

LICENSING OF SECURITY SERVICES

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dan R. Eastman

House Sponsor: Stephen E. Sandstrom

LONG TITLE

General Description:

This bill modifies provisions related to the licensing of persons who provide security services.

Highlighted Provisions:

This bill:

- ▶ modifies definitions related to the licensing of contract security companies and private security officers by establishing new classifications for armored car companies and armored car security officers;
- ▶ modifies the composition of the Security Services Licensing Board by including in its membership an individual who is an officer or owner of a licensed armored car company;
- ▶ provides for the licensing of armored car companies and armored car security officers as new classifications;
- ▶ establishes qualifications for licensure as an armored car company and armored car security officer;
- ▶ provides that it is unlawful conduct for an armored car company to employ the services of an unlicensed armored car security officer, with certain exceptions; and
- ▶ provides unprofessional conduct and penalty provisions related to armored car companies and armored car security officers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **31A-22-1301**, as last amended by Laws of Utah 1997, Chapter 10

34 **58-63-102**, as last amended by Laws of Utah 2005, Chapter 307

35 **58-63-201**, as last amended by Laws of Utah 1996, Chapter 228

36 **58-63-301**, as last amended by Laws of Utah 2001, Chapter 271

37 **58-63-302**, as last amended by Laws of Utah 2005, Chapter 81

38 **58-63-306**, as enacted by Laws of Utah 1995, Chapter 215

39 **58-63-307**, as enacted by Laws of Utah 1995, Chapter 215

40 **58-63-308**, as last amended by Laws of Utah 2001, Chapter 271

41 **58-63-310**, as last amended by Laws of Utah 2001, Chapter 271

42 **58-63-501**, as last amended by Laws of Utah 2003, Chapter 308

43 **58-63-502**, as last amended by Laws of Utah 2001, Chapter 271

44 **58-63-503**, as enacted by Laws of Utah 2003, Chapter 308



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

47 Section 1. Section **31A-22-1301** is amended to read:

48 **31A-22-1301. Liability insurance for armored car companies and contract**
49 **security companies.**

50 Section 58-63-302 applies to liability insurance for armored car companies and contract
51 security companies.

52 Section 2. Section **58-63-102** is amended to read:

53 **58-63-102. Definitions.**

54 In addition to the definitions in Section 58-1-102, as used in this chapter:

55 (1) "Armed courier service" means a person engaged in business as a contract security
56 company who transports or offers to transport tangible personal property from one place or
57 point to another under the control of an armed security officer employed by that service.

58 (2) "Armed private security officer" means an individual:
 59 (a) employed by a contract security company;
 60 (b) whose primary duty is ~~[that of]~~;
 61 (i) guarding personal or real property[;]; or
 62 (ii) providing protection or security to the life and well being of humans or animals; and
 63 (c) who wears, carries, possesses, or has immediate access to a firearm ~~[at any time]~~ in
 64 the performance of the individual's duties.

65 (3) "Armored car ~~[service]"~~ company" means a person engaged in business ~~[as a~~
 66 ~~contract security company]~~ under contract to others who transports or offers to transport
 67 tangible personal property, currency, valuables, jewelry, food stamps, or any other high value
 68 items, that require secured delivery from one place ~~[or point]~~ to another under the control of an
 69 ~~[armed or unarmed private]~~ armored car security officer employed by the company using a
 70 specially equipped motor vehicle offering a high degree of security.

71 (4) "Armored car security officer" means an individual:
 72 (a) employed by an armored car company;
 73 (b) whose primary duty is to guard the tangible property, currency, valuables, jewelry,
 74 food stamps, or other high value items that require secured delivery from one place to another;
 75 and
 76 (c) who wears, carries, possesses, or has immediate access to a firearm in the
 77 performance of the individual's duties.

78 ~~[(4)]~~ (5) "Board" means the Security Services Licensing Board created in Section
 79 58-63-201.

80 ~~[(5)]~~ (6) "Contract security company" means a person engaged in business to provide
 81 security or guard services to another person ~~[for the purpose of protecting tangible personal~~
 82 ~~property, real property, or the life and well being of human or animal life by assignment of~~
 83 ~~security officers employed by the company and the use of specialized resources, motor vehicles,~~
 84 ~~or equipment]~~ on a contractual basis by assignment of an armed or unarmed private security
 85 officer.

