

service after December 22, 1975, the effective date of § 569d, such teacher would be entitled to the statutory benefits conferred by § 569d(1) commencing on the work day following accumulation of the 60 day period.

The benefits conferred by § 569d(1) are not, in any event, applicable prior to December 22, 1975, its effective date. If § 569d(1) were construed otherwise, it would have a retroactive application.

The same rationale applies to the 120 day period set forth in § 569d(2). Service performed as a substitute teacher during the 1975-1976 school year prior to December 22, 1975, the effective date of § 569d, may be credited when determining whether a substitute teacher is entitled to the statutory benefit conferred upon a teacher employed as a substitute teacher for 120 days or more during a school year.

FRANK J. KELLEY,
Attorney General.

7605819, 2

WEAPONS: License to purchase.

WEAPONS: Safety inspection.

WEAPONS: Employer who furnishes to employee.

PRIVATE SECURITY GUARD ACT: Weapons.

PRIVATE SECURITY GUARD ACT: Banks and savings and loan associations.

Banks and savings and loan associations which employ private police or security guards are exempt from the requirements of the private security guard act.

Employees who are furnished handguns by their employers on a sign in-sign out basis are not required to obtain a license to purchase or a safety inspection certificate before each transfer of the weapon. Only the employer need obtain the license and the certificate.

Employees licensed under the private security guard act do not have to obtain a license or a safety inspection certificate upon receiving a handgun from the employer on a sign in-sign out basis. Only the employer need obtain the license and the certificate.

Opinion No. 5071

August 19, 1976.

Mr. George N. Parris
Prosecuting Attorney
Macomb County
Mount Clemens, MI 48043

You have requested my opinion as to whether employees of certain businesses, including banks and security guard agencies, must obtain (1) a license to purchase and (2) a safety inspection certificate before each

transfer of a handgun purchased by their employer is supplied to them on a sign in-sign out basis.

The issuance of licenses to purchase pistols is provided for by 1927 PA 372, § 2, as last amended by 1972 PA 15; MCLA 28.422; MSA 28.92, which states in part:

"No person shall purchase, carry or transport a pistol without first having obtained a license therefor as prescribed herein. . . ." [emphasis added]

The requirement for safety inspection certificates for pistols is set out by 1927 PA 372, *supra*, § 9, which states in part:

"Any person within the state who owns or comes into possession of a pistol as defined in this act, shall, if he resides in an incorporated city or an incorporated village having an organized police department, present such weapon for safety inspection to the commissioner or chief of police of such city or village; if such person resides in a part of a county not included within the corporate limits of such city or village he shall present such pistol for safety inspection to the sheriff of each county." [emphasis added]

Furthermore, 1927 PA 372, *supra*, § 1 provides:

"As used in this act:

"(a) 'Pistol' means any firearm, loaded or unloaded, 30 inches or less in length, or any firearm, loaded or unloaded, which by its construction and appearance conceals it as a firearm.

"(b) 'Purchaser' means any person who receives a pistol from another by purchase, gift or loan.

"(c) 'Seller' means any person who sells, furnishes, loans or gives a pistol to another." [emphasis added]

In order to determine whether a particular business is in violation of the aforementioned statutes, it is necessary to first ascertain which businesses come within the provisions of the private security guard act, 1968 PA 330, as last amended by 1975 PA 190; MCLA 338.1051 *et seq*; MSA 18.185(1) *et seq*. 1968 PA 330, *supra*, § 2, defines those covered by the act, and states in part:

"(d) 'Business of alarm system contractor, private police, special police, watchmen, patrol service, private security guards, security technicians and private security guard agencies' means a person, firm, company, partnership, or corporation engaged in the furnishing of such service, or performed by persons as defined in subdivisions (g) and (h) and subsection (2), with or without the assistance of an employee or employees.

"(e) 'Department' means the department of state police.

"(f) 'Licensee' means a person, firm, company, partnership or corporation licensed under the provisions of this act.

"(g) 'Private police, special police, watchmen, patrol service agencies, private security guards and private security guard agencies' means, separately and collectively, as an individual or an employer of employees in the business of furnishing, for hire, fee or reward, private

police, special police, watchmen, patrol service, private security guards, or other persons hired to prevent the theft of the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, notes, choses in action or other valuable documents, papers and articles of value.

