

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5124

Chapter 334, Laws of 1991

52nd Legislature
1991 Regular Session

SECURITY GUARDS--LICENSING REQUIREMENTS

EFFECTIVE DATE: 7/28/91

Passed by the Senate March 20, 1991
Yeas 48 Nays 1

ELLEN CRASWELL
President of the Senate

Passed by the House April 11, 1991
Yeas 94 Nays 1

JOE KING
**Speaker of the
House of Representatives**

Approved May 21, 1991

BOOTH GARDNER
Governor of the State of Washington

CERTIFICATE

I, Gordon Golob, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5124** as passed by the Senate and the House of Representatives on the dates hereon set forth.

GORDON A. GOLOB
Secretary

FILED

May 21, 1991 - 10:59 a.m.

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5124

Passed Legislature - 1991 Regular Session

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Erwin, Gaspard, Amondson, Matson, Owen, Snyder, Nelson, von Reichbauer, Thorsness, Sellar, Johnson, Murray, McMullen, Bailey, Anderson and Talmadge).

Read first time March 11, 1991.

1 AN ACT Relating to licensing private security guards; adding a new
2 section to chapter 43.101 RCW; adding a new chapter to Title 18 RCW;
3 creating a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** Unless the context clearly requires
6 otherwise, the definitions in this section apply throughout this
7 chapter.

8 (1) "Armed private security guard" means a private security guard
9 who has a current firearms certificate issued by the commission and is
10 licensed as an armed private security guard under this chapter.

11 (2) "Armored vehicle guard" means a person who transports in an
12 armored vehicle under armed guard, from one place to another place,
13 valuables, jewelry, currency, documents, or any other item that
14 requires secure delivery.

1 (3) "Burglar alarm response runner" means a person employed by a
2 private security company to respond to burglar alarm system signals.

3 (4) "Burglar alarm system" means a device or an assembly of
4 equipment and devices used to detect or signal unauthorized intrusion,
5 movement, or exit at a protected premises, other than in a vehicle, to
6 which police or private security guards are expected to respond.

7 (5) "Chief law enforcement officer" means the elected or appointed
8 police administrator of a municipal, county, or state police or
9 sheriff's department that has full law enforcement powers in its
10 jurisdiction.

11 (6) "Commission" means the criminal justice training commission
12 established in chapter 43.101 RCW.

13 (7) "Department" means the department of licensing.

14 (8) "Director" means the director of the department of licensing.

15 (9) "Employer" includes any individual, firm, corporation,
16 partnership, association, company, society, manager, contractor,
17 subcontractor, bureau, agency, service, office, or an agent of any of
18 the foregoing that employs or seeks to enter into an arrangement to
19 employ any person as a private security guard.

20 (10) "Firearms certificate" means the certificate issued by the
21 commission.

22 (11) "Licensee" means a person granted a license required by this
23 chapter.

24 (12) "Person" includes any individual, firm, corporation,
25 partnership, association, company, society, manager, contractor,
26 subcontractor, bureau, agency, service, office, or an agent or employee
27 of any of the foregoing.

28 (13) "Principal corporate officer" means the president, vice-
29 president, treasurer, secretary, comptroller, or any other person who

1 performs the same functions for the corporation as performed by these
2 officers.

3 (14) "Private security company" means a person or entity licensed
4 under this chapter and engaged in the business of providing the
5 services of private security guards on a contractual basis.

6 (15) "Private security guard" means an individual who is licensed
7 under this chapter and principally employed as or typically referred to
8 as one of the following:

9 (a) Security officer or guard;

10 (b) Patrol or merchant patrol service officer or guard;

11 (c) Armed escort or bodyguard;

12 (d) Armored vehicle guard;

13 (e) Burglar alarm response runner; or

14 (f) Crowd control officer or guard.

15 (16) "Qualifying agent" means an officer or manager of a
16 corporation who meets the requirements set forth in this chapter for
17 obtaining a license to own or operate a private security company.