86 ~~[(6)]~~ (7) "Identification card" means a personal pocket or wallet size card issued by the
 87 division to each armored car and armed or unarmed private security officer licensed under this
 88 chapter.

89 ~~[(7)]~~ (8) "Officer" means a president, vice president, secretary, treasurer, or other
 90 officer of a corporation or limited liability company listed as an officer in the files with the
 91 Division of Corporations and Commercial Code.

92 ~~[(8)]~~ (9) "Owner" means a proprietor or general partner of a proprietorship or
 93 partnership, a lessee or assignee of the owner, the manager of the facility, or the event operator.

94 ~~[(9)]~~ (10) "Peace officer" means a person who:

95 (a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer
 96 Classifications; and

97 (b) derives total or special law enforcement powers from, and is an employee of, the
 98 federal government, the state, or ~~[any]~~ a political subdivision, agency, department, branch, or
 99 service of either, of ~~[any]~~ a municipality, or ~~[of any other]~~ a unit of local government.

100 ~~[(10)]~~ (11) "Regular basis" means at least 20 ~~[or more]~~ hours per month.

101 ~~[(11)]~~ (12) (a) "Security officer" means an individual who is licensed as an armed or
 102 unarmed private security officer under this chapter and who:

103 (i) is employed by a contract security company securing, guarding, or otherwise
 104 protecting tangible personal property, real property, or the life and well being of human or
 105 animal life against:

106 (A) trespass or other unlawful intrusion or entry;

107 (B) larceny;

108 (C) vandalism or other abuse;

109 (D) arson or ~~[any]~~ other criminal activity; or

110 (E) personal injury caused by another person or as a result of ~~[acts]~~ an act or

111 ~~[omissions]~~ omission by another person;

112 (ii) is controlling, regulating, or directing the flow of movements of ~~[individuals]~~ an
 113 individual or ~~[vehicles]~~ vehicle; or

114 (iii) providing street patrol service.

115 (b) "Security officer" does not include an individual whose duties are limited to
116 custodial or other services even though the presence of that individual may act to provide ~~some~~
117 ~~of the services~~ a service set forth under Subsection ~~[(11)]~~ (12)(a).

118 (c) (i) "Security officer" does not include an individual whose duties include taking
119 admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other
120 materials ~~[to be carried]~~ going into a facility as described in Subsection ~~[(11)]~~ (12)(c)(ii) if:

121 (A) the individual carries out these duties without the use ~~[or aid]~~ of ~~[any]~~ specialized
122 equipment;

123 (B) the authority of the individual is limited to denying entry or passage of a person into
124 or within the facility; and

125 (C) the individual is not authorized to use physical force in the performance of the
126 individual's duties under this Subsection ~~[(11)]~~ (12)(c).

127 (ii) As used in this Subsection ~~[(11)]~~ (12)(c), "facility" means a sports, concert, or
128 theatrical venue, or ~~[any]~~ a convention center, fairgrounds, public assembly facility, or mass
129 gathering location.

130 ~~[(12)]~~ (13) "Security system" means equipment, ~~[devices]~~ a device, or ~~[instruments]~~ an
131 instrument installed for ~~[the purpose of]~~:

132 (a) detecting and signaling entry or intrusion by ~~[some]~~ an individual into or onto, or
133 exit from the premises protected by the system; or

134 (b) signaling the commission of ~~[a robbery or other]~~ criminal activity at the election of
135 an individual having control of the features of the security system.

136 ~~[(13)]~~ (14) "Specialized ~~[resources]~~ resource, motor ~~[vehicles]~~ vehicle, or equipment"
137 means ~~[items]~~ an item of tangible personal property specifically designed for use in law
138 enforcement or in providing security or guard services, or that ~~[have been]~~ is specially equipped
139 with ~~[devices]~~ a device or ~~[features specifically]~~ feature designed for use in providing law
140 enforcement, security, or guard services, but ~~[do]~~ does not include:

141 (a) standardized clothing, whether or not bearing a company name or logo, if the

142 clothing does not bear the words "security" or "guard"; or

143 (b) ~~[items]~~ an item of tangible personal property, other than ~~[firearms]~~ a firearm or
 144 nonlethal ~~[weapons]~~ weapon, that may be used without modification in providing security or
 145 guard services.

