

Las empresas de seguridad privada y su regulación en Baja California

Private security companies and its regulation in Baja California

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Resumen

El propósito de este artículo es conocer la normatividad que regula el funcionamiento de las empresas que prestan servicios de seguridad privada en Baja California, así como su registro, vigilancia y, en su caso, sanción. A su vez, también busca conocer el vínculo jurídico de los guardias de seguridad con el área operativa y directiva de estas empresas y su funcionamiento. La metodología utilizada fue la investigación documental y de campo. Los resultados obtenidos fueron, en términos generales, que se cumple con la normatividad aplicable, salvo en lo que corresponde a las condiciones de trabajo de los guardias de seguridad: monto de salarios deprimido; capacitación casi inexistente; jornadas excesivas e inadecuadamente controladas; omisión de Reglamentos Internos de Trabajo; uso y devolución de uniformes irregular; e inscripción en organismos aseguradores con datos opuestos a la realidad.

Palabras clave: seguridad, privada, regulación, Baja California.

Abstract

The purpose of this article is to know the regulations governing the operation of companies that provide services of private security in Baja California, as well as your registration, monitoring and, where appropriate, sanction. At the same time, it also seeks to know the legal link of security guards with the directive and operational area of these companies and their performance. The methodology used was the documentary and field research. The results obtained were, in terms General, complying with the applicable regulations, except in what corresponds to the conditions of work of security guards: amount of wages depressed; almost non-existent training; excessive and inadequately controlled shifts; omission of Internal Work Regulations; irregular use and return of uniforms; and enrollment in insurance bodies with data opposed to reality.

Key words: security, private, regulation, Baja California.

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Introduction

Conceptualization

Public safety means that the inhabitants of a country living in peace, tranquility and harmony, each respecting the individual rights of the other. It should be a service that reaches everyone, regardless of socioeconomic level that you have, the geographic space that is dwell, activity that is done or the age that you have, in order to protect the physical integrity and property of everybody. Public safety compete, in Mexico, the State at three levels of Government, federal, State and municipal levels, which would have raised public policies to effect of issuing different legal systems and design and operate programmes.

We understand as private security any activity or service that, in accordance with the legal and administrative regulations, perform for third-party, providers, those authorized, the permit holders and institutions duly registered with the competent administrative unit officers, that it aims to protect the physical integrity of specifically certain people and/or their heritage; prevent the Commission of crimes and offences to the detriment of these; assistant in the event of accidents and disasters, and cooperate in the provision of data or materials for the investigation and prosecution of offences, in auxiliary and complementary to public security and authorization form, license, permit or registration notice issued by the competent authorities (Federal District Government, undated).

They are private security guards, natural persons providing for another physical or moral, which in this case is the company that provides private security services to third parties. Therefore, they constitute workers, who must comply with all obligations and enjoy all the rights that are inherent to an individual employment relationship, both in the workplace, and social security. The companies providing private security services therefore are their employers.

Public Safety Act of the State of Baja California

This law was published in the Official Gazette of the State (POE), dated August 21, 2009, beginning his term the next day. It is of public order and public interest and aims to develop the basis for implementation of the National Public Security System, establishing the bases for coordination between the state and municipalities, as well as regulating the provision of public safety, the security services private and administrative relationship between members of the police institutions of the State of Baja California and Dependencies Centralized State or Municipal Public Administration.

They are police institutions in the state: State Preventive Police; State Police; Municipal police; State Security Police and prison custody; and other legally constituted.

They are auxiliary police institutions at the Bank: Operating Bodies of the Directorate of Civil Protection of the State and municipal bodies responsible for civil protection; Fire Departments and Rescue; providers of private security services and operating a similar nature or installed in the State; bodies of medical care or first aid; and others to be established in strict compliance with the law.

Holders of police institutions and providers of private security services must register and maintain updated data on its members. IDs of members, prosecutors, experts, support elements and operational staff of providers of private security services, must contain at least name, title, photograph, fingerprint and password enrollment in the National Register of Public Security staff and security measures to ensure their authenticity.

