

SENATE BILL 5124

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52nd Legislature

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By Senators Erwin, Gaspard, Amondson, Matson, Owen, Snyder, Nelson, von Reichbauer, Thorsness, Sellar, Johnson, Murray, McMullen, Bailey, Anderson and Talmadge.

Read first time January 22, 1991. Referred to Committee on Commerce & Labor.

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 prescribing penalties; making appropriations; and providing an
4 effective date.

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

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

9 (1) "Armed private security guard" means a private security guard
10 who has a current firearms certificate issued under section 24 of this
11 act and is licensed as an armed private security guard under this
12 chapter.

13 (2) "Armored vehicle guard" means a person who transports in an
14 armored vehicle under armed guard, from one place to another place,

1 valuables, jewelry, currency, documents, or any other item that
2 requires secure or expeditious delivery.

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

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

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

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

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

15 (8) "Firearms certificate" means the certificate issued by the
16 criminal justice training commission under section 24 of this act.

17 (9) "Licensee" means a person granted a license required by this
18 chapter.

19 (10) "Principal corporate officer" means the president, vice-
20 president, treasurer, secretary, comptroller, or any other person who
21 performs the same functions for the corporation as performed by these
22 officers.

23 (11) "Private security company" means a person or entity licensed
24 under this chapter and engaged in the business of providing the
25 services of private security guards on a contractual basis.

26 (12) "Private security guard" means an individual who is licensed
27 under this chapter and principally employed as or typically referred to
28 as one of the following:

29 (a) Security officer or guard;

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

- 1 (c) Armed escort or bodyguard;
- 2 (d) Armored vehicle guard;
- 3 (e) Burglar alarm response runner; or
- 4 (f) Crowd control officer or guard.

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

8 (14) "Sworn peace officer" means a person who is an employee of the
9 federal government, the state, a political subdivision, agency, or
10 department branch of a municipality, or other unit of local government,
11 and has law enforcement powers.

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

14 (1) A person who is employed exclusively or regularly by one
15 employer and performs the functions of a private security guard solely
16 in connection with the affairs of that employer, if the employer does
17 not offer private security guard services on a contractual basis;

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

20 (3) A sworn peace officer while employed by a private employer to
21 engage in off-duty employment, but only if the employment is approved
22 by the chief law enforcement executive of the jurisdiction where the
23 employment takes place and the officer wears a uniform of a government
24 law enforcement agency.

25 NEW SECTION. **Sec. 3.** (1) A person is guilty of a misdemeanor if
26 he or she performs the functions and duties of a private security guard
27 in this state without first obtaining a private security guard license
28 card or a valid temporary registration card from his or her employer.

1 (2) A person is guilty of a misdemeanor if he or she owns or
2 operates a private security company in this state without first
3 obtaining a private security company license.

4 (3) After June 30, 1992, a person is guilty of a misdemeanor if he
5 or she performs the functions and duties of an armed private security
6 guard in this state unless the person has a current firearms
7 certificate issued under section 24 of this act and an armed private
8 security guard license issued by the department.

9 NEW SECTION. **Sec. 4.** (1) An applicant must meet the following
10 requirements to obtain a private security guard license:

11 (a) Be at least eighteen years of age;

12 (b) Be a citizen of the United States or a resident alien;

13 (c) Not have been convicted of a felony in the last ten years in
14 any jurisdiction, if the director determines that the particular felony
15 directly relates to the duties of a private security guard;

16 (d) Be employed by or have an employment offer from a private
17 security company;

18 (e) Satisfy the training requirements established by the director;

19 (f) Submit a set of fingerprints; and

20 (g) Pay the required fee.

21 (2) In addition to meeting the requirements of subsection (1) of
22 this section, an applicant, or, in the case of a partnership, each
23 partner, or, in the case of a corporation, the qualifying agent must
24 meet the following requirements to obtain a license to own or operate
25 a private security company:

26 (a) Possess three years' experience as a manager, supervisor, or
27 administrator in the private security business or a related field
28 approved by the director, or pass an examination determined by the

1 director to measure the person's knowledge and competence in the
2 private security business;

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

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

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

13 (4) An applicant must meet the following requirements to obtain an
14 armed private security guard license:

15 (a) Be licensed as a private security guard under subsection (1) of
16 this section;

17 (b) Have a current firearms certificate issued by the criminal
18 justice training commission under section 24 of this act; and

19 (c) Pay the fee established by the director.

20 NEW SECTION. **Sec. 5.** (1) The director shall issue a private
21 security guard license card to each licensed private security guard and
22 an armed private security guard license card to each armed private
23 security guard.

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

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

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

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

6 (a) Within seventy-two hours after receipt of the license
7 certificate, the licensee shall post and display the certificate in a
8 conspicuous place in the principal office of the licensee within the
9 state.