146 ~~[(14)]~~ (15) "Street patrol service" means a ~~[person engaged in business as a]~~ contract
 147 security company ~~[who]~~ that provides patrols by means of foot, vehicle, or other method of
 148 transportation using public streets, thoroughfares, or property in the performance of ~~[their]~~ the
 149 company's duties and responsibilities.

150 ~~[(15)]~~ (16) "Unarmed private security officer" means an individual:

151 (a) employed by a contract security company;

152 (b) whose primary duty is ~~[that of]~~ guarding personal or real property~~;~~ or providing
 153 protection or security to the life and well being of humans or animals;

154 (c) who ~~[never wears, carries, possesses, or has]~~ does not wear, carry, possess, or have
 155 immediate access to a firearm ~~[at any time]~~ in the performance of ~~[his]~~ the individual's duties;
 156 and

157 (d) who wears clothing of distinctive design or fashion bearing ~~[any]~~ a symbol, badge,
 158 emblem, insignia, or other device that identifies ~~[or tends to identify]~~ the ~~[wearer]~~ individual as a
 159 security officer.

160 ~~[(16)]~~ (17) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-63-501.

161 ~~[(17)]~~ (18) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-63-502
 162 and as may be further defined by rule.

163 Section 3. Section **58-63-201** is amended to read:

164 **58-63-201. Board -- Duties.**

165 (1) There is created the Security Services Licensing Board consisting of:

166 (a) ~~[three]~~ two individuals who are officers or owners of a licensed contract security
 167 ~~[companies]~~ company;

168 (b) one individual who is an officer or owner of a licensed armored car company;

169 ~~[(b)]~~ (c) one individual from among nominees of the Utah Sheriff's Association;

170 [↵] (d) one individual from among nominees of the Utah Chief's of Police Association;
171 and

172 [↵] (e) one individual representing the general public.

173 (2) (a) The [board shall be appointed and serve] executive director shall appoint board
174 members in accordance with Section 58-1-201.

175 (b) A board member serves in accordance with Section 58-1-201.

176 (3) (a) The [duties and responsibilities of the] board shall [be] carry out its duties and
177 responsibilities in accordance with Sections 58-1-202 and 58-1-203. [In addition, the]

178 (b) The board shall designate one of its members on a permanent or rotating basis to:

179 [↵] (i) assist the division in reviewing [complaints] a complaint concerning the
180 unlawful or unprofessional conduct of a [licensee] person licensed under this chapter; and

181 [↵] (ii) advise the division in its investigation of [these complaints] the complaint.

182 (4) A board member who, under Subsection (3), has reviewed a complaint or advised in
183 its investigation is disqualified from participating with the board when the board serves as a
184 presiding officer in an adjudicative proceeding concerning the complaint.

185 Section 4. Section **58-63-301** is amended to read:

186 **58-63-301. Licensure required -- License classifications.**

187 (1) A license is required to engage in the practice of a contract security company, an
188 armored car company, an armored car security officer, armed private security officer, or
189 unarmed private security officer, except as [specifically] otherwise provided in Section
190 58-63-304, 58-63-310, or 58-1-307.

191 (2) The division shall issue to a person who qualifies under this chapter a license in the
192 following classifications:

193 (a) contract security company;

194 (b) armored car company;

195 (c) armored car security officer;

196 [↵] (d) armed private security officer; or

197 [↵] (e) unarmed private security officer.