18 (17) "Sworn peace officer" means a person who is an employee of the
19 federal government, the state, a political subdivision, agency, or
20 department branch of a municipality, or other unit of local government,
21 and has law enforcement powers.

22 NEW SECTION. **Sec. 2.** The requirements of this chapter do not
23 apply to:

24 (1) A person who is employed exclusively or regularly by one
25 employer and performs the functions of a private security guard solely
26 in connection with the affairs of that employer, if the employer is not
27 a private security company;

28 (2) A sworn peace officer while engaged in the performance of the
29 officer's official duties; or

1 (3) A sworn peace officer while employed by any person to engage in
2 off-duty employment as a private security guard, but only if the
3 employment is approved by the chief law enforcement officer of the
4 jurisdiction where the employment takes place and the sworn peace
5 officer does not employ, contract with, or broker for profit other
6 persons to assist him or her in performing the duties related to his or
7 her private employer.

8 NEW SECTION. **Sec. 3.** An applicant must meet the following
9 minimum requirements to obtain a private security guard license:

10 (1) Be at least eighteen years of age;

11 (2) Be a citizen of the United States or a resident alien;

12 (3) Not have been convicted of a crime in any jurisdiction, if the
13 director determines that the applicant's particular crime directly
14 relates to his or her capacity to perform the duties of a private
15 security guard, and the director determines that the license should be
16 withheld to protect the citizens of Washington state. The director
17 shall make her or his determination to withhold a license because of
18 previous convictions consistent with the restoration of employment
19 rights act, chapter 9.96A RCW;

20 (4) Be employed by or have an employment offer from a licensed
21 private security company or be licensed as a private security company;

22 (5) Satisfy the training requirements established by the director;

23 (6) Submit a set of fingerprints; and

24 (7) Pay the required fee.

25 NEW SECTION. **Sec. 4.** (1) An applicant must meet the following
26 minimum requirements to obtain an armed private security guard license:

27 (a) Be licensed as a private security guard;

28 (b) Be at least twenty-one years of age;

1 (c) Have a current firearms certificate issued by the commission;
2 and

3 (d) Pay the fee established by the director.

4 (2) An armed private security guard license may take the form of an
5 endorsement to the security guard license if deemed appropriate by the
6 director.

7 NEW SECTION. **Sec. 5.** (1) An armed private security guard license
8 grants authority to the holder, while in the performance of his or her
9 duties, to carry a firearm with which the holder has met the
10 proficiency requirements established by the commission.

11 (2) All firearms carried by armed private security guards in the
12 performance of their duties must be owned or leased by the employer
13 and, if required by law, must be registered with the proper government
14 agency.

15 NEW SECTION. **Sec. 6.** (1) In addition to meeting the minimum
16 requirements to obtain a license as a private security guard, an
17 applicant, or, in the case of a partnership, each partner, or, in the
18 case of a corporation, the qualifying agent must meet the following
19 requirements to obtain a license to own or operate a private security
20 company:

21 (a) Possess three years' experience as a manager, supervisor, or
22 administrator in the private security business or a related field
23 approved by the director, or be at least twenty-one years of age and
24 pass an examination determined by the director to measure the person's
25 knowledge and competence in the private security business;

26 (b) Meet the insurance requirements of this chapter; and

27 (c) Pay any additional fees established by the director.

1 (2) If the qualifying agent upon whom the licensee relies to comply
2 with subsection (1) of this section ceases to perform his or her duties
3 on a regular basis, the licensee must promptly notify the director by
4 certified or registered mail. Within sixty days of sending
5 notification to the director, the licensee must obtain a substitute
6 qualifying agent who meets the requirements of this section. The
7 director may extend the period for obtaining a substitute qualifying
8 agent.

9 (3) A company license issued pursuant to this section may not be
10 assigned or transferred without prior written approval of the director.

11 NEW SECTION. **Sec. 7.** (1) The director shall issue a private
12 security guard license card to each licensed private security guard and
13 an armed private security guard license card to each armed private
14 security guard.

15 (a) The license card may not be used as security clearance or as
16 identification.

