

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

November 15, 2002

Opinion No. 02-123

Inapplicability of Contract Security Company Licensing Laws to Funeral Escort Services

QUESTIONS

1. Pursuant to Tenn. Code Ann. § 62-35-102(17), should a company engaged in the business of providing only "funeral escort services" be licensed as a contract security company?
2. If so, are the personnel of these funeral escort services also required to be registered as armed or unarmed security guards?

OPINIONS

1. A company that provides only funeral escort services is not required to be licensed as a contract security company pursuant to Tenn. Code Ann. § 62-35-102.
2. Because a company that provides funeral escort services is not required to be licensed as a contract security company, registration of such company's personnel as either armed or unarmed security guards is also not required.

ANALYSIS

1. This opinion addresses whether a company engaged in the business of providing only funeral escort services is required to be licensed as a contract security company under Chapter 35, Title 62 of Tennessee Code Annotated. Tenn. Code Ann. § 62-35-104 provides the following licensing requirements:

Except as otherwise provided in this chapter, it is unlawful for any person to act as a contract security company without having first obtained a license from the commissioner.

Tenn. Code Ann. § 62-35-104. Tenn. Code Ann. § 62-35-102, the definitions section that controls the "Private Protective Services Licensing and Regulatory Act" (now codified in Chapter 35), is pivotal to our analysis. As specified in subsection (6):

"Contract security company" means any person engaging in the business of providing, or undertaking to provide, a ***security guard and patrol service*** on a contractual basis for another person;

Tenn. Code Ann. § 62-35-102(6) (emphasis added). Subsection (16) provides:

"Security guard and patrol service" means ***protection*** of persons and/or property ***from criminal activities***, including, but not limited to:

- (A) Prevention and/or detection of intrusion, unauthorized entry, larceny, vandalism, abuse, fire or trespass on private property;
- (B) Prevention, observation or detection of any unauthorized activity on private property;
- (C) Enforce rules, regulations or local or state laws on private property;
- (D) Control, regulation or direction of the flow or movements of the public, whether by vehicle or otherwise on ***private property***; or
- (E) ***Street patrol service***;

Tenn. Code Ann. § 62-35-102(16) (emphasis added). Subsection (17) provides:

"Street patrol service" means the utilization of foot patrols, ***motor patrols***, or any other means of transportation ***in public areas or on public thoroughfares*** in order to serve multiple customers or facilities. "Street patrol service" does not apply to:

- (A) A management supervisor moving from one (1) customer or facility to another to inspect personnel; or
- (B) A security guard/officer traveling from one (1) facility to another to serve the same customer with multiple facilities;

Tenn. Code Ann. § 62-35-102(17) (emphasis added). Although funeral escorts may be "motor patrols . . . in public areas or on public thoroughfares," they do not fall under the definition of "street patrol service" when read in the context of this chapter's statutory scheme.

According to Tenn. Code Ann. § 62-35-102(16), a "street patrol service" (subdivision (E)) may be a type of "security guard and patrol service" if it provides "protection . . . from criminal activities." While a funeral escort may have a duty to escort a funeral procession in a safe manner, *Anderson v. City of Chattanooga*, 978 S.W.2d 105 (Tenn. Ct. App. 1998), it is not the purpose of a funeral escort to provide protection from criminal activities. It is also for this reason that a funeral escort does not fall within Tenn. Code Ann. § 62-35-102(16)(D) relative to the "control, regulation

or direction of the flow or movements of the public."¹ As such, a funeral escort, whether under subdivision (D) or (E) of § 62-35-102(16), does not fall within the definition of "security guard and patrol service."

Pursuant to Tenn. Code Ann. § 62-35-102(6), a "contract security company" provides "security guard and patrol service on a contractual basis for another person." Because a funeral escort does not fall within the definition of "security guard and patrol service," it is not included within the parameters of a "contract security company." Therefore, a company that provides funeral escort services is not required to register as a "contract security company" under Chapter 35, Title 62 of Tennessee Code Annotated.

2. Due to the forgoing analysis, a company or other "person" that provides funeral escort services is not required to be licensed as a contract security company. Therefore, registration of either such company's personnel or any other "person," as either armed or unarmed security guards, is also not required under Chapter 35, Title 62 of Tennessee Code Annotated.

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

GARY R. HOTVEDT
Assistant Attorney General

¹ Tenn. Code Ann. § 62-35-102(16)(D) further limits any such action to "private property," whereas a properly identified funeral escort is intended to operate on public streets, highways or roads. *See* Tenn. Code Ann. § 55-8-183; this section mandates "rules of the road" relative to funeral processions, but it does not address the licensing of funeral escorts.

Page 4

Requested by:

The Honorable Ben West, Jr.
State Representative
Suite 37, Legislative Plaza
Nashville, Tennessee 37243-0160