198 Section 5. Section **58-63-302** is amended to read:

199 **58-63-302. Qualifications for licensure.**

200 (1) Each applicant for licensure as an armored car company or a contract security
201 company shall:

202 (a) submit an application in a form prescribed by the division;

203 (b) pay a fee determined by the department under Section 63-38-3.2;

204 (c) have a qualifying agent who:

205 (i) (A) is a resident of the state and an officer, director, partner, proprietor, or manager
206 of the applicant [~~who~~]; and

207 [(†)] (B) passes an examination component established by rule by the division in
208 collaboration with the board; and

209 (ii) (A) demonstrates 6,000 hours of experience as a manager, supervisor, or
210 administrator of an armored car company or a contract security company; or

211 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in
212 collaboration with the board with a federal, United States military, state, county, or municipal
213 law enforcement agency;

214 (d) if a corporation, provide:

215 (i) the names, addresses, dates of birth, and Social Security numbers of all corporate
216 officers, directors, and those responsible management personnel employed within the state or
217 having direct responsibility for managing operations of the applicant within the state; and

218 (ii) the names, addresses, dates of birth, and Social Security numbers, of all
219 shareholders owning 5% or more of the outstanding shares of the corporation, [~~except this may~~
220 ~~not be required~~] unless waived by the division if the stock is publicly listed and traded;

221 (e) if a limited liability company, provide:

222 (i) the names, addresses, dates of birth, and Social Security numbers of all company
223 officers, and those responsible management personnel employed within the state or having
224 direct responsibility for managing operations of the applicant within the state; and

225 (ii) the names, addresses, dates of birth, and Social Security numbers of all individuals

226 owning 5% or more of the equity of the company;

227 (f) if a partnership, the names, addresses, dates of birth, and Social Security numbers of
228 all general partners, and those responsible management personnel employed within the state or
229 having direct responsibility for managing operations of the applicant within the state;

230 (g) if a proprietorship, the names, addresses, dates of birth, and Social Security numbers
231 of the proprietor, and those responsible management personnel employed within the state or
232 having direct responsibility for managing operations of the applicant within the state;

233 (h) ~~be of~~ have good moral character in that officers, directors, shareholders described
234 in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not
235 been convicted of:

236 (i) a felony~~;~~;

237 (ii) a misdemeanor involving moral turpitude~~;~~; or ~~any other~~

238 (iii) a crime that when considered with the duties and responsibilities of a contract
239 security company ~~is considered~~ or an armored car company by the division and the board ~~to~~
240 ~~indicate~~ indicates that the best interests of the public are not served by granting the applicant a
241 license;

242 (i) document that none of the applicant's officers, directors, shareholders described in
243 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

244 (i) have been declared by ~~any~~ a court of competent jurisdiction incompetent by reason
245 of mental defect or disease and not been restored; and

246 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

247 (j) file and maintain with the division evidence of:

248 (i) comprehensive general liability insurance in a form and in amounts ~~to be~~
249 established by rule by the division in collaboration with the board;

250 (ii) workers' compensation insurance that covers employees of the applicant in
251 accordance with applicable Utah law;

252 (iii) registration with the Division of Corporations and Commercial Code; and

253 (iv) registration as required by applicable law with the:

254 (A) Unemployment Insurance Division in the Department of Workforce Services, for
255 purposes of Title 35A, Chapter 4, Employment Security Act;

256 (B) State Tax Commission; and

257 (C) Internal Revenue Service; and

258 (k) meet with the division and board if requested by the division or board.

259 (2) Each applicant for licensure as an armed private security officer shall:

260 (a) submit an application in a form prescribed by the division;

261 (b) pay a fee determined by the department under Section 63-38-3.2;

262 (c) ~~be of~~ have good moral character in that the applicant has not been convicted of;

263 (i) a felony~~;~~;

264 (ii) a misdemeanor involving moral turpitude~~;~~; or ~~[any other]~~

265 (iii) a crime that when considered with the duties and responsibilities of an armed

266 private security officer ~~[is considered]~~ by the division and the board ~~[to indicate]~~ indicates that

267 the best interests of the public are not served by granting the applicant a license;

268 (d) not have been declared incompetent by ~~[any]~~ a court of competent jurisdiction

269 ~~[incompetent]~~ by reason of mental defect or disease and not been restored;

270 (e) not be currently suffering from habitual drunkenness or from drug addiction or
271 dependence;

272 (f) successfully complete basic education and training requirements established by rule
273 by the division in collaboration with the board;

274 (g) successfully complete firearms training requirements established by rule by the
275 division in collaboration with the board;

276 (h) pass the examination requirement established by rule by the division in collaboration
277 with the board; and

278 (i) meet with the division and board if requested by the division or the board.

