

Senator Dan R. Eastman proposes the following substitute bill:

1                                   **SECURITY PERSONNEL LICENSING ACT**

2   **AMENDMENTS**

3   2003 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: Dan R. Eastman**

6   **This act modifies the Security Personnel Licensing Act by creating a security personnel**  
7   **licensing, education, and enforcement dedicated credit to educate and train licensees and**  
8   **the general public and to help enforce the provisions of the Licensing Act. The act gives**  
9   **the Division of Occupational and Professional Licensing authority to issue citations for**  
10 **violations of the Licensing Act and assess fines for cited offenses. The act expands the**  
11 **definition of unlawful conduct used in the Licensing Act.**

12 This act affects sections of Utah Code Annotated 1953 as follows:

13 AMENDS:

14                   **58-63-501**, as last amended by Chapter 271, Laws of Utah 2001

15 ENACTS:

16                   **58-63-103**, Utah Code Annotated 1953

17                   **58-63-503**, Utah Code Annotated 1953

18 *Be it enacted by the Legislature of the state of Utah:*

19                   Section 1. Section **58-63-103** is enacted to read:

20                   **58-63-103. Use of dedicated credits for licensing, education, and enforcement.**

21                   (1) The director may, with the concurrence of the board, use the monies collected  
22 under Section 53-63-503 for the following purposes:

23                   (a) educating and training licensees under this chapter;

24                   (b) educating and training the general public or other interested persons in matters  
25 concerning the laws that govern the practices licensed under this chapter; and



26 (c) enforcing this chapter by:

27 (i) investigating unprofessional or unlawful conduct; and

28 (ii) providing legal representation to the division when it takes legal action against a  
29 person charged with unprofessional or unlawful conduct.

30 (2) The monies collected under Section 53-63-503 and used for the purposes listed in  
31 Subsection (1) are nonlapsing.

32 Section 2. Section **58-63-501** is amended to read:

33 **58-63-501. Unlawful conduct.**

34 "Unlawful conduct" includes:

35 (1) [~~employing as~~] a contract security company employing the services of an  
36 unlicensed armed private security officer or unarmed private security officer, except as  
37 provided under Section 58-63-304 or 58-63-310; [~~and~~]

38 (2) filing with the division fingerprint cards for an applicant which are not those of the  
39 applicant, or are in any other way false or fraudulent and intended to mislead the division in its  
40 consideration of the qualifications of the applicant for licensure[-]; and

41 (3) practicing or engaging in, or attempting to practice or engage in activity for which a  
42 license is required under this chapter, unless the individual:

43 (a) holds the appropriate license under this chapter; or

44 (b) is exempted from licensure as provided under Section 58-63-304 or 58-63-310.

45 Section 3. Section **58-63-503** is enacted to read:

46 **58-63-503. Penalties.**

47 (1) Unless Subsection (2) applies, an individual who commits an act of unlawful  
48 conduct under Section 58-63-501 or who fails to comply with a citation issued under this  
49 section after it becomes final is guilty of a class A misdemeanor.

50 (2) The division may immediately suspend a license issued under this chapter of a  
51 person who is given a citation for violating Subsection 58-63-501(1) or (3).

52 (3) (a) If upon inspection or investigation, the division determines that a person has  
53 violated Subsection 58-63-501(1) or (3) or any rule made or order issued under those  
54 subsections, and that disciplinary action is warranted, the director or the director's designee  
55 within the division shall promptly issue a citation to the person and:

56 (i) attempt to negotiate a stipulated settlement; or

57 (ii) notify the person to appear for an adjudicative proceeding conducted under Title  
58 63, Chapter 46b, Administrative Procedures Act.

59 (b) (i) The division may fine a person who is in violation of Subsection 58-63-501(1)  
60 or (3), as evidenced by an uncontested citation, a stipulated settlement, or a finding of a  
61 violation in an adjudicative proceeding held under Subsection (3)(a)(ii), or order the person to  
62 cease and desist from the violation, or do both.

63 (ii) Except for a cease and desist order, the division may not impose the licensure  
64 sanctions listed in Section 58-63-401 through the issuance of a citation under this section.

65 (c) The citation shall:

66 (i) be in writing and describe the nature of the violation, including a reference to the  
67 statute, rule, or order alleged to have been violated;

68 (ii) state the recipient must notify the division in writing within 20 calendar days of  
69 issuance of the citation if the recipient wants to contest the citation at the adjudicative  
70 proceeding referred to in Subsection (3)(a)(ii); and

71 (iii) explain the consequences of failure to timely contest the citation or to make  
72 payment of any fines assessed under the citation with the time specified in the citation.

73 (d) (i) A citation issued under this section, or a copy of the citation, may be served  
74 upon any person upon whom a summons may be served under the Utah Rules of Civil  
75 Procedure.

76 (ii) The individual may be served personally or service may be made upon the  
77 individual's agent, and in either case the service can be made by a division investigator, by a  
78 person designated by the director, or by mail.

79 (e) (i) If within 20 days from the service of a citation the person to whom the citation  
80 was issued fails to request a hearing to contest the citation, the citation becomes the final order  
81 of the division and is not subject to further agency review.

82 (ii) The division may grant an extension of the 20-day period for cause.

83 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
84 the license of a licensee who fails to comply with a citation after it becomes final.

85 (g) The division may not issue a citation for an alleged violation under this section  
86 after the expiration of six months following the occurrence of the alleged violation.

87 (h) The director or the director's designee may assess fines under this section as

88 follows:

89 (i) for a first offense under Subsection (3)(a), a fine of up to \$1,000;

90 (ii) for a second offense under Subsection (3)(a), a fine of up to \$2,000; and

91 (iii) for any subsequent offense under Subsection (3)(a), a fine of up to \$2,000 for each

92 day of continued violation.

93 (i) (i) For purposes of issuing a final order under this section and assessing a fine under  
94 Subsection (3)(h), an offense is a second or subsequent offense if:

95 (A) the division previously issued a final order determining that a person committed a  
96 first or second offense in violation of Subsection 58-63-501(1) or (3); or

97 (B) (I) the division initiated an action for a first or second offense;

98 (II) no final order has been issued by the division in an action initiated under

99 Subsection (3)(i)(i)(B)(I);

100 (III) the division determines during an investigation that occurred after the initiation of  
101 the action under Subsection (3)(i)(i)(B)(I) that the person committed a second or subsequent  
102 violation of Subsection 58-63-501(1) or (3); and

103 (IV) after determining that the person committed a second or subsequent offense under  
104 Subsection (3)(i)(i)(B)(III), the division issues a final order on the action initiated under  
105 Subsection (3)(i)(i)(B)(I).

106 (ii) In issuing a final order for a second or subsequent offense under Subsection  
107 (3)(i)(i), the division shall comply with the requirements of this section.

108 (4) (a) A fine imposed by the director under Subsection (3)(h) shall be deposited in the  
109 General Fund as dedicated credits to be used by the division for the purposes listed in Section  
110 58-63-103.

111 (b) The director may collect a Subsection (3)(h) fine which is not paid by:

112 (i) referring the matter to the Office of State Debt Collection or a collection agency; or

113 (ii) bringing an action in the district court of the county in which the person resides or  
114 in the county where the office of the director is located.

115 (c) The director may seek legal assistance from the attorney general or the county or  
116 district attorney of the district in which the action is brought to collect the fine.

117 (d) The court shall award reasonable attorney's fees and costs to the division for  
118 successful actions under Subsection (4)(b)(ii).