10 (b) It is unlawful for any person holding a license certificate to
11 knowingly and willfully post the license certificate upon premises
12 other than those described in the license certificate or to materially
13 alter a license certificate.

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

17 (d) The licensee shall notify the director within thirty days of
18 any change in the licensee's officers or directors or any material
19 change in the information furnished or required to be furnished to the
20 director.

21 NEW SECTION. **Sec. 6.** A licensed private security company shall
22 file with the director a certificate of insurance as evidence that it
23 has comprehensive general liability coverage of at least twenty-five
24 thousand dollars for bodily or personal injury and twenty-five thousand
25 dollars for property damage.

26 NEW SECTION. **Sec. 7.** The following acts are prohibited and
27 constitute grounds for disciplinary action or denial, suspension, or

1 revocation of a firearms certificate or any license under this chapter,
2 as deemed appropriate by the director:

3 (1) Knowingly violating any of the provisions of this chapter or
4 the rules adopted hereunder;

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

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

9 (4) Not meeting the qualifications set forth in section 4 of this
10 act; or

11 (5) Conviction in any jurisdiction of a crime, if the director
12 determines that the crime directly relates to the ability of the person
13 to engage in the private security business.

14 NEW SECTION. **Sec. 8.** The director shall adopt rules establishing
15 hearing procedures to be followed in disciplinary actions, license
16 denials, and license revocations. All appeals are governed by the
17 administrative procedure act, chapter 34.05 RCW.

18 NEW SECTION. **Sec. 9.** (1) A licensed private security company may
19 issue an employee a temporary registration card of the type and form
20 prescribed by the director, but only after the employee has completed
21 preassignment training and submitted an application for a private
22 security guard license to the department. The temporary registration
23 card is valid until a permanent pocket card is issued or denied by the
24 department. The temporary registration card permits the applicant to
25 perform the duties of a private security guard for the issuing
26 licensee. An applicant who has been issued a temporary registration
27 card to perform the duties of a private security guard and who carries

1 a firearm in performance of those duties must also have in his or her
2 possession a valid and current firearms certificate.

3 (2) Upon expiration of a temporary registration card or the receipt
4 of a permanent registration card, the applicant shall surrender his or
5 her temporary registration card to the licensee who shall immediately
6 forward it to the director.

7 NEW SECTION. **Sec. 10.** (1) The director shall adopt rules
8 establishing preassignment training and testing requirements,
9 continuing education requirements, and the procedure for obtaining and
10 renewing private security guard licenses, armed private security guard
11 licenses and private security company licenses pursuant to chapter
12 34.05 RCW. The preassignment training requirements shall include at
13 least four hours of classes.

14 (2) The director shall consult with representatives of the private
15 security industry, public law enforcement, and other interested parties
16 before adopting or amending the training requirements of this section.

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

23 (4) The director may adopt rules that are reasonable and necessary
24 for the effective implementation and administration of this chapter.

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

1 (2) A private security company shall notify the director within
2 seventy-two hours of receipt of information affecting a licensed
3 private security guard's continuing eligibility to hold a license under
4 the provisions of this chapter.

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

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

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

24 (2) After receipt of an application for a license, the director
25 shall conduct an investigation to determine whether the facts set forth
26 in the application are true and shall request that the Washington state
27 patrol compare the fingerprints submitted with the application to
28 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 executive of the county and city or town in which the applicant's
5 employer is located.

6 NEW SECTION. **Sec. 14.** The director shall establish
7 investigation, examination, license, renewal, and other fees as
8 required to administer this chapter, in accordance with RCW 43.24.086.

9 NEW SECTION. **Sec. 15.** If the director has reason to believe
10 a licensee or applicant may be unable to safely perform his or her
11 licensed activities because of a mental or physical condition, the
12 director may require a licensee or applicant to submit to a mental or
13 physical examination by at least one licensed or certified health
14 professional designated by the department. If, in the professional
15 judgment of the examining health professional, the licensee or
16 applicant is unable to safely perform the licensed activity, the
17 director shall deny, revoke, or suspend that person's license. The
18 cost of the examination shall be paid by the department from fees
19 collected under this chapter.

20 NEW SECTION. **Sec. 16.** Except as provided in this chapter, a
21 license issued pursuant to the provisions of this chapter may not be
22 assigned or transferred.

23 NEW SECTION. **Sec. 17.** (1) A person licensed under this
24 chapter who carries a firearm in the performance of his or her duties
25 must possess a current firearms certificate issued under section 24 of
26 this act and an armed private security guard license.

1 (2) A person may not perform the functions of an armed private
2 security guard in this state unless he or she is employed by a licensed
3 private security company and is also licensed as an armed private
4 security guard by the director.

5 (3) It is unlawful for any person to hire, contract with, or
6 otherwise engage the services of an armed private security guard
7 knowing that the security guard does not have a current valid firearms
8 certificate issued under section 24 of this act and an armed private
9 security guard license issued by the director.