279 (3) Each applicant for licensure as an unarmed private security officer shall:

280 (a) submit an application in a form prescribed by the division;

281 (b) pay a fee determined by the department under Section 63-38-3.2;

- 282 (c) ~~[be of]~~ have good moral character in that the applicant has not been convicted of:
- 283 (i) a felony~~;~~;
- 284 (ii) a misdemeanor involving moral turpitude~~;~~; or ~~[any other]~~
- 285 (iii) a crime that when considered with the duties and responsibilities of an unarmed
- 286 private security officer ~~[is considered]~~ by the division and the board ~~[to indicate]~~ indicates that
- 287 the best interests of the public are not served by granting the applicant a license;
- 288 (d) not have been declared incompetent by ~~[any]~~ a court of competent jurisdiction
- 289 ~~[incompetent]~~ by reason of mental defect or disease and not been restored;
- 290 (e) not be currently suffering from habitual drunkenness or from drug addiction or
- 291 dependence;
- 292 (f) successfully complete basic education and training requirements established by rule
- 293 by the division in collaboration with the board;
- 294 (g) pass the examination requirement established by rule by the division in collaboration
- 295 with the board; and
- 296 (h) meet with the division and board if requested by the division or board.
- 297 (4) Each applicant for licensure as an armored car security officer shall:
- 298 (a) submit an application in a form prescribed by the division;
- 299 (b) pay a fee determined by the department under Section 63-38-3.2;
- 300 (c) have good moral character in that the applicant has not been convicted of:
- 301 (i) a felony;
- 302 (ii) a misdemeanor involving moral turpitude; or
- 303 (iii) a crime that when considered with the duties and responsibilities of an armored car
- 304 security officer by the division and the board indicates that the best interests of the public are
- 305 not served by granting the applicant a license;
- 306 (d) not have been declared incompetent by a court of competent jurisdiction by reason
- 307 of mental defect or disease and not been restored;
- 308 (e) not be currently suffering from habitual drunkenness or from drug addiction or
- 309 dependence;

310 (f) successfully complete basic education and training requirements established by rule
311 by the division in collaboration with the board;

312 (g) successfully complete firearms training requirements established by rule by the
313 division in collaboration with the board;

314 (h) pass the examination requirements established by rule by the division in
315 collaboration with the board; and

316 (i) meet with the division and board if requested by the division or the board.

317 ~~[(4)]~~ (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
318 Act, the division may make ~~[rules]~~ a rule establishing when the division shall request a Federal
319 Bureau of Investigation ~~[records shall be checked]~~ records' review for ~~[applicants]~~ an applicant.

320 ~~[(5)]~~ (6) To determine if an applicant meets the qualifications of Subsections (1)(h),
321 (2)(c), ~~[and]~~ (3)(c), and (4)(c), the division shall provide an appropriate number of copies of
322 fingerprint cards to the Department of Public Safety with the division's request to:

323 (a) conduct a search of records of the Department of Public Safety for criminal history
324 information relating to each applicant for licensure under this chapter and each applicant's
325 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and
326 responsible management personnel; and

327 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
328 requiring a check of records of the F.B.I. for criminal history information under this section.

329 ~~[(6)]~~ (7) The Department of Public Safety shall send ~~[to]~~ the division:

330 (a) a written record of criminal history, or certification of no criminal history record, as
331 contained in the records of the Department of Public Safety in a timely manner after receipt of a
332 fingerprint card from the division and a request for review of Department of Public Safety
333 records; and

334 (b) the results of the F.B.I. review concerning an applicant in a timely manner after
335 receipt of information from the F.B.I.

336 ~~[(7)]~~ (8) (a) The division shall charge each applicant a fee, in accordance with Section
337 63-38-3.2, equal to the cost of performing the records reviews under this section.

338 (b) The division shall pay the Department of Public Safety the costs of all records
339 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews
340 under this chapter.