17 (b) A private security guard shall carry the license card whenever
18 he or she is performing the duties of a private security guard and
19 shall exhibit the card upon request.

20 (c) An armed private security guard shall carry the license card
21 whenever he or she is performing the duties of an armed private
22 security guard and shall exhibit the card upon request.

23 (2) The director shall issue a license certificate to each licensed
24 private security company.

25 (a) Within seventy-two hours after receipt of the license
26 certificate, the licensee shall post and display the certificate in a
27 conspicuous place in the principal office of the licensee within the
28 state.

1 (b) It is unlawful for any person holding a license certificate to
2 knowingly and willfully post the license certificate upon premises
3 other than those described in the license certificate or to materially
4 alter a license certificate.

5 (c) Every advertisement by a licensee that solicits or advertises
6 business shall contain the name of the licensee, the address of record,
7 and the license number as they appear in the records of the director.

8 (d) The licensee shall notify the director within thirty days of
9 any change in the licensee's officers or directors or any material
10 change in the information furnished or required to be furnished to the
11 director.

12 NEW SECTION. **Sec. 8.** A licensed private security company shall
13 file and maintain with the director a certificate of insurance as
14 evidence that it has comprehensive general liability coverage of at
15 least twenty-five thousand dollars for bodily or personal injury and
16 twenty-five thousand dollars for property damage.

17 NEW SECTION. **Sec. 9.** (1) A licensed private security company may
18 issue an employee a temporary registration card of the type and form
19 prescribed by the director, but only after the employee has completed
20 preassignment training and submitted an application for a private
21 security guard license to the department. The temporary registration
22 card is valid for a maximum period of sixty days and does not authorize
23 a person to carry firearms during the performance of his or her duties
24 as a private security guard. The temporary registration card permits
25 the applicant to perform the duties of a private security guard for the
26 issuing licensee.

27 (2) Upon expiration of a temporary registration card or upon the
28 receipt of a permanent registration card or notification from the

1 department that a permanent license is being withheld from an
2 applicant, the applicant shall surrender his or her temporary
3 registration card to the licensee who shall immediately forward it to
4 the director.

5 NEW SECTION. **Sec. 10.** (1) The director shall adopt rules
6 establishing preassignment training and testing requirements, which
7 shall include a minimum of four hours of classes. The director may
8 establish, by rule, continuing education requirements for private
9 security guards.

10 (2) The director shall consult with the private security industry
11 and law enforcement before adopting or amending the preassignment
12 training or continuing education requirements of this section.

13 (3) A private security guard or armed private security guard need
14 not fulfill the preassignment training requirements of this chapter if
15 he or she, within sixty days of the effective date of this act,
16 provides proof to the director that he or she previously has met the
17 training requirements of this chapter or has been employed as a private
18 security guard or armed private security guard for at least eighteen
19 consecutive months immediately prior to the date of application.

20 NEW SECTION. **Sec. 11.** (1) A private security company shall
21 notify the director within thirty days after the death or termination
22 of employment of any employee who is a licensed private security guard
23 or armed private security guard.

24 (2) A private security company shall notify the department within
25 seventy-two hours and the chief law enforcement officer of the county,
26 city, or town in which the private security guard or armed private
27 security guard was last employed immediately upon receipt of

1 information affecting his or her continuing eligibility to hold a
2 license under the provisions of this chapter.

3 NEW SECTION. **Sec. 12.** (1) Any person from another state that
4 the director determines has selection, training, and other requirements
5 at least equal to those required by this chapter, and who holds a valid
6 license, registration, identification, or similar card issued by the
7 other state, may apply for a private security guard license card or
8 armed private security guard license card on a form prescribed by the
9 director. Upon receipt of a processing fee to be determined by the
10 director, the director shall issue the individual a private security
11 guard license card or armed private security guard license card.

12 (2) A valid private security guard license, registration,
13 identification, or similar card issued by any other state of the United
14 States is valid in this state for a period of ninety days, but only if
15 the licensee is on temporary assignment as a private security guard for
16 the same employer that employs the licensee in the state in which he or
17 she is a permanent resident.

