Changes in Private SECURITY Industry according to the Enactment and Amendments of South KOREAN “Security Services Industry Act”

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Abstract

A country is responsible for the safety of the people. It would be ideal for the police to protect the safety of all people and, if it is possible, the private security industry, would not develop any further. However, the crime rate of South Korea has continued to rise and the safety services provided by the country are limited. It is because it is impossible to predict when, where, and how a dangerous situation may occur. The “Security Services Industry Act” was enacted to foster the private security industry sound and healthy. It was enacted in 1976 and has been revised 26 times.

The amendments of the “Security Services Industry Act” can be divided into partial amendments, amendments due to other law and full amendments. The amendments due to other law mean the changes due to other law. The name change of the Ministry of Public Administration and Security is a representative example. Additionally, it was revised due to the changes in “Criminal Act”, “Punishment of Violences, Etc. Act”, “Civil Act”, “Presidential Security Act”, and “Administrative Procedures Act”. However, these amendments mostly did not affect the purpose of the “Security Services Industry Act” much. The overall amendment trend was addition and reinforcement, rather than deletion or alleviation. Although it is one of the main subjects responsible for the security of South Korea, it has been growing quantitatively without extending the scope of the private security industry and delegating appropriate authorities. In terms of the past 26 revisions, the quantity of it has grown explosively from the enactment in 1976 to 2001, when it finally had the current business areas (i.e., facility security, escort security, personal security, machine security, and special security) and from 2002 to 2012, when the capital requirement was lowered, the responsibility principle began to be applied to the punishment provisions, and the dual task prohibition was removed. It has grown qualitatively from 2013, as regulations were strengthened: the collective civil complaint site was designated, the prohibition period of a sexual criminal was increased, and the prohibition for influencing the hiring of underqualified or unqualified personnel was introduced.

The amendments of the “Security Services Industry Act” are supposed to develop the private security to the next sound level, maintain the national order, and protect the social safety. If the private security violates laws or adversely affects the public order, it should be sanctioned and punished strongly. However, it is necessary to give righteous authority and add more tasks such as private investor service or traffic regulation to security guards, as subjects responsible for social safety, for effectively maintaining the national order and protecting social safety effectively.

[Keywords] Security Services Industry Act, Private Security, Social Safety, Enactment and Amendment, South Korea
1. Introduction

South Korea has grown its economy at amazing speed while undergoing rapid social and institutional changes since its founding. Industrialization has made the society more complex and overpopulated the urban area, yet it has enhanced personal abilities to bring about economic growth. Economic growth has presented richness to South Korea[1]. However, the dark side of the richness has increased the desire to protect social members from various harmful factors and maintain public safety and order owing to the increased, diversified, and organized crimes[2]. The actual ability and manpower of the police are not sufficient to protect all people from every danger, although the basic duty of the police is to protect the people. Private security systems have been introduced to assist or overcome these limitations.

The “Security Services Industry Act”[3] of South Korea was enacted in 1976 with the aim of contributing to the healthy operation of the security services industry by defining items necessary for fostering, developing, and managing it systematically. After the enactment of the act, the "Security Services Industry Act" was amended 26 times, the "Enforcement Decree of the Security Services Industry Act" was enacted and revised 31 times, and the "Enforcement Regulations of the Security Services Industry Act" was enacted and revised 26 times. However, there are still a variety of issues including the authority and business area of security officers, certificate system, and illegal actions. Therefore, it has been continuously asked to improve these problems. Many studies have been conducted on the “Security Services Industry Act” to improve these issues.

Until now, most studies have focused on identifying the issues and improvement measures of “Security Services Industry Act”. Some studies Seo and Park[4] and Choi[5] evaluated specific issues such as the position, responsibility, and the scope of duties. Other studies Park[6] and Lee[7] examined the macroscopic issues and their solutions. Others also compared the “Security Services Industry Act” with equivalent laws of other countries. Lee(2012)[8] and Kim(2012)[9] et al. compared laws or private security instructor system. Additionally, Park and Kim(2013)[10] studied the laws and regulations of Japan and China related to security. Another aspect was the evaluation of an amendment or amended act. Although many studies have evaluated “Security Services Industry Act” persistently, they mostly evaluated it according to the situation at the time of the amendment, suggested tasks, or compared the act with similar acts of other countries. However, since the foundation and the knowledge associated with the private security are not robust, it is necessary to evaluate the changes in the “Security Services Industry Act” from past to present, the social changes according to these changes, and future directions.

2. Theoretical Background

2.1. Definition of private security

The “Security Services Industry Act” was enacted in December 1976 for fostering the sound security industry. Thereafter, this act, the enforcement decree, and the enforcement regulation were revised 26, 31, and 26 times, respectively. Private security is opposite to public security. It was called personal security until private security became a test subject of the security instructor certificate in 1995, but it is mainly called private security afterward[11]. Private security is a series of security activities in a private autonomous area and it includes all preventative actions for protecting the life, body, and property of people and maintaining the order[12]. Private security is responsible for crime prevention or order maintenance[13]. In other words, it exercises preventative measures to prevent or inhibit crimes, protect economic gains, or protect loss for a client as much as the remuneration received from the client.