341 [~~(8) Information obtained by the division~~]

342 (9) The division shall use or disseminate the information it obtains from the reviews of
343 criminal history records of the Department of Public Safety and the F.B.I. [~~shall be used or~~
344 ~~disseminated by the division~~] only [~~for the purpose of determining~~] to determine if an applicant
345 for licensure under this chapter is qualified for licensure.

346 Section 6. Section **58-63-306** is amended to read:

347 **58-63-306. Replacement of qualifying agent.**

348 If the qualifying agent of an armored car company or a contract security company ceases
349 to perform the agent's duties on a regular basis, the licensee shall:

350 (1) notify the division within 15 days by registered or certified mail[;]; and [~~shall~~]

351 (2) replace the qualifying agent within [~~30~~] 60 days after the time required for
352 notification to the division.

353 Section 7. Section **58-63-307** is amended to read:

354 **58-63-307. Use of firearms.**

355 (1) An individual licensed as an armored car security officer or an armed private
356 security officer may carry a firearm only while acting as an armored car security officer or an
357 armed private security officer in accordance with this chapter and rules made under this chapter.

358 (2) An individual licensed as an armored car security officer or an armed private
359 security officer is exempt from the provisions of [~~Sections~~] Section 76-10-505 and [~~53-5-704~~]
360 Title 53, Chapter 5, Part 7, Concealed Weapon Act, while acting as an armored car security
361 officer or an armed private security officer in accordance with this chapter and rules made under
362 this chapter.

363 Section 8. Section **58-63-308** is amended to read:

364 **58-63-308. Evidence of licensure.**

365 An individual licensed as an armed private security officer, armored car security officer,

366 or unarmed private security officer shall:

367 (1) carry a copy of the individual's license on the individual's person at all times while
368 acting as a licensee; and

369 (2) display the license upon the request of a peace officer, a representative of the
370 division, or a member of the public.

371 Section 9. Section **58-63-310** is amended to read:

372 **58-63-310. Interim permits.**

373 (1) [~~Upon receipt of a complete application for licensure in accordance with Section~~
374 ~~58-63-302,] The division may issue an interim permit to an applicant for licensure as an armed
375 private security officer, armored car security officer, or unarmed private security officer [~~may be~~
376 issued an interim permit] upon receipt of a complete application for licensure in accordance with
377 Section 58-63-302.~~

378 (2) (a) Each interim permit [~~shall expire] expires 90 days after it is issued or on the date
379 on which the applicant is issued a license, whichever is earlier.~~

380 (b) The division may reissue an interim permit if the delay in approving a license is
381 beyond the control or influence of the interim permit holder.

382 (3) An interim permit holder may engage in the scope of practice defined for the license
383 classification that the interim permit holder is seeking.

384 Section 10. Section **58-63-501** is amended to read:

385 **58-63-501. Unlawful conduct.**

386 "Unlawful conduct" includes:

387 (1) a contract security company employing the services of an unlicensed armed private
388 security officer or unarmed private security officer, except as provided under Section 58-63-304
389 or 58-63-310;

390 (2) an armored car company employing the services of an unlicensed armored car
391 security officer, except as provided under Section 58-63-304 or 58-63-310;

392 [~~(2)~~] (3) filing with the division fingerprint cards for an applicant [~~which] that are not
393 those of the applicant, or are in any other way false or fraudulent and intended to mislead the~~

394 division in its consideration of the qualifications of the applicant for licensure; [~~and~~]
 395 [~~(3)~~] (4) practicing or engaging in, or attempting to practice or engage in, activity for
 396 which a license is required under this chapter, unless the individual:
 397 (a) holds the appropriate license under this chapter; or
 398 (b) is exempted from licensure as provided under Section 58-63-304 or 58-63-310[-];

399 and
 400 (5) knowingly employing another person to engage in or practice or attempt to engage
 401 in or practice an occupation or profession licensed under this chapter, if the employee:
 402 (a) is not licensed to do so under this chapter; or
 403 (b) is not exempt from licensure.