18 NEW SECTION. **Sec. 13.** (1) Applications for licenses required
19 under this chapter shall be filed with the director on a form provided
20 by the director. The director may require any information and
21 documentation that reasonably relates to the need to determine whether
22 the applicant meets the criteria.

23 (2) After receipt of an application for a license, the director
24 shall conduct an investigation to determine whether the facts set forth
25 in the application are true and shall request that the Washington state
26 patrol compare the fingerprints submitted with the application to
27 fingerprint records available to the Washington state patrol.

1 (3) A summary of the information acquired under this section, to
2 the extent that it is public information, shall be forwarded by the
3 department to the applicant's employer and to the chief law enforcement
4 officer of the county and city or town in which the applicant's
5 employer is located, for the purpose of comment prior to the issuance
6 of a permanent private security guard license.

7 NEW SECTION. **Sec. 14.** (1) The provisions of this chapter
8 relating to the licensing for regulatory purposes of private security
9 guards, armed private security guards, and private security companies
10 are exclusive. No governmental subdivision of this state may enact any
11 laws or rules licensing for regulatory purposes such persons, except as
12 provided in subsections (2) and (3) of this section.

13 (2) This section shall not be construed to prevent a political
14 subdivision of this state from levying a business license fee, business
15 and occupation tax, or other tax upon private security companies if
16 such fees or taxes are levied on other types of businesses within its
17 boundaries.

18 (3) This section shall not be construed to prevent this state or a
19 political subdivision of this state from licensing or regulating
20 private security companies with respect to activities performed or
21 offered that are not of a security nature.

22 NEW SECTION. **Sec. 15.** Private security guards or armed
23 private security guards whose duties require them to operate across
24 state lines may operate in this state if they are properly registered
25 and certified in another state with training, insurance, and
26 certification requirements that the director finds are at least equal
27 to the requirements of this state.

1 NEW SECTION. **Sec. 16.** (1) After June 30, 1992, any person who
2 performs the functions and duties of a private security guard in this
3 state without being licensed in accordance with this chapter, or any
4 person presenting or attempting to use as his or her own the license of
5 another, or any person who gives false or forged evidence of any kind
6 to the director in obtaining a license, or any person who falsely
7 impersonates any other licensee, or any person who attempts to use an
8 expired or revoked license, or any person who violates any of the
9 provisions of this chapter is guilty of a gross misdemeanor.

10 (2) After January 1, 1992, a person is guilty of a gross
11 misdemeanor if he or she owns or operates a private security company in
12 this state without first obtaining a private security company license.

13 (3) After June 30, 1992, the owner or qualifying agent of a private
14 security company is guilty of a gross misdemeanor if he or she employs
15 an unlicensed person to perform the duties of a private security guard
16 without issuing the employee a valid temporary registration card if the
17 employee does not have in his or her possession a permanent private
18 security guard license issued by the department. This subsection does
19 not preclude a private security company from requiring applicants to
20 attend preassignment training classes or from paying wages for
21 attending the required preassignment training classes.

22 (4) After June 30, 1992, a person is guilty of a gross misdemeanor
23 if he or she performs the functions and duties of an armed private
24 security guard in this state unless the person holds a valid armed
25 private security guard license issued by the department.

26 (5) After June 30, 1992, it is a gross misdemeanor for a private
27 security company to hire, contract with, or otherwise engage the
28 services of an unlicensed armed private security guard knowing that he
29 or she does not have a valid armed private security guard license
30 issued by the director.

1 (6) It is a gross misdemeanor for a person to possess or use any
2 vehicle or equipment displaying the word "police" or "law enforcement
3 officer" or having any sign, shield, marking, accessory, or insignia
4 that indicates that the equipment or vehicle belongs to a public law
5 enforcement agency.

6 (7) It is the duty of all officers of the state and political
7 subdivisions thereof to enforce the provisions of this chapter. The
8 attorney general shall act as legal adviser of the director, and render
9 such legal assistance as may be necessary in carrying out the
10 provisions of this chapter.

