

**LICENSING OF SECURITY SERVICES**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Dan R. Eastman**

House Sponsor: Stephen E. Sandstrom

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**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:**



28 None

29 **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;

63 and

64 (c) who wears, carries, possesses, or has immediate access to a firearm ~~[at any time]~~ in  
65 the performance of the individual's duties.

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

72 (4) "Armored car security officer" means an individual:

73 (a) employed by an armored car company;

74 (b) whose primary duty is to guard the tangible property, currency, valuables, jewelry,  
75 food stamps, or other high value items that require secured delivery from one place to another;  
76 and

77 (c) who wears, carries, possesses, or has immediate access to a firearm in the  
78 performance of the individual's duties.

79 ~~[(4)]~~ (5) "Board" means the Security Services Licensing Board created in Section  
80 58-63-201.

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

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

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

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

95           ~~[(9)]~~ (10) "Peace officer" means a person who:

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

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

101           ~~[(10)]~~ (11) "Regular basis" means at least 20 ~~[or more]~~ hours per month.

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

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

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

108           (B) larceny;

109           (C) vandalism or other abuse;

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

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

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

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

115           (iii) providing street patrol service.

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

119           (c) (i) "Security officer" does not include an individual whose duties include taking  
120 admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other

121 materials ~~[to be carried]~~ going into a facility as described in Subsection ~~[(11)]~~ (12)(c)(ii) if:

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

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

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

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

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

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

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

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

142 (a) standardized clothing, whether or not bearing a company name or logo, if the  
143 clothing does not bear the words "security" or "guard"; or

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

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

151 ~~[(15)]~~ (16) "Unarmed private security officer" means an individual:

- 152 (a) employed by a contract security company;
- 153 (b) whose primary duty is [~~that of~~] guarding personal or real property[;] or providing  
154 protection or security to the life and well being of humans or animals;
- 155 (c) who [~~never wears, carries, possesses, or has~~] does not wear, carry, possess, or have  
156 immediate access to a firearm [~~at any time~~] in the performance of [~~his~~] the individual's duties;  
157 and
- 158 (d) who wears clothing of distinctive design or fashion bearing [~~any~~] a symbol, badge,  
159 emblem, insignia, or other device that identifies [~~or tends to identify~~] the [~~wearer~~] individual as  
160 a security officer.

161 [~~(16)~~] (17) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-63-501.

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

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

165 **58-63-201. Board -- Duties.**

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

- 167 (a) [~~three~~] two individuals who are officers or owners of a licensed contract security  
168 [~~companies~~] company;
- 169 (b) one individual who is an officer or owner of a licensed armored car company;
- 170 [~~(b)~~] (c) one individual from among nominees of the Utah Sheriff's Association;
- 171 [~~(c)~~] (d) one individual from among nominees of the Utah Chief's of Police  
172 Association; and
- 173 [~~(d)~~] (e) one individual representing the general public.

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

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

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

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

- 180 [~~(a)~~] (i) assist the division in reviewing [~~complaints~~] a complaint concerning the  
181 unlawful or unprofessional conduct of a [~~licensee~~] person licensed under this chapter; and
- 182 [~~(b)~~] (ii) advise the division in its investigation of [~~these complaints~~] the complaint.

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

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

187 **58-63-301. Licensure required -- License classifications.**

188 (1) A license is required to engage in the practice of a contract security company, an  
 189 armored car company, an armored car security officer, armed private security officer, or  
 190 unarmed private security officer, except as [~~specifically~~] otherwise provided in Section  
 191 58-63-304, 58-63-310, or 58-1-307.

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

- 194 (a) contract security company;
- 195 (b) armored car company;
- 196 (c) armored car security officer;
- 197 [~~(d)~~] (d) armed private security officer; or
- 198 [~~(e)~~] (e) unarmed private security officer.

