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SPRINGFIELD



August 19, 1976

FILE NO. S-1141

CRIMINAL LAW:
Law Enforcement Officer
Acting as Guard or Watchman
in His Spare Time

Honorable Nicholas G. Byron
State's Attorney
Madison County
Edwardsville, Illinois 62025

Dear Mr. Byron:

This responds to your letter requesting my opinion as to the applicability of that portion of section 2 of "AN ACT to provide for Licensing and Regulating Detectives and Detective Agencies etc." (Ill. Rev. Stat. 1975, ch. 38, par. 201-2) which provides that:

"The provisions of this Act shall not apply
* * * to any person or persons, watchman or
guard employed exclusively and regularly by one

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employer in connection with the affairs of such employer only and there exists an employer-employee relationship."

You state that law enforcement officers who work in their off-duty hours as guards or watchmen for one employer only have not registered as private detectives because of this statutory exemption. You ask whether this exemption may properly be applied in such cases, and in my opinion, it may.

The construction of a statute is necessary only when the language used is uncertain or ambiguous. (Bergeson v. Mullinix, 399 Ill. 470.) In my opinion that portion of section 2 of the Act quoted above is clear and unambiguous. "Any person or persons" satisfying the conditions provided need not comply with the Act.

This conclusion is in keeping with my opinion No. S-1067, issued March 18, 1976, in which I advised that off-duty deputy sheriffs could obtain a private detective certificate. If an off-duty deputy can qualify to obtain a certificate under the Act, it follows that he may also take advantage of any exemptions found therein.

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It is therefore my opinion that if a law enforcement officer working as a guard or watchman in his off-duty hours satisfies the conditions set forth in that portion of section 2 of the Act quoted above, he need not register as a private detective in Illinois.

Very truly yours,

A T T O R N E Y G E N E R A L