11 NEW SECTION. **Sec. 17.** The following acts are prohibited and
12 constitute grounds for disciplinary action or denial, suspension, or
13 revocation of any license under this chapter, as deemed appropriate by
14 the director:

15 (1) Knowingly violating any of the provisions of this chapter or
16 the rules adopted under this chapter;

17 (2) Practicing fraud, deceit, or misrepresentation in any of the
18 private security activities covered by this chapter;

19 (3) Knowingly making a material misstatement or omission in the
20 application for a license or firearms certificate;

21 (4) Not meeting the qualifications set forth in section 3, 4, or 6
22 of this act;

23 (5) Failing to return immediately on demand a firearm issued by an
24 employer;

25 (6) Carrying a firearm in the performance of his or her duties if
26 not the holder of a valid armed private security guard license, or
27 carrying a firearm not meeting the provisions of this chapter while in
28 the performance of his or her duties;

1 (7) Failing to return immediately on demand any uniform, badge, or
2 other item of equipment issued to the private security guard by an
3 employer;

4 (8) Making any statement that would reasonably cause another person
5 to believe that the private security guard is a sworn peace officer;

6 (9) Divulging confidential information that may compromise the
7 security of any premises, or valuables shipment, or any activity of a
8 client to which he or she was assigned;

9 (10) Conviction of a gross misdemeanor or felony or the commission
10 of any act involving moral turpitude, dishonesty, or corruption whether
11 the act constitutes a crime or not. If the act constitutes a crime,
12 conviction in a criminal proceeding is not a condition precedent to
13 disciplinary action. Upon such a conviction, however, the judgment and
14 sentence is conclusive evidence at the ensuing disciplinary hearing of
15 the guilt of the license holder or applicant of the crime described in
16 the indictment or information, and of the person's violation of the
17 statute on which it is based. For the purposes of this section,
18 conviction includes all instances in which a plea of guilty or nolo
19 contendere is the basis for the conviction and all proceedings in which
20 the sentence has been deferred or suspended. Nothing in this section
21 abrogates rights guaranteed under chapter 9.96A RCW;

22 (11) Misrepresentation or concealment of a material fact in
23 obtaining a license or in reinstatement thereof;

24 (12) Advertising that is false, fraudulent, or misleading;

25 (13) Incompetence or negligence that results in injury to a person
26 or that creates an unreasonable risk that a person may be harmed;

27 (14) Suspension, revocation, or restriction of the individual's
28 license to practice the profession by competent authority in any state,
29 federal, or foreign jurisdiction, a certified copy of the order,

1 stipulation, or agreement being conclusive evidence of the revocation,
2 suspension, or restriction;

3 (15) Failure to cooperate with the director by:

4 (a) Not furnishing any necessary papers or documents requested by
5 the director for purposes of conducting an investigation for
6 disciplinary action, denial, suspension, or revocation of a license
7 under this chapter;

8 (b) Not furnishing in writing a full and complete explanation
9 covering the matter contained in a complaint filed with the department;
10 or

11 (c) Not responding to subpoenas issued by the director, whether or
12 not the recipient of the subpoena is the accused in the proceeding;

13 (16) Failure to comply with an order issued by the director or an
14 assurance of discontinuance entered into with the disciplining
15 authority;

16 (17) Aiding or abetting an unlicensed person to practice if a
17 license is required;

18 (18) Misrepresentation or fraud in any aspect of the conduct of
19 the business or profession;

20 (19) Failure to adequately supervise employees to the extent that
21 the public health or safety is at risk;

22 (20) Interference with an investigation or disciplinary proceeding
23 by willful misrepresentation of facts before the director or the
24 director's authorized representative, or by the use of threats or
25 harassment against a client or witness to prevent them from providing
26 evidence in a disciplinary proceeding or any other legal action;

27 (21) Assigning or transferring any license issued pursuant to the
28 provisions of this chapter, except as provided in section 6 of this
29 act.