404 Section 11. Section **58-63-502** is amended to read:

405 **58-63-502. Unprofessional conduct.**

406 "Unprofessional conduct" includes:

- 407 (1) failing as an armored car company or a contract security company to notify the
 408 division of the cessation of performance of its qualifying agent or failing to replace its qualifying
 409 agent, as required under Section 58-63-306;
- 410 (2) failing as an armed private security officer, armored car security officer, or unarmed
 411 private security officer, to carry or display a copy of the licensee's license as required under
 412 Section 58-63-308;
- 413 (3) employment by an armored car company or a contract security company of a
 414 qualifying agent, armed private security officer, armored car security officer, or unarmed private
 415 security officer knowing that the individual has engaged in conduct that is inconsistent with the
 416 duties and responsibilities of a licensee under this chapter; and
- 417 (4) failing to comply with operating standards established by rule.

418 Section 12. Section **58-63-503** is amended to read:

419 **58-63-503. Penalties.**

- 420 (1) Unless Subsection (2) applies, an individual who commits an act of unlawful
 421 conduct under Section 58-63-501 or who fails to comply with a citation issued under this

422 section after it becomes final is guilty of a class A misdemeanor.

423 (2) The division may immediately suspend a license issued under this chapter of a
424 person who is given a citation for violating Subsection 58-63-501(1), (2), (4), or [~~(3)~~] (5).

425 (3) (a) If upon inspection or investigation, the division determines that a person has
426 violated Subsection 58-63-501(1), (2), (4), or [~~(3)~~] (5) or any rule made or order issued under
427 those subsections, and that disciplinary action is warranted, the director or the director's
428 designee within the division shall promptly issue a citation to the person and:

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

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

432 (b) (i) The division may fine a person who [~~is in violation of~~] violates Subsection
433 58-63-501(1), (2), (4), or [~~(3)~~] (5), as evidenced by an uncontested citation, a stipulated
434 settlement, or a finding of a violation in an adjudicative proceeding held under Subsection
435 (3)(a)(ii), or order the person to cease and desist from the violation, or do both.

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

438 (c) The written citation shall:

439 (i) [~~be in writing and~~] describe the nature of the violation, including a reference to the
440 allegedly violated statute, rule, or order [~~alleged to have been violated~~];

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

444 (iii) explain the consequences of failure to timely contest the citation or to make
445 payment of [~~any fines~~] a fine assessed under the citation with the time specified in the citation.

446 (d) (i) [~~A~~] The division may serve a citation issued under this section, or a copy of the
447 citation, [~~may be served~~] upon [~~any person upon whom a summons may be served~~] an individual
448 who is subject to service of a summons under the Utah Rules of Civil Procedure.

449 (ii) (A) The division may serve the individual [~~may be served~~] personally or [~~service~~

450 ~~may be made upon]~~ serve the individual's agent~~], and in either case the service can be made].~~

451 (B) The division may serve the summons by a division investigator, by a person
452 designated by the director, or by mail.

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

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

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

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

461 (h) The director or the director's designee may assess fines under this section as
462 follows:

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

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

465 (iii) for ~~any~~ a subsequent offense under Subsection (3)(a), a fine of up to \$2,000 for
466 each day of continued violation.

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

469 (A) the division previously issued a final order determining that a person committed a
470 first or second offense in violation of Subsection 58-63-501(1) or ~~(3)~~ (4); or

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

472 (II) no final order has been issued by the division in an action initiated under Subsection
473 (3)(i)(i)(B)(I);

474 (III) the division determines during an investigation that occurred after the initiation of
475 the action under Subsection (3)(i)(i)(B)(I) that the person committed a second or subsequent
476 violation of Subsection 58-63-501(1) or ~~(3)~~ (4); and

477 (IV) after determining that the person committed a second or subsequent offense under

478 Subsection (3)(i)(i)(B)(III), the division issues a final order on the action initiated under
479 Subsection (3)(i)(i)(B)(I).

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

482 (4) (a) [~~A~~] The division shall deposit a fine imposed by the director under Subsection
483 (3)(h) [~~shall be deposited~~] in the General Fund as a dedicated [~~credits to be used~~] credit for use
484 by the division for the purposes listed in Section 58-63-103.

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

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

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

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

491 (d) The court shall award reasonable [~~attorney's~~] attorney fees and costs to the division
492 for successful actions under Subsection (4)(b)(ii).