In addition to complying with the provisions of the Federal Law on Firearms and Explosives, natural or legal persons who intend to provide or providing private security services in the state, in any of the forms provided by this law and its regulations, must obtain payment of rights, authorization from the Ministry.

Are providers of private security services: natural or legal persons legally constituted, whose corporate purpose is the provision of private security services, whether the care or custody of local or transportation of securities. They are assimilated to this group of natural persons providing private security services through third parties responsible employees; security groups that organize at its expense the inhabitants of the colonies, subdivisions and residential areas to exercise the sole function of protecting property or room houses located in areas that are indicated previously; custodians of people providing personal security services, at the expense of those who receive such service; providers, which independently perform the oversight function on dwellings, businesses or individuals; individuals or companies that provide electronic security services in all classifications; individuals or companies providing private investigation services; individuals or companies providing private security services by dogs; individuals or companies conducting activities related to shielding services of motor vehicles, and in general, any natural or legal person performing

similar and ancillary activities related to private security in terms of this Act and the relevant regulations.

The providers of private security services must constantly train their staff operating under the guidelines and programs established by the Academy, to the effect that these have the knowledge necessary for the effective performance of their duties.

In private security, it is for the regular Secretariat, control and sanction, through the administrative unit, providing private security services in the State; establish requirements for authorization to provide private security services, on payment of the corresponding rights; permanently supervise staff, professional training programs, equipment and operation of providers of private security services; sanction as provided in the Act and Regulations to providers of private security services, when by action or omission fail to comply with these orders.

Regulation of Private Security for the state of Baja California

It was published in the POE 10 September 2010. He started the force the day of its publication.

The providers of private security services are ancillary to the public safety function, so that its members contribute with the authorities and institutions of public safety in emergency situations, disaster or when required. This service can only Mexican nationals.

The Directorate of Private Security Services of the Ministry of Public Security of the state, is the competent authority in relation to private security services, which has, among others, the authority to: receive requests, grant and, where appropriate, cancel the authorization to provide services, issue identification cards, impose sanctions, evaluate.

The regulations in comment outlines the requirements you must meet the operating personnel serving private security, among them: having Mexican nationality; be eighteen years of age; He has completed secondary education; accredit work background; not have been convicted or be subject to criminal prosecution for serious or intentional crime; have medical certificate of good health; submit to drug testing to prove not consume narcotic or psychotropic substances; forward primer released National Military Service; present, if appropriate, where expertise is proven record in managing security or ability to canines through; have no negative labor or identification register in the National System of Public Security or the State Public Information System Security: present and demonstrate evaluations conducted by the Center for Control and Trust; receive training and training through providers.

In relation to the quality of operational staff troubadours, it stands out in this clause, have the right to receive training and instruction, as also provided for in Articles 153 A to 153 X of the Federal Labor Law (LFT).

Also their obligation to submit a certificate of good health and undergo drug testing, which corresponds to Article 134, section X of the LFT.

This regulation establishes the requirements for providers of private security services, emphasizing, among others: inform the Directorate, within five working days of its completion, various administrative actions, such as changes in the statutes, change in shareholders , principals, administrators, and the dissolution or liquidation of the company, in the case of legal entities; modification permits, authorizations or licenses; ups and downs of equipment and / or attachments; change of address of parent or branches; temporary suspension of service. The obligation to prove that the partners are not subject to criminal proceedings or have been convicted of a felony is also established. They must inform the high address, low removals, dismissals or disqualifications of operational staff; must register the members of operational staff in the statutory scheme of the Mexican Social Security Institute (IMSS); inform the Directorate on the incorporation of motor vehicles to be used in the service; notify in writing down of equipment and motor vehicles; submit the

description of firearms assigned, where appropriate, operational staff; allow and facilitate access to its facilities to the public servants of the Secretariat; submit to the Directorate operational staff and chief operating officer.

With regard to the requirement for workers to undergo medical examinations as well as psychometric tests and confidence, and with regard to the labor legal relationship, this obligation must be contained in the internal labor regulations (RIT), in accordance with numeral 134, section X of the LFT.

With regard to the obligations of service providers in terms of patterns, particularly the operational staff, it stresses the obligation to enroll in the mandatory regime of IMSS.