“(h) ‘Private police or special police or security guards or watchmen’ employed by investment, financial concerns, or other business firms, *not including banks or savings and loan associations*, whose duties require their employees as designated above, to proceed from 1 point to another, including convoy activity for protection of choses in action or other designated reasons, and in so doing travel on public property, shall be included under this act.

“(2) All businesses furnishing alarm systems for the protection of persons and property, whose employees and security technicians travel on public property and thoroughfares in the pursuit of their duties, shall be included under this act, except this shall not include a communications common carrier providing communications channels under tariffs for the transmission of signals in connection with an alarm system.” [emphasis added]

Thus, banks or savings and loan associations which employ private police or security guards who remain on the property of their employer are excluded from the act. Also, 1968 PA 330, *supra*, § 29, provide another exemption, which decrees:

“This act shall not require licensing of any private security police employed for the purpose of guarding the property and employees of their employer and generally maintaining plant security for their employer, provided, however, that any person, firm or corporation maintaining a private security police organization may voluntarily apply for licensing under this act. When a private security police employer described and defined in this section provides the employee with a pistol for the purpose of protecting the property of the employer, such pistol shall be considered the property of the employer and the employer shall retain custody thereof, except during the actual working hours of the employee. All such private security people shall be subject to the provisions of section 19, subsection (1) of this act.” [emphasis added]

Private security police employed for the purpose of guarding the property and employees of their employer and banks or savings and loan associations which employ private police or security guards who remain on the property of their employer, are exempt from the licensing requirement of the act.¹

It is important to note that 1968 PA 330, *supra*, § 29, specifically excludes subsection (3) of 1968 PA 330, *supra*, § 19, which states:

“(3) *A person licensed as an alarm system contractor, alarm system agent, or a private security guard or agency is not authorized to carry a deadly weapon unless he is licensed to do so in accordance with the laws of this state.*” [emphasis added]

¹ 1968 PA 330, § 3, as last amended by 1975 PA 190; MCLA 338.1053; MSA 18.185(3).

Accordingly, it is my opinion, that since such pistols are considered the property of the employer, said employees, as defined above, are exempt from the statutory requirements of having to obtain a license to purchase, and a safety inspection certificate upon receiving the handgun from the employer on a sign in-sign out basis. This is also true for employees of banks and savings and loan associations.

It is also my opinion that employees of businesses licensed under the act do not have to obtain a license to purchase or a safety inspection certificate upon receiving a handgun from the employer on a sign in-sign out basis. When subsection (3) of 1968 PA 330, § 19, *supra*, is read in conjunction with 1927 PA 372, § 9, *supra*, and 1927 PA 372, § 2, *supra*, it is clear that the practice by the businesses involved neither constitute a "purchase" within the meaning of 1927 PA 372, § 2, *supra*, as defined in 1927 PA 372, § 1, *supra*, nor does it constitute "possession" within the meaning of 1927 PA 372, § 9, *supra*. Only the employer must obtain a license to purchase, and a safety inspection certificate upon the purchase of the handguns.

In conclusion, it is my opinion that employees, who are furnished handguns by their employers on a sign in-sign out basis are not required to obtain (1) a license to purchase or (2) a safety inspection certificate before each transfer of the weapon.

FRANK J. KELLEY,
Attorney General.

760823.2

CIVIL SERVICE: Firemen and Police.

FIREMEN AND FIRE DEPARTMENTS: Civil Service.

POLICE: Civil Service.

A firemen and policemen civil service commission established pursuant to 1935 PA 78 may adopt a rule which gives applicants for promotion a credit of ½ point for each 6-month period of service.

A firemen and policemen civil service commission established pursuant to 1935 PA 78 may not discriminate against an applicant for promotion solely on the ground that there has been an interruption in his service experience. Thus, a rule of the commission which computes seniority and length of service only on the basis of continuous, consecutive active service in the department is invalid.

Opinion No. 5101

August 23, 1976.

Honorable Gary M. Owen
State Representative, 22nd District
The Capitol
Lansing, Michigan

You have asked my opinion on questions concerning sections 11 and 12 of 1935 PA 78; MCLA 38.511 and 38.512; MSA 5.3361 and 5.3362 ("Act