1 NEW SECTION. **Sec. 18.**

The director has the following

2 authority in administering this chapter:

3 (1) To adopt, amend, and rescind rules as deemed necessary to
4 carry out this chapter;

5 (2) To issue subpoenas and administer oaths in connection with an
6 investigation, hearing, or proceeding held under this chapter;

7 (3) To take or cause depositions to be taken and use other
8 discovery procedures as needed in an investigation, hearing, or
9 proceeding held under this chapter;

10 (4) To compel attendance of witnesses at hearings;

11 (5) In the course of investigating a complaint or report of
12 unprofessional conduct, to conduct practice reviews;

13 (6) To take emergency action ordering summary suspension of a
14 license, or restriction or limitation of the licensee's practice
15 pending proceedings by the director;

16 (7) To use the office of administrative hearings as authorized in
17 chapter 34.12 RCW to conduct hearings. However, the director or the
18 director's designee shall make the final decision in the hearing;

19 (8) To enter into contracts for professional services determined to
20 be necessary for adequate enforcement of this chapter;

21 (9) To adopt standards of professional conduct or practice;

22 (10) In the event of a finding of unprofessional conduct by an
23 applicant or license holder, to impose sanctions against a license
24 applicant or license holder as provided by this chapter;

25 (11) To enter into an assurance of discontinuance in lieu of
26 issuing a statement of charges or conducting a hearing. The assurance
27 shall consist of a statement of the law in question and an agreement to
28 not violate the stated provision. The applicant or license holder
29 shall not be required to admit to any violation of the law, and the

1 assurance shall not be construed as such an admission. Violation of an
2 assurance under this subsection is grounds for disciplinary action;

3 (12) To designate individuals authorized to sign subpoenas and
4 statements of charges;

5 (13) To employ such investigative, administrative, and clerical
6 staff as necessary for the enforcement of this chapter; and

7 (14) To compel the attendance of witnesses at hearings.

8 NEW SECTION. **Sec. 19.** A person, including but not limited to
9 consumers, licensees, corporations, organizations, and state and local
10 governmental agencies, may submit a written complaint to the department
11 charging a license holder or applicant with unprofessional conduct and
12 specifying the grounds for this charge. If the director determines
13 that the complaint merits investigation, or if the director has reason
14 to believe, without a formal complaint, that a license holder or
15 applicant may have engaged in unprofessional conduct, the director
16 shall investigate to determine if there has been unprofessional
17 conduct. A person who files a complaint under this section in good
18 faith is immune from suit in any civil action related to the filing or
19 contents of the complaint.

20 NEW SECTION. **Sec. 20.** (1) If the director determines, upon
21 investigation, that there is reason to believe a violation of this
22 chapter has occurred, a statement of charges shall be prepared and
23 served upon the license holder or applicant and notice of this action
24 given to the owner or qualifying agent of the employing private
25 security company. The statement of charges shall be accompanied by a
26 notice that the license holder or applicant may request a hearing to
27 contest the charges. The license holder or applicant must file a
28 request for hearing with the department within twenty days after being

1 served the statement of charges. The failure to request a hearing
2 constitutes a default, whereupon the director may enter an order
3 pursuant to RCW 34.05.440.

4 (2) If a hearing is requested, the time of the hearing shall be
5 scheduled but the hearing shall not be held earlier than thirty days
6 after service of the charges upon the license holder or applicant. A
7 notice of hearing shall be issued at least twenty days prior to the
8 hearing, specifying the time, date, and place of the hearing.

9 NEW SECTION. **Sec. 21.** The procedures governing adjudicative
10 proceedings before agencies under chapter 34.05 RCW, the administrative
11 procedure act, govern all hearings before the director.

12 NEW SECTION. **Sec. 22.** (1) If the director believes a license
13 holder or applicant may be unable to practice with reasonable skill and
14 safety to the public by reason of a mental or physical condition, a
15 statement of charges shall be served on the license holder or applicant
16 and notice shall also be issued providing an opportunity for a hearing.
17 The hearing shall be limited to the sole issue of the capacity of the
18 license holder or applicant to practice with reasonable skill or
19 safety. If the director determines that the license holder or
20 applicant is unable to practice with reasonable skill and safety for
21 one of the reasons stated in this subsection, the director shall impose
22 such sanctions as are deemed necessary to protect the public.

