of his retirement he must meet the physical and psychological requirements of this act for certification under this section.

(b) A retired police officer initially certified under this section shall not be required to pay the application fee but shall pay the certification fee upon the submission of a completed application provided by the commissioner.

(8.1 added Dec. 14, 1982, P.L.1209, No.278)

Section 9. Penalties.--(a) Any privately employed agent who in the course of his employ carries a lethal weapon, and who fails to comply with subsection (b) of section 4 or with subsection (a) of section 8 of this act, shall be guilty of a misdemeanor and upon conviction shall be subject to imprisonment of not more than one year or payment of a fine not exceeding one thousand dollars (\$1,000), or both.

(b) Any privately employed agent who in the course of his employ carries a lethal weapon, and who violates subsection (c) of section 7 of this act shall be guilty of a summary offense, and, upon conviction, shall pay a fine not exceeding fifty dollars (\$50).

Section 10. Prohibited Act.--No individual certified under this act shall carry an inoperative or model firearm while employed and he shall carry only a powder actuated firearm approved by the commissioner.

Section 10.1. Active Police Officers.--All active police officers subject to the training provisions of the act of June 18, 1974 (P.L.359, No.120), referred to as the Municipal Police Education and Training Law, shall be granted a waiver of the training requirements of this act upon presentation to the commissioner of evidence of their completion of the training requirements of the Municipal Police Education and Training Law and the successful completion of a biennial firearms qualification examination administered by their respective police agency.

(10.1 added Apr. 4, 1990, P.L.112, No.26)

Section 11. Effective Date.--Sections 1, 2, 3, subsections (a), (b) and (c) of section 4, sections 5, 6, 7, subsections (a), (b) and (c) of section 8, and sections 9 and 10 of this act shall take effect December 31, 1975.

(11 amended July 25, 1975, P.L.101, No.52)