10 NEW SECTION. Sec. 18. (1) An armed private security guard
11 license grants authority to the holder, while in the performance of his
12 or her duties, to carry a standard police .38-caliber handgun or other
13 firearm approved by the director and with which the holder has met the
14 proficiency requirements established under section 24 of this act.

15 (2) All firearms carried by armed private security guards in the
16 performance of their duties must be owned by the employer and, if
17 required by law, must be registered with the proper government agency.

18 NEW SECTION. Sec. 19. A private security guard may not
19 possess or use any vehicle or equipment displaying the word "police" or
20 "law enforcement officer" or having any sign, shield, marking,
21 accessory, or insignia that tends to indicate that the equipment or
22 vehicle belongs to a public law enforcement agency.

23 NEW SECTION. Sec. 20. (1) It is unlawful for a private
24 security guard or an armed private security guard to knowingly commit
25 any of the following:

26 (a) Fail to return immediately on demand a firearm issued by an
27 employer;

1 (b) Carry a firearm in the performance of his or her duties if not
2 the holder of a valid firearms certificate, or carry a firearm not
3 meeting the provisions of this chapter while in the performance of his
4 or her duties;

5 (c) Fail to return immediately on demand any uniform, badge, or
6 other item of equipment issued to the private security guard by an
7 employer;

8 (d) Make any statement that would reasonably cause another person
9 to believe that the private security guard is a sworn peace officer;

10 (e) Divulge confidential information that may compromise the
11 security of any premises to which he or she was assigned; or

12 (f) Possess a license, registration card, or firearms certificate
13 issued to another person.

14 (2) The director is authorized to investigate suspected violations
15 of this chapter and of rules established under this chapter by licensed
16 and unlicensed persons. The director shall furnish such evidence to
17 the appropriate county or municipality for the purposes of prosecution.

18 NEW SECTION. **Sec. 21.** (1) The provisions of this chapter
19 relating to the licensing and regulation of private security guards,
20 armed private security guards, and private security companies are
21 exclusive. No governmental subdivision of this state may enact any
22 laws or rules licensing or regulating such persons, except as provided
23 in subsections (2) and (3) of this section.

24 (2) This section shall not be construed to prevent a political
25 subdivision of this state from levying a business and occupation tax
26 upon private security companies if a business and occupation tax is
27 levied by the state on other types of businesses within its boundaries.

28 (3) This section shall not be construed to prevent this state or a
29 political subdivision of this state from licensing or regulating

1 private security companies with respect to activities performed or
2 offered that are not of a security nature.

3 NEW SECTION. **Sec. 22.** Private security guards whose duties
4 require them to operate across state lines may operate in this state if
5 they are properly registered and certified in another state with
6 training, insurance, and certification requirements that the director
7 finds are at least equal to the requirements of this state.

8 NEW SECTION. **Sec. 23.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

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

14 The commission shall establish a program for issuing firearms
15 certificates. The commission shall adopt rules under chapter 34.05 RCW
16 establishing the training requirements and procedure for obtaining and
17 renewing firearms certificates and establishing fees for issuing and
18 renewing certificates that cover the costs to the commission of
19 administering the firearms certificate program.

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

23 (2) Applications for firearms certificates shall be filed with the
24 commission on a form provided by the commission. The commission may
25 require any information and documentation that reasonably relates to
26 the need to determine whether the applicant qualifies for a firearms
27 certificate.

1 (3) The commission shall consult with representatives of the
2 private security industry, public law enforcement, and other interested
3 parties before adopting or amending the training requirements of this
4 section.

5 (4) The commission may adopt rules that are reasonable and
6 necessary for the effective implementation and administration of this
7 section.

8 NEW SECTION. **Sec. 25.** This act takes effect September 1,
9 1991. The director of licensing and the criminal justice training
10 commission may immediately take such steps as are necessary to ensure
11 that this act is implemented on its effective date.

12 NEW SECTION. **Sec. 26.** There is appropriated from the general
13 fund to the department of licensing for the biennium ending June 30,
14 1993, the sum of dollars, or as much thereof as may be
15 necessary, to carry out the purposes of this act. The amount spent
16 shall be repaid to the general fund from fees imposed as a result of
17 this act prior to June 30, 1993.

18 NEW SECTION. **Sec. 27.** The sum of dollars, or as
19 much thereof as may be necessary, is appropriated from the general fund
20 to the criminal justice training commission for the biennium ending
21 June 30, 1993, to carry out the purposes of this act. The amount spent
22 shall be repaid to the general fund from fees imposed as a result of
23 this act prior to June 30, 1993.

24 NEW SECTION. **Sec. 28.** Sections 1 through 23 of this act shall
25 constitute a new chapter in Title 18 RCW.