This note suggests that long companies providing private security services have not fulfilled the obligation to enroll their workers in the statutory scheme of the IMSS and that, consequently, neither the Department nor the IMSS, had complied with its obligation to monitor and, if necessary, punish the neglectful patterns, which can be extended to the Institute of National Housing Fund for Workers (INFONAVIT), and the Institute of Development and Guarantee Fund for Consumption Workers (INFONACOT), the latter from the latest labor reform, effective December 1, 2012.

This on the basis of the provisions of the Social Security Act, in section 304, which provides that when employers and other regulated entities from the acts or omissions involving the non-payment of tax concepts set out in Article 287, They shall be punished by a fine of forty to one hundred percent of the concept omitted. Sections 304 A, 304 B, 304 C and 304 D are also applicable

numerals 5, Section III It is also based on the law of INFONAVIT; 32 and 55 and the Regulations for the imposition of fines for breach of the obligations that the Law Institute of the National Housing Fund for Workers and its Regulations establishing paid by employers.

It is based on articles 132, sections I, XXVI bis and 1004 of the LFT.

As pointed out, private security companies are required to assist with the competent authorities through the implementation of actions assigned to them. In this regard he was held a working meeting in January 2014, with the aim of strengthening coordination between the Ministry of State Security (SSPE) and private security companies providing alarm monitoring services and are They are connected to the Control Center, Command, Communications and Computer (C4). The Director of Private Security Services said that "one of the main agreements was to strengthen the training of monitoristas of private security companies as well as geo-reference incidents in order to identify priority areas". He explained that one of the advantages of "Centurion System" is that private security guards report to C4 any incident or emergency that occurred in the business, residential area or industry they work for who treats the corresponding corporation, thereby avoiding saturating the line 066. At the meeting attended by 12 private security companies operating in Mexicali, while there are 37 in the state electronic security companies. He assured that "private security companies are key allies of public security, so these actions are important to achieve the strengthening of this area, being backed and supported by the Ministry of State Security (SSPE), institution responsible for regulating them in the state "(Digital Mexicali, June 9, 2014).

The providers of private security services must issue to the operating personnel, a badge or personal identification card that must carry a mandatory basis.

Management has powers to conduct inspections in order to verify, among other things, whether suppliers of private security services have the appropriate authorization, if the operating staff and the head of operations comply with regulatory requirements, if the equipment used is adequate and is in good condition.

If any inspection visit it appears that there are irregularities or omissions in compliance with applicable rules, the management is entitled to, as a precaution, suspend the authorization or even close down the establishment in question.

The sanctions that management is empowered to impose, are: written warning; fine of 1-5000 times the general minimum wage in relation to the seriousness of the offense;

suspension of the authorization for up to sixty working days; cancellation of the authorization; permanent closure of the establishment.

Undoubtedly, including a security guard and the company providing private security service there is individual working relationship, which rights and obligations, labor and social security for both sides are derived.

Ministry of Public Security

The Organic Law of Public Administration of Baja California, published in the POE January 20, 1986, regulates the Secretariat of Public Security. It also states that for the study, planning and dispatch of business in the various branches of the Public Administration, will be a Secretary General of Government. Act directly, if necessary, various departments in carrying out the tasks entrusted to the Chief Executive, as the Ministry of Public Security, which corresponds to respond to and dealing with various issues, particularly regarding private security highlights integrate and coordinate the State Council of Public Security in terms of the Public Safety Act and Basis of Coordination for the State of Baja California, and programs of identification and inventory of human and material from corporations, public and private resources, provide police services and preventive security in the State; and regulate, supervise and control the provision of private security services and issue the consent or authorization of the State Executive needed for its establishment and operation, and to authorize equipment and hardware necessary for its protection function under regulation to that effect is issued.

The Internal Regulations of the Ministry of Public Security states that the Secretariat of State Public Security System is headed by a Secretary and to the office of his business account, among others, the Department of Private Security Services, which has a Department of Home Security Zone Mexicali and Security Services Department Private Zone Tijuana, Tecate, Rosarito and Ensenada.

