
HOUSE BILL 2313

State of Washington

58th Legislature

2004 Regular Session

By Representatives Carrell, Boldt and Mielke

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Committee on Commerce & Labor.

1 AN ACT Relating to bail bond recovery agents; amending RCW
2 18.185.010, 18.185.110, and 18.185.170; adding new sections to chapter
3 18.185 RCW; creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes that bail bond
6 agents and bail bond recovery agents serve a necessary and important
7 purpose in the criminal justice system by locating, apprehending, and
8 surrendering fugitives. The legislature also recognizes that locating,
9 apprehending, and surrendering fugitives requires special skills and
10 knowledge; that bail bond recovery agents are often required to perform
11 their duties under stressful and demanding conditions; and that it
12 serves the public interest to have qualified people performing such
13 essential functions. The legislature does not intend by this act to
14 restrict or limit in any way the powers of bail bond recovery agents as
15 recognized in and derived from the United States Supreme Court case of
16 *Taylor v. Taintor*, 16 Wall. 366 (1872).

17 **Sec. 2.** RCW 18.185.010 and 2000 c 171 s 40 are each amended to
18 read as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

3 (1) "Department" means the department of licensing.

4 (2) "Director" means the director of licensing.

5 (3) "Collateral or security" means property of any kind given as
6 security to obtain a bail bond.

7 (4) "Bail bond agency" means a business that sells and issues
8 corporate surety bail bonds or that provides security in the form of
9 personal or real property to insure the appearance of a criminal
10 defendant before the courts of this state or the United States.

11 (5) "Qualified agent" means an owner, sole proprietor, partner,
12 manager, officer, or chief operating officer of a corporation who meets
13 the requirements set forth in this chapter for obtaining a bail bond
14 agency license.

15 (6) "Bail bond agent" means a person who is employed by a bail bond
16 agency and engages in the sale or issuance of bail bonds, but does not
17 mean a clerical, secretarial, or other support person who does not
18 participate in the sale or issuance of bail bonds.

19 (7) "Licensee" means a bail bond agency ~~((or))~~, a bail bond agent
20 ~~((or both))~~, and a qualified agent, or their designees.

21 (8) "Branch office" means any office physically separated from the
22 principal place of business of the licensee from which the licensee or
23 an employee or agent ~~((s))~~ of the licensee conducts any activity meeting
24 the criteria of a bail bond agency.

25 (9) "Bail bond recovery agent" means a person who is under contract
26 with a licensee to receive compensation, reward, or any other form of
27 lawful consideration for locating, apprehending, and surrendering
28 another person for whom a bail bond has been posted. "Bail bond
29 recovery agent" does not include a licensee, a general authority
30 Washington peace officer, or a limited authority Washington peace
31 officer.

32 (10) "Contract" means a written agreement between a licensee and a
33 bail bond recovery agent for the purpose of locating, apprehending, and
34 surrendering a fugitive in exchange for lawful consideration.

35 (11) "Planned forced entry" means a premeditated forcible entry
36 into a dwelling, building, or other structure without the occupant's
37 knowledge or consent for the purpose of apprehending a defendant
38 subject to a bail bond. "Planned forced entry" does not include

1 situations where, during an imminent or actual chase or pursuit of a
2 fleeing defendant, or during a casual or unintended encounter with the
3 defendant, the bail bond recovery agent forcibly enters into a
4 dwelling, building, or other structure without advanced planning.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.185 RCW
6 to read as follows:

7 (1) A person may not perform the functions of a bail bond recovery
8 agent unless the person is certified by the department under this
9 chapter.

10 (2) A licensee may contract with a person to perform the functions
11 of a bail bond recovery agent. Before contracting with the bail bond
12 recovery agent, the licensee must be satisfied that the person has met
13 the minimum requirements established by the department under this
14 chapter. The licensee may require any information or documentation
15 from the person to determine whether the person meets the requirements
16 established by the department under this chapter. The requirements
17 established by the department under this chapter must not prevent the
18 licensee from imposing additional requirements that the licensee
19 considers appropriate.

20 (3) A contract entered into under this chapter is authority for the
21 person to perform the functions of a bail bond recovery agent as
22 specifically authorized by the contract and in accordance with
23 applicable law. A contract entered into by a licensee with a bail bond
24 recovery agent is not transferable by the bail bond recovery agent to
25 another bail bond recovery agent.

26 (4) Whenever a person certified by the department as a bail bond
27 recovery agent is engaged in the performance of the person's duties as
28 a bail bond recovery agent, the person must carry a copy of the
29 certificate and must exhibit a copy of the certificate upon request.

30 (5) The director shall adopt rules establishing the minimum
31 requirements to obtain a bail bond recovery agent certificate to be
32 issued by the department. The director, or the director's designee,
33 shall also develop a format for the certificate issued by the
34 department under this section. In creating the proposed rules and
35 format, the director, or the director's designee, shall consult with
36 representatives from the bail bond and bail bond recovery industry, law

1 enforcement agencies and associations, prosecutor's associations, and
2 other agencies or associations the director finds appropriate. The
3 minimum requirements are limited to:

4 (a) A minimum level of education or experience appropriate for
5 performing the functions of a bail bond recovery agent;

6 (b) A minimum level of instruction in relevant areas of criminal
7 and civil law;

8 (c) A minimum level of instruction regarding appropriate use of
9 force at different levels;

10 (d) A minimum level of training in the use of firearms from the
11 criminal justice training commission or from instructors certified or
12 trained by the criminal justice training commission;

13 (e) An absence of any felony conviction; and

14 (f) Possession of a valid concealed pistol license.