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

200 **58-63-302. Qualifications for licensure.**

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

- 203 (a) submit an application in a form prescribed by the division;
- 204 (b) pay a fee determined by the department under Section 63-38-3.2;
- 205 (c) have a qualifying agent who:
  - 206 (i) (A) is a resident of the state and an officer, director, partner, proprietor, or manager  
 207 of the applicant [~~who~~]; and
  - 208 [~~(i)~~] (B) passes an examination component established by rule by the division in  
 209 collaboration with the board; and
  - 210 (ii) (A) demonstrates 6,000 hours of experience as a manager, supervisor, or  
 211 administrator of an armored car company or a contract security company; or
  - 212 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in  
 213 collaboration with the board with a federal, United States military, state, county, or municipal

214 law enforcement agency;

215 (d) if a corporation, provide:

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

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

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

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

226 (ii) the names, addresses, dates of birth, and Social Security numbers of all individuals  
227 owning 5% or more of the equity of the company;

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

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

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

237 (i) a felony[;];

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

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

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



- 245 (i) have been declared by ~~[any]~~ a court of competent jurisdiction incompetent by reason  
246 of mental defect or disease and not been restored; and
- 247 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;
- 248 (j) file and maintain with the division evidence of:
- 249 (i) comprehensive general liability insurance in a form and in amounts ~~[to be]~~  
250 established by rule by the division in collaboration with the board;
- 251 (ii) workers' compensation insurance that covers employees of the applicant in  
252 accordance with applicable Utah law;
- 253 (iii) registration with the Division of Corporations and Commercial Code; and
- 254 (iv) registration as required by applicable law with the:
- 255 (A) Unemployment Insurance Division in the Department of Workforce Services, for  
256 purposes of Title 35A, Chapter 4, Employment Security Act;
- 257 (B) State Tax Commission; and
- 258 (C) Internal Revenue Service; and
- 259 (k) meet with the division and board if requested by the division or board.
- 260 (2) Each applicant for licensure as an armed private security officer shall:
- 261 (a) submit an application in a form prescribed by the division;
- 262 (b) pay a fee determined by the department under Section 63-38-3.2;
- 263 (c) ~~[be of]~~ have good moral character in that the applicant has not been convicted of:
- 264 (i) a felony~~[-];~~;
- 265 (ii) a misdemeanor involving moral turpitude~~[-];~~ or ~~[any other]~~
- 266 (iii) a crime that when considered with the duties and responsibilities of an armed  
267 private security officer ~~[is considered]~~ by the division and the board ~~[to indicate]~~ indicates that  
268 the best interests of the public are not served by granting the applicant a license;
- 269 (d) not have been declared incompetent by ~~[any]~~ a court of competent jurisdiction  
270 ~~[incompetent]~~ by reason of mental defect or disease and not been restored;
- 271 (e) not be currently suffering from habitual drunkenness or from drug addiction or  
272 dependence;
- 273 (f) successfully complete basic education and training requirements established by rule  
274 by the division in collaboration with the board;
- 275 (g) successfully complete firearms training requirements established by rule by the

276 division in collaboration with the board;

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

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

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

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

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

283 (c) ~~[be of]~~ have good moral character in that the applicant has not been convicted of:

284 (i) a felony;

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

286 (iii) a crime that when considered with the duties and responsibilities of an unarmed

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

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

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

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

291 (e) not be currently suffering from habitual drunkenness or from drug addiction or  
292 dependence;

293 (f) successfully complete basic education and training requirements established by rule

294 by the division in collaboration with the board;

295 (g) pass the examination requirement established by rule by the division in

296 collaboration with the board; and

297 (h) meet with the division and board if requested by the division or board.

298 (4) Each applicant for licensure as an armored car security officer shall:

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

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

301 (c) have good moral character in that the applicant has not been convicted of:

302 (i) a felony;

303 (ii) a misdemeanor involving moral turpitude; or

304 (iii) a crime that when considered with the duties and responsibilities of an armored car

305 security officer by the division and the board indicates that the best interests of the public are

306 not served by granting the applicant a license;

307 (d) not have been declared incompetent by a court of competent jurisdiction by reason  
 308 of mental defect or disease and not been restored;

309 (e) not be currently suffering from habitual drunkenness or from drug addiction or  
 310 dependence;

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

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

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

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

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

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

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

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

330 [~~6~~] (7) The Department of Public Safety shall send [~~to~~] the division:

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

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

337 [~~7~~] (8) (a) The division shall charge each applicant a fee, in accordance with Section

338 63-38-3.2, equal to the cost of performing the records reviews under this section.

