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STATE OF ALABAMA
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Honorable Keith E. Warren
Executive Director
Alabama Security Regulatory Board
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Security Regulatory Act – Security Regulatory Board – Licenses and Permits – Exemptions

Pursuant to subsections (4) and (5) of section 34-27C-17 of the Code of Alabama, a security company must maintain an employer-employee relationship with collectively less than 100 security officers at all times during the calendar year for the company and its security officers to be exempt from the Security Regulatory Act.

Dear Mr. Warren:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Do the requirements of subsections (4) and (5) of section 34-27C-17 of the Code allow security companies and its security officers to be exempt from the requirements of the Security Regulatory Act when they employ collectively more than 100 security officers only on a seasonal basis; i.e., the company only exceeds 100 officers for a short period of time?

FACTS AND ANALYSIS

In May 2009, the Alabama Legislature enacted the Security Regulatory Act, section 34-27C-1, *et seq.* ("Act") of the Code, which created the Security Regulatory Board ("Board"). The expressed purpose of the Board is to regulate

those providing contract security services throughout the state. The Act generally applies to all providers of contract security services and requires both individuals and companies to become licensed. The Legislature, however, added provisions that allow certain companies and individuals to be exempt from the licensure requirements of the Act.

These provisions of the Act state, in pertinent part, that the following entities are exempt from licensure: "Any person who is employed with a contract security company which employs, or has an employer-employee relationship with, collectively less than 100 security officers or armed security officers, or both" [ALA. CODE § 34-27C-17(4) (2010)]; "[a] contract security company which employs, or has an employer-employee relationship with, collectively less than 100 security officers or armed security officers, or both" [ALA. CODE § 34-27C-17(5) (2010)].

The fundamental rule of statutory construction is to ascertain and give effect to the intent of the Legislature in enacting the statute. *IMED Corp. v. Sys. Eng'g Assoc. Corp.*, 602 So. 2d 344, 346 (Ala. 1992). "'However, when possible, the intent of the legislature should be gathered from the language of the statute itself.'" *Perry v. City of Birmingham*, 906 So. 2d 174, 176 (Ala. 2005), *quoting Beavers v. Walker County*, 645 So. 2d 1365, 1376 (Ala. 1994); *Ex parte Lamar Adver. Co.*, 849 So. 2d 928, 930 (Ala. 2002). Therefore, in "determining the meaning of a statute, we must begin by analyzing the language of the statute." *Holcomb v. Carraway*, 945 So. 2d 1009, 1018 (Ala. 2006).

Words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000). Where terms used in a statute are not words of art with an assigned statutory definition, it may be construed as having a general definition assigned by usage. *See Young Oil Co. v. Racetrac Petroleum, Inc.*, 757 So. 2d 380, 383 (Ala. 1999).

The above sections of the Act only allow for exemptions when there are collectively less than 100 security-officer employees. The Act does not expressly or impliedly provide any grace period for companies that may exceed the limit temporarily on a seasonal basis during the calendar year. Because the Legislature declined to provide any provision for companies that employ in excess of 100 security officers for only part of the year, this indicates the Legislature intended that any company that has more than 100 security-officer employees at any time during the year be subject to licensure.

The ordinary and plain meaning of "employs . . . collectively less than 100 security officers" is clear. If a company, at any time during the calendar year, exceeds the 100 security-officer employees, that company and its security officers are no longer exempt and are subject to the licensure requirements of

the Act. Without any further guidance from the Legislature as to the application of the exemptions, this must be the intended result from the plain meaning of the Act.

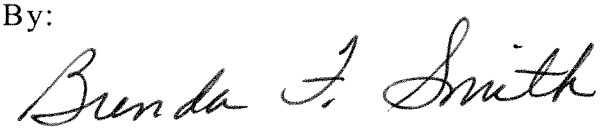
CONCLUSION

The Security Regulatory Board should consider exempt from licensure only those security companies (and its employees) who employ or have an employer-employee relationship with collectively less than 100 security officers for the entire calendar year. Any company that employs 100 or more officers at any time during the year is no longer exempt, and the company and its employees are subject to the licensure requirements of the Act at that time.

I hope this opinion answers your question. If this Office can be of further assistance, please contact me.

Sincerely,

LUTHER STRANGE
Attorney General
By:



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