23 (2) In investigating or adjudicating a complaint or report that a
24 license holder or applicant may be unable to practice with reasonable
25 skill or safety by reason of a mental or physical condition, the
26 department may require a license holder or applicant to submit to a
27 mental or physical examination by one or more licensed or certified
28 health professionals designated by the director. The cost of the

1 examinations ordered by the department shall be paid by the department.
2 In addition to any examinations ordered by the department, the licensee
3 may submit physical or mental examination reports from licensed or
4 certified health professionals of the license holder's or applicant's
5 choosing and expense. Failure of the license holder or applicant to
6 submit to examination when directed constitutes grounds for immediate
7 suspension or withholding of the license, consequent upon which a
8 default and final order may be entered without the taking of testimony
9 or presentations of evidence, unless the failure was due to
10 circumstances beyond the person's control. A determination by a court
11 of competent jurisdiction that a license holder or applicant is
12 mentally incompetent or mentally ill is presumptive evidence of the
13 license holder's or applicant's inability to practice with reasonable
14 skill and safety. An individual affected under this section shall at
15 reasonable intervals be afforded an opportunity to demonstrate that the
16 individual can resume competent practice with reasonable skill and
17 safety to the public.

18 (3) For the purpose of subsection (2) of this section, an applicant
19 or license holder governed by this chapter, by making application,
20 practicing, or filing a license renewal, is deemed to have given
21 consent to submit to a mental, physical, or psychological examination
22 if directed in writing by the department and further to have waived all
23 objections to the admissibility or use of the examining health
24 professional's testimony or examination reports by the director on the
25 ground that the testimony or reports constitute hearsay or privileged
26 communications.

27 NEW SECTION. **Sec. 23.** Upon a finding that a license holder or
28 applicant has committed unprofessional conduct or is unable to practice
29 with reasonable skill and safety due to a physical or mental condition,

1 the director may issue an order providing for one or any combination of
2 the following:

3 (1) Revocation of the license;

4 (2) Suspension of the license for a fixed or indefinite term;

5 (3) Restriction or limitation of the practice;

6 (4) Requiring the satisfactory completion of a specific program of
7 remedial education or treatment;

8 (5) Monitoring of the practice by a supervisor approved by the
9 director;

10 (6) Censure or reprimand;

11 (7) Compliance with conditions of probation for a designated period
12 of time;

13 (8) Withholding a license request;

14 (9) Other corrective action; or

15 (10) Refund of fees billed to and collected from the consumer.

16 Any of the actions under this section may be totally or partly
17 stayed by the director. All costs associated with compliance with
18 orders issued under this section are the obligation of the license
19 holder or applicant.

20 NEW SECTION. **Sec. 24.** If an order for payment of a fine is
21 made as a result of a hearing and timely payment is not made as
22 directed in the final order, the director may enforce the order for
23 payment in the superior court in the county in which the hearing was
24 held. This right of enforcement shall be in addition to any other
25 rights the director may have as to a licensee ordered to pay a fine but
26 shall not be construed to limit a licensee's ability to seek judicial
27 review.

1 In an action for enforcement of an order of payment of a fine, the
2 director's order is conclusive proof of the validity of the order of
3 payment of a fine and the terms of payment.

4 NEW SECTION. **Sec. 25.** (1) The director shall investigate
5 complaints concerning practice by unlicensed persons of a profession or
6 business for which a license is required by this chapter. In the
7 investigation of the complaints, the director shall have the same
8 authority as provided the director under section 19 of this act. The
9 director shall issue a cease and desist order to a person after notice
10 and hearing and upon a determination that the person has violated this
11 subsection. If the director makes a written finding of fact that the
12 public interest will be irreparably harmed by delay in issuing an
13 order, the director may issue a temporary cease and desist order. The
14 cease and desist order shall not relieve the person practicing or
15 operating a business without a license from criminal prosecution
16 therefor, but the remedy of a cease and desist order shall be in
17 addition to any criminal liability. The cease and desist order is
18 conclusive proof of unlicensed practice and may be enforced under RCW
19 7.21.060. This method of enforcement of the cease and desist order may
20 be used in addition to, or as an alternative to, any provisions for
21 enforcement of agency orders.