2.2. Security industry status
The status of private security can be examined through the status of security companies and security guards provided by the National Police Agency. Security companies have increased steadily, reaching 4,610 as of 2017, after the act was enacted in 1976. In terms of business, there are 4,528 facility security companies, 42 escort security companies, 567 personal security companies, 149 machine security companies, and 142 special security companies. Security guards, like security companies, have been steadily increasing. It is known that, as of 2017, there are 156,066 security guards.

Table 1. Security industry status[14].

<table>
<thead>
<tr>
<th>Classification</th>
<th>Number of corporate</th>
<th>Number of corporate by licensed business</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>Facility protection</td>
</tr>
<tr>
<td>14</td>
<td>4,287</td>
<td>5,040</td>
</tr>
<tr>
<td>15</td>
<td>4449</td>
<td>5,203</td>
</tr>
<tr>
<td>16</td>
<td>4570</td>
<td>5,337</td>
</tr>
<tr>
<td>17</td>
<td>4610</td>
<td>5,428</td>
</tr>
</tbody>
</table>

Table 2. Number of guards[14].

<table>
<thead>
<tr>
<th>Year</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Guards</td>
<td>150,030</td>
<td>151,739</td>
<td>150,543</td>
<td>153,767</td>
<td>147,049</td>
<td>156,066</td>
</tr>
</tbody>
</table>

2.3. Contents of “Security Services Industry Act” enactment and amendments

The "Security Services Industry Act", which was enacted for the healthy promotion of the security industry, was revised 26 times since its enactment in 1976. Moreover, the "Enforcement Decree of the Security Services Industry Act" was revised 31 times and the "Enforcement Regulations of the Security Services Industry Act" was revised 26 times. The history from enactment to partial amendments can be summarized as follows.

The amendments due to other law mean the changes due to other law. The name change of the Ministry of Public Administration and Security is a representative example. Additionally, it was revised due to the changes in “Criminal Act”, “Punishment of Violences, Etc. Act”, “Civil Act”, “Presidential Security Act”, and “Administrative Procedures Act”. However, these amendments mostly did not affect the purpose of the "Security Services Industry Act" much.

The main revisions can be summarized as follows. The "Security Services Industry Act" was enacted in 1976 for the need of a private security system and was amended to foster a healthy security industry. In terms of the macroscopic changes, the scope of the security industry has continued to increase. It was extended from facility protection (including important national facilities) and escort security to personal protection work. As it was changed from a report system to a license system, machine security and special security were added to it. The restrictions and administrative dispositions were rather added or reinforced than deleted and mitigated. A representative change is about a criminal background check. Of course, there were also deletions and mitigations. Due to changes in the social environment and aging, the age upper limit for general security guards was raised and then deleted, and that of special security guards was raised from 58 to 62 years old. However, the scope of work and authority were barely changed. Although
there are five business areas, they often overlap one another. It was also found that the authority of security guards has not been changed much even though the collective civil complaint site has become a new task along with the newly added report and permission obligations.

3. Changes in Private Security According to the Enactment and Revisions of the "Security Services Industry Act"

The main revisions can be summarized as follows. In the 1981 amendment, the age limit of the security guard was extended from 50 to 55 years old due to the increased inflow of elderly people into the security business and aging. In the 1983 amendment, the reporting obligation was alleviated and it was decided that it would be unnecessary for reporting the hiring and dismissing a security guard to the head of the district police department. The fine for running a business without a license was increased to 1 million KRW from 500 thousand KRW. The fine for a minor violation such as the report for temporary closure was reduced. The 1989 amendment prevented the infringement on the interests of a security guard due to an unfair contract and stipulated the expenditure necessary for the welfare, education, and training of security guards in order to promote the rights and interests of security guards. In addition, the upper age limit was changed from 55 to 58 years old. In the 1995 amendment, a personal security work was newly added and the security instructor system was newly enacted. The security instructor was supposed to be in charge of instruction, supervision, and training. Moreover, the age limit for the general security guard was eliminated. In the 1999 revision, the name of the “Security Industry Act” enacted in 1976 was changed to the “Security Services Industry Act”, which is currently used. Additionally, the provisions related to the guard instructor were modified reasonably. In the 2001 amendment, the machine security service was changed to a license system and instructed to take a prompt response by explaining how to use the device. The special security service was newly established, and it specified the weapon usage, obedience obligation, and the duty to prohibit the leave from the security area. Moreover, the security business license should be renewed every five years in order to secure the effectiveness of it. The 2002 amendment revised what had been limited to the entire operation of the security company suitable to the reality of the security company. In the 2005 amendment, the security guards were allowed to perform activities outside of the guard services such as displaying power or exercising physical force to others. Moreover, it prevented anyone from making the security guards conduct activities outside the scope of their services. Additionally, general security guards and special security guards performing a facility security service or a personal security work were to be notified 24 hours in advance. The 2008 amendment allowed a corporation or an individual not to be punished if the subject paid considerable care and supervision in order to prevent an offense. In the 2009 revision, the age restriction for a special security guard was extended to 60 years or older. In the revision in 2013, the collective civil complaint site field was specifically defined. Moreover, the minimum capital requirement for the security business license was increased from 50 million to 100 million KRW. Additionally, the criminal record review of a security guard was obligated, and the punishment criteria for the actions beyond the security guard duty were strengthened. The 2014 amendment increased the duration of not being able to work for the security industry from five years to ten years for a sex offender. A new regulation was created to cancel the qualification of a security guard instructor when he/she was appointed and served during the instructor suspension period. The 2015 amendment stipulated that a person who influenced the hiring of an unqualified person in the process of subcontracting a security work could be imprisoned or fined. In the 2016 amendment, it became possible for a person to receive a
general security guard new appointment training before working as a general security guard, which was only possible through a security agent. In the 2017 amendment, the security guard instructor test should be offered at least once a year. Furthermore, the previous regulation, which closed a company based on the one-year contract record, was extended the two-year record. The previous regulation stipulated that a special security guard, who disturbed the normal operation of an important national facility, was subject to receive a sentence of 7 years or less imprisonment. However, considering the balance with other administrative penalties, it was lowered to 7 years or less imprisonment.