15 (6) A certificate issued by the department under this chapter is
16 valid for four years from the date the certificate is issued unless
17 suspended or revoked by the department prior to the expiration of the
18 four-year period.

19 (7) No person may perform the functions of a bail bond recovery
20 agent after December 31, 2005, unless the person has first complied
21 with the certification provisions of this chapter.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.185 RCW
23 to read as follows:

24 A bail bond recovery agent from another state who is not certified
25 under this chapter may not perform the functions of a bail bond
26 recovery agent in this state unless the agent is working under the
27 direct supervision of a certified bail bond recovery agent.

28 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.185 RCW
29 to read as follows:

30 (1) Before a bail bond recovery agent may apprehend a person
31 subject to a bail bond in a planned forced entry, the bail bond
32 recovery agent must notify an appropriate law enforcement agency in the
33 local jurisdiction in which the apprehension is expected to occur.
34 Notification must include, at a minimum, the name of the defendant; the
35 address, or the approximate location if the address is undeterminable,
36 of the dwelling, building, or other structure where the planned forced

1 entry is expected to occur; the name of the bail bond recovery agent;
2 the name of the licensee; and the alleged offense or conduct the
3 defendant committed that resulted in the issuance of a bail bond.

4 (2) During the actual planned forced entry, a bail bond recovery
5 agent shall wear a shirt, vest, or other garment with the words "BAIL
6 RECOVERY AGENT" displayed in at least two inch high reflective print
7 letters across the front and back of the garment and in a contrasting
8 color to that of the garment.

9 **Sec. 6.** RCW 18.185.110 and 2002 c 86 s 251 are each amended to
10 read as follows:

11 In addition to the unprofessional conduct described in RCW
12 18.235.130, the following conduct, acts, or conditions constitute
13 unprofessional conduct:

14 (1) Violating any of the provisions of this chapter or the rules
15 adopted under this chapter;

16 (2) Failing to meet the qualifications set forth in RCW 18.185.020
17 and 18.185.030;

18 (3) Knowingly committing, or being a party to, any material fraud,
19 misrepresentation, concealment, conspiracy, collusion, trick, scheme,
20 or device whereby any other person lawfully relies upon the word,
21 representation, or conduct of the licensee;

22 (4) Assigning or transferring any license issued pursuant to the
23 provisions of this chapter, except as provided in RCW 18.185.030;

24 (5) Conversion of any money or contract, deed, note, mortgage, or
25 other evidence of title, to his or her own use or to the use of his or
26 her principal or of any other person, when delivered to him or her in
27 trust or on condition, in violation of the trust or before the
28 happening of the condition; and failure to return any money or
29 contract, deed, note, mortgage, or other evidence of title within
30 thirty days after the owner is entitled to possession, and makes demand
31 for possession, shall be prima facie evidence of conversion;

32 (6) Failing to keep records, maintain a trust account, or return
33 collateral or security, as required by RCW 18.185.100;

34 (7) Any conduct in a bail bond transaction which demonstrates bad
35 faith, dishonesty, or untrustworthiness; ((~~or~~))

36 (8) Violation of an order to cease and desist that is issued by the
37 director under this chapter;

1 (9) Using the services of a person performing the functions of a
2 bail bond recovery agent who has not been certified by the department
3 as required by this chapter; or

4 (10) Using the services of a person performing the functions of a
5 bail bond recovery agent without first entering into a contract with
6 the person as required by this chapter.

7 **Sec. 7.** RCW 18.185.170 and 2002 c 86 s 254 are each amended to
8 read as follows:

9 (1) (~~After June 30, 1994,~~) Any person who performs the functions
10 and duties of a bail bond agent in this state without being licensed in
11 accordance with the provisions of this chapter, or any person
12 presenting or attempting to use as his or her own the license of
13 another, or any person who gives false or forged evidence of any kind
14 to the director in obtaining a license, or any person who falsely
15 impersonates any other licensee, or any person who attempts to use an
16 expired or revoked license, or any person who violates any of the
17 provisions of this chapter is guilty of a gross misdemeanor.

18 (2) (~~After January 1, 1994,~~) A person is guilty of a gross
19 misdemeanor if (~~he or she~~) the person owns or operates a bail bond
20 agency in this state without first obtaining a bail bond agency
21 license.

22 (3) (~~After June 30, 1994,~~) The owner or qualified agent of a bail
23 bond agency is guilty of a gross misdemeanor if (~~he or she~~) the owner
24 or qualified agent employs any person to perform the duties of a bail
25 bond agent without the employee having in (~~his or her~~) the employee's
26 possession a permanent bail bond agent license issued by the
27 department.

28 (4) After December 31, 2005, a person is guilty of a gross
29 misdemeanor if:

30 (a) The person performs the functions of a bail bond recovery agent
31 without first obtaining a certificate from the department and entering
32 into a contract with a licensee as required by this chapter; or, in the
33 case of a bail bond recovery agent from another state, the person
34 performs the functions of a bail bond recovery agent without operating
35 under the direct supervision of a certified bail bond recovery agent as
36 required by this chapter; or

1 (b) The person conducts a planned forced entry without first
2 complying with the requirements of this chapter.

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