Field Research

To complement the information collected and analyzed in a document, there was a research field that consists of interviews with executives of companies providing private social security, as employers and owners of the competent authorities, to determine to what extent it is known, complied with current labor regulations in Mexicali.

The information gathered in these activities was enriched by exercising go for a job as a security guard, from the perspective adjusted to this process of participatory research, which "is a method that involves the beneficiaries thereof, in knowledge production "(IDEA, undated), under which the research problem is defined, analyzed and solved by those affected, assuming the investigator with respect and seriousness it investigated the role.

Interview with managers of private security company

For confidentiality reasons remain anonymous, both the name of who made this interview, as the company. This report is consistent with other similar experiences.

The company was founded in 2015 and became operational once obtained the permits required, the preparation is complex but the authorities properly directed. The services are provided in schools, businesses and private events; in this activity you need no weapons, only furnitura, gas and wives. This company is supervised by the Ministry of State Security. Annually receive a verification visit. Only if there are complaints of a customer or employee, there may be monthly visits, which have not had. Where appropriate, the Secretariat may impose economic sanctions.

The profile to be met by applicants for employment of security guards in addition to the level of education is to be high, burly, good physical condition; They must submit documents such as birth certificate, school certificate and letter of no criminal record. When they are hired they undergo psychological and drug testing. In many cases, the frequency and type of these tests depends on what the client requests. They enjoy all the

legal benefits and services of the social security institutions. There is a lot of turnover. When entering to work, the supervisor gives a talk about what your job is. If unjustifiably missing are not paid that day and if other irregularities incur administrative proceedings arise.

Interview holders authorities

The Director of Private Security Services accepted the interview that was asked in relation to the services provided by private security companies. He said there are 215 such companies in Baja California, indicating that for registration complied with the regulatory requirements in force, explaining that there are eight ways in which they can perform. He stressed the importance of operational and management staff of these companies, as well as partners or owners, exposing the powers correspond to the address. He said that verification visits are conducted and supported in the powers, various penalties apply. He stressed in particular that verify that companies adequately train staff following the guidelines that the Directorate has established. He noted that the acquisition and use of weapons are strictly controlled and that the competent authority is the Secretariat of National Defense. As for working conditions of staff in these companies, he said they should enjoy all labor and social security benefits enjoyed by all workers.

Application for employment as a security guard

The experience of a person who attended a private security company to "ask for a job as a security guard" is presented. For confidentiality reasons remain anonymous, both the name of who did this exercise, and businesses and employees thereof. This report is consistent with other similar experiences.

The company advertises accessed by various means; however, most of these do not refer directly to the company, so until contact is established will know which company is seeking employment.

The requirements to be met are: to have 20-38 years of age; desire to work; original birth certificate; proof of studies; voter.

After waiting a while I was greeted by an employee who introduced himself as "the person who hires". The first question that he formulated was geared to find my experience in the industry and if I was registered with the Ministry of Public Security as a security guard; to which I replied that it had no prior experience and, therefore, not with that record.

He asked if studying, to which I said no, and he said that this information was important, because if a student had working hours of eight hours, and if it was not able to offer 12-hour shifts. She said that the 8-hour shifts are covered only as a security guard in a workplace in particular, on weekdays, while 12 hours could be assigned to places near my home and were from Monday to Saturday. In the case of shifts of eight hours, the salary is 890 pesos a week, while for the 12-hour week is 1200; with the option to upload every six months salary in 50 pesos.

I was informed that you recorded at the Mexican Social Security Institute (IMSS) from day work and offer benefits law regarding bonuses and holidays. I was introduced to sign three documents: the first was the employment contract; the second was a letter of commitment, in which we undertook to return the uniform that the company provides; The third document was an authorization for processing a certificate of no criminal record, which would process the company at a cost of 250 pesos, to be paid by the employee should accept.

Conclusion

In Baja California companies providing private security services are regulated by the Law on Public Security and State Regulation of Private Security for the state. Its operation is authorized and monitored, and if necessary, sanctioned by the Ministry of Public Security through the Directorate of Private Security Services. These companies legally binding with the management and operating staff for an individual working relationship. These workers enjoy employment benefits and social security applicable laws established, but there is a very high turnover of guards and the training they receive is poor.

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