22 (2) The attorney general, a county prosecuting attorney, the
23 director, or any person may, in accordance with the law of this state
24 governing injunctions, maintain an action in the name of this state to
25 enjoin any person practicing a profession or business for which a
26 license is required by this chapter without a license from engaging in
27 such practice or operating such business until the required license is
28 secured. However, the injunction shall not relieve the person
29 practicing or operating a business without a license from criminal

1 prosecution therefor, but the remedy by injunction shall be in addition
2 to any criminal liability.

3 (3) Unlicensed practice of a profession or operating a business for
4 which a license is required by this chapter, unless otherwise exempted
5 by law, constitutes a gross misdemeanor. All fees, fines, forfeitures,
6 and penalties collected or assessed by a court because of a violation
7 of this section shall be remitted to the department.

8 NEW SECTION. **Sec. 26.** A person or business that violates an
9 injunction issued under this chapter shall pay a civil penalty, as
10 determined by the court, of not more than twenty-five thousand dollars,
11 which shall be paid to the department. For the purpose of this
12 section, the superior court issuing any injunction shall retain
13 jurisdiction and the cause shall be continued, and in such cases the
14 attorney general acting in the name of the state may petition for the
15 recovery of civil penalties.

16 NEW SECTION. **Sec. 27.** The director or individuals acting on
17 the director's behalf are immune from suit in any action, civil or
18 criminal, based on disciplinary proceedings or other official acts
19 performed in the course of their duties in the administration and
20 enforcement of this chapter.

21 NEW SECTION. **Sec. 28.** The director, in implementing and
22 administering the provisions of this chapter, shall act in accordance
23 with the administrative procedure act, chapter 34.05 RCW.

24 NEW SECTION. **Sec. 29.** A new section is added to chapter 43.101
25 RCW to read as follows:

1 The commission shall establish a program for issuing firearms
2 certificates to security guards for the purposes of obtaining armed
3 security guard licenses. The commission shall adopt rules establishing
4 the fees, training requirements, and procedures for obtaining and
5 annually renewing firearms certificates. The fees charged by the
6 commission shall recover the costs incurred by the commission in
7 administering the firearms certificate program.

8 (1) Firearms training must be provided by an organization or
9 trainer approved by the commission and must consist of at least eight
10 hours of classes and proficiency training.

11 (2) Applications for firearms certificates shall be filed with the
12 commission on a form provided by the commission. The commission may
13 require any information and documentation that reasonably relates to
14 the need to determine whether the applicant qualifies for a firearms
15 certificate. Applicants must:

16 (a) Be at least twenty-one years of age;

17 (b) Possess a current private security guard license; and

18 (c) Present a written request from the owner or qualifying agent of
19 a licensed private security company that the applicant be issued a
20 firearms certificate.

21 (3) The commission shall consult with the private security industry
22 and law enforcement before adopting or amending the training
23 requirements of this section.

24 (4) The commission may adopt rules that are reasonable and
25 necessary for the effective implementation and administration of this
26 section consistent with chapter 34.05 RCW.

27 NEW SECTION. **Sec. 30.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 31.** If specific funding for the purposes of
4 this act, referencing this act by bill number, is not provided by June
5 30, 1991, in the omnibus appropriations act, this act shall be null and
6 void.

7 NEW SECTION. **Sec. 32.** Sections 1 through 28 of this act shall
8 constitute a new chapter in Title 18 RCW.

Passed the Senate March 20, 1991.

Passed the House April 11, 1991.

Approved by the Governor May 21, 1991.

Filed in Office of Secretary of State May 21, 1991.