

1 **OFF DUTY EMPLOYMENT OF LAW ENFORCEMENT**

2 **OFFICER**

3 2018 GENERAL SESSION

4 STATE OF UTAH

5

6 **LONG TITLE**

7 **General Description:**

8 This bill modifies provisions regarding law enforcement officers.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ defines terms;
- 12 ▶ modifies provisions related to the requirements for a law enforcement officer to
- 13 engage in off-duty employment; and
- 14 ▶ makes technical changes.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **53-13-114**, as last amended by Laws of Utah 2012, Chapter 196

22

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

24 Section 1. Section **53-13-114** is amended to read:

25 **53-13-114. Off-duty peace officer working as a security officer.**

26 (1) As used in this section:

27 (a) "Contract security company" means the same as that term is defined in Section
28 58-63-102.

29 (b) "Law enforcement officer" means the same as that term is defined in Section
30 53-13-103.

31 (c) "Off-duty employment" means the employment of a law enforcement officer while

32 off-duty as an off-duty law enforcement officer or as a security officer.

33 (d) (i) "Off-duty law enforcement officer" means a law enforcement officer who is
 34 employed while off-duty to provide the services of a law enforcement officer.

35 (ii) "Off-duty law enforcement officer" includes any law enforcement officer who is
 36 wearing the uniform of a law enforcement agency while engaging in off-duty employment.

37 (e) "Security officer" means a law enforcement officer who is employed while off-duty
 38 to provide the services of a security officer as described in the definition of security officer in
 39 Section 58-63-102.

40 (2) ~~A peace~~ A law enforcement officer may only engage in off-duty employment as a
 41 security officer ~~[under Section 58-63-304 only]~~ or as an off-duty law enforcement officer if:

42 ~~[(1)] (a) in accordance with Subsection (3), the law enforcement agency employing the~~
 43 ~~[peace officer: (a)] law enforcement officer has a written policy regarding ~~[peace] a law~~~~
 44 ~~enforcement officer [employees] employee working while off-duty as [security officers] a~~
 45 ~~security officer or as an off-duty law enforcement officer; and~~

46 ~~[(b) the policy under Subsection (1)(a) is:]~~

47 ~~[(i) posted and publicly available on the appropriate city, county, or state website; or]~~

48 ~~[(ii) posted on the Utah Public Notice Website created in Section 63F-1-701 if the law~~
 49 ~~enforcement agency does not have access to a website under Subsection (1)(b)(i).]~~

50 ~~[(2) the agency's chief administrative officer, or that officer's designee, provides written~~
 51 ~~authorization for an off-duty peace officer to work as a security officer; and]~~

52 ~~[(3) the business or entity employing the off-duty peace officer to work as a security~~
 53 ~~officer complies with state and federal income reporting and withholding requirements~~
 54 ~~regarding the off-duty officer's wages.]~~

55 (b) in accordance with Subsection (4), the law enforcement officer or the law
 56 enforcement agency that employs the law enforcement officer enters into a written employment
 57 agreement with the contract security company or other business or entity providing the off duty
 58 employment.

59 (3) (a) A law enforcement agency's written policy regarding a law enforcement officer
 60 employee working while off-duty as a security officer or as an off-duty law enforcement officer
 61 shall include:

62 (i) the scope of the duties that may be provided while engaging in off-duty

63 employment:

64 (ii) when a law enforcement officer is authorized to wear the uniform of the law
65 enforcement agency or use other law enforcement agency equipment while engaging in
66 off-duty employment; and

67 (iii) the financial responsibility of the employing law enforcement agency and the
68 contract security company or other entity receiving the off-duty services of a law enforcement
69 officer working as an off-duty law enforcement officer or as a security officer.

70 (b) A law enforcement agency shall make a written policy regarding a law enforcement
71 office employee working while off-duty as a security officer or as an off-duty law enforcement
72 officer publically available on the:

73 (i) appropriate city, county, or state website; or

74 (ii) Utah Public Notice Website, created in Section 63F-1-701, if the law enforcement
75 agency does not have access to an appropriate city, county, or state website.

76 (4) A written employment agreement described in Subsection (2)(b) shall include:

77 (a) a general description of the off-duty services that will be provided by the law
78 enforcement officer engaging in off-duty employment;

79 (b) compensation rates for the law enforcement officer engaging in off-duty
80 employment;

81 (c) a description of whether the law enforcement officer engaging in off-duty
82 employment will wear the uniform of the law enforcement agency, a uniform provided by a
83 contract security company or other entity, or other clothing while working as a security officer
84 or off-duty law enforcement officer;

85 (d) a description of what law enforcement agency equipment may be used while the
86 law enforcement officer is engaged in off-duty employment; and

87 (e) a clear description of the law enforcement agency's and the contract security
88 company's or other entity's responsibility for:

89 (i) financial responsibility, including liability coverage; and

90 (ii) state and federal income reporting and withholding requirements regarding
91 compensation provided to a law enforcement officer engaging in off-duty employment.

92 (5) Unless the terms of a written employment agreement described in Subsections
93 (2)(b) and (4) state otherwise, whenever a law enforcement officer is engaged in off-duty

94 employment in accordance with this section, liability for the law enforcement officer is
95 presumed to lie with the law enforcement agency if:
96 (a) the law enforcement officer is working as an off-duty law enforcement officer;
97 (b) the law enforcement officer, while engaged in off-duty employment as a security
98 officer, engages in actions beyond the scope of a security officer but within the scope of a law
99 enforcement officer.