3.1. 1976~2001(Establishment)

It was when the "Security Services Industry Act" was enacted, and it grew along with facility security and escort security. However, there were many institutional changes because several shortfalls of the institution were found. The most important changes were the addition of personal security services in 1995 to existing facility security(including important national facilities) and escort security, the change from a report system to a license system for the machine security, and the addition of special security services. It is when the current four business areas were finalized. Furthermore, the security instructor certificate, for instructing, supervising, and training security guards, was introduced in 1995 to settle down the system. “Service” was eliminated from the act to give a positive image, so the "Security Services Industry Act", current name, was established. Additionally, the security guard began to be considered as a job as the upper age limit was raised, a mutual-aid project for the liability of a security association was created, and provisions for promoting the rights of security guards were established.

3.2. 2002 ~ 2012(Development - quantitative)

During this period, the institutional system was relatively alleviated, different from other periods, so the development of the private security industry was accelerated. For example, the license requirements of the security industry were lowered by reducing the capital requirement from 100 million KRW to 50 million KRW for four security businesses excluding for the special security. The dual tasks were prohibited for the security industry but it began to be allowed from this period, except for the special security, considering the nature of the business. Therefore, the business scope of security companies was broadened. Moreover, in terms of liability, companies used to be responsible for the consequences regardless of the efforts and supervisions of the owners. However, it was determined that owners are not liable for the consequence when the owners fulfill the obligation of management, supervision, and attention according to the responsibility principle, the basic principle of South Korean laws. These changes have resulted in a massive increase in the employment of the older population. Moreover, the increase in the number of cultural, sports, and artistic gatherings has increased the volume of the private security industry.

3.3. 2013 ~ present(Development - qualitative)

It is the time when the private security industry is making a transition quantitatively. The most representative changes are the new provision regarding the collective civil complaint site in 2013, increased capital requirement, and strengthened punitive provisions. The collective civil complaint site is required to place a security guard and to appoint a security instructor where a pother or strife is anticipated after obtaining a permit in advance. The capital was raised from 50 million(previously required minimum capital except for the special security) to 100 million KRW. Moreover, the collective civil complaint site work requires a permit. Overall, the entry barrier for the security industry has been raised up. These changes have increased the professionalism of the security business and achieved qualitative
growth, rather than quantitative growth. Additionally, the punishment provisions for security guards, security companies, and security instructors were strengthened or added to help the security industry grow qualitatively.

4. Conclusion

The revision of the "Security Services Industry Act" can be divided into three periods. The first is from 1976 to 2001. It is when the current five business areas were finalized. The second is from 2002 to 2013, when it was developed on an institutional basis. The third is since 2013, when the collective civil complaint site was included as a task and criminal background check began. It was the time when the quantitative increase was slowed and it grew qualitatively.

The private security has been steadily increasing due to increased public awareness of safety and the diversification of crime and various risks since the enactment of the "Security Service Industry Act" in 1976. Therefore, the "Security Service Industry Act" has also been changed a lot in line with social changes. These changes established the foundation of the private security industry by having more works and a certification system. Moreover, “service” was removed from the regulation name to improve the image of the security industry. During the quantitative growth period, the industry finally had the current five tasks. Moreover, the security industry made a quantitative increase in earnest as violent crimes increased, safety awareness increased, elderly employment increased, and there were more culture, sports, and arts events. However, on the dark side, there were many illegal activities and many small-sized companies also increased. During the qualitative growth period, the security companies have become more professional and commercial attributes in earnest, as the collective civil complaint site regulation was newly established and various punishments and provisions have been generated.

The amendments of the “Security Services Industry Act” are supposed to develop the private security to the next sound level, maintain the national order, and protect the social safety. If the private security violates laws or adversely affects the public order, it should be sanctioned and punished strongly. However, it is necessary to give righteous authority and add more tasks such as private investor service or traffic regulation to security guards, as subjects responsible for social safety, for effectively maintaining the national order and protecting social safety effectively.

5. References

5.1. Journal articles


5.2. Thesis degree


5.3. Additional references