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

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

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

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

348 **58-63-306. Replacement of qualifying agent.**

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

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

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

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

355 **58-63-307. Use of firearms.**

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

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

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

366 **58-63-308. Evidence of licensure.**

367 An individual licensed as an armed private security officer, armored car security officer,  
368 or unarmed private security officer shall:

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

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

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

374 **58-63-310. Interim permits.**

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

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

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

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

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

387 **58-63-501. Unlawful conduct.**

388 "Unlawful conduct" includes:

389 (1) a contract security company employing the services of an unlicensed armed private  
390 security officer or unarmed private security officer, except as provided under Section  
391 58-63-304 or 58-63-310;

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

394 [~~(2)~~] (3) filing with the division fingerprint cards for an applicant [~~which~~] that are not  
395 those of the applicant, or are in any other way false or fraudulent and intended to mislead the  
396 division in its consideration of the qualifications of the applicant for licensure; [~~and~~]

397 [~~(3)~~] (4) practicing or engaging in, or attempting to practice or engage in, activity for  
398 which a license is required under this chapter, unless the individual:

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

400 (b) is exempted from licensure as provided under Section 58-63-304 or 58-63-310[-];  
401 and

402 (5) knowingly employing another person to engage in or practice or attempt to engage  
403 in or practice an occupation or profession licensed under this chapter, if the employee:

- 404 (a) is not licensed to do so under this chapter; or
- 405 (b) is not exempt from licensure.

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

407 **58-63-502. Unprofessional conduct.**

408 "Unprofessional conduct" includes:

409 (1) failing as an armored car company or a contract security company to notify the  
410 division of the cessation of performance of its qualifying agent or failing to replace its  
411 qualifying agent, as required under Section 58-63-306;

412 (2) failing as an armed private security officer, armored car security officer, or unarmed  
413 private security officer, to carry or display a copy of the licensee's license as required under  
414 Section 58-63-308;

415 (3) employment by an armored car company or a contract security company of a  
416 qualifying agent, armed private security officer, armored car security officer, or unarmed  
417 private security officer knowing that the individual has engaged in conduct that is inconsistent  
418 with the duties and responsibilities of a licensee under this chapter; and

419 (4) failing to comply with operating standards established by rule.

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

421 **58-63-503. Penalties.**

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

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

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

- 431 (i) attempt to negotiate a stipulated settlement; or  
 432 (ii) notify the person to appear for an adjudicative proceeding conducted under Title  
 433 63, Chapter 46b, Administrative Procedures Act.
- 434 (b) (i) The division may fine a person who ~~[is in violation of]~~ violates Subsection  
 435 58-63-501(1), (2), (4), or ~~[(3)]~~ (5), as evidenced by an uncontested citation, a stipulated  
 436 settlement, or a finding of a violation in an adjudicative proceeding held under Subsection  
 437 (3)(a)(ii), or order the person to cease and desist from the violation, or do both.
- 438 (ii) Except for a cease and desist order, the division may not impose the licensure  
 439 sanctions listed in Section 58-63-401 through the issuance of a citation under this section.
- 440 (c) The written citation shall:
- 441 (i) ~~[be in writing and]~~ describe the nature of the violation, including a reference to the  
 442 allegedly violated statute, rule, or order ~~[alleged to have been violated]~~;
- 443 (ii) state the recipient must notify the division in writing within 20 calendar days of  
 444 issuance of the citation if the recipient wants to contest the citation at the adjudicative  
 445 proceeding referred to in Subsection (3)(a)(ii); and
- 446 (iii) explain the consequences of failure to timely contest the citation or to make  
 447 payment of ~~[any fines]~~ a fine assessed under the citation with the time specified in the citation.
- 448 (d) (i) ~~[A]~~ The division may serve a citation issued under this section, or a copy of the  
 449 citation, ~~[may be served]~~ upon ~~[any person upon whom a summons may be served]~~ an  
 450 individual who is subject to service of a summons under the Utah Rules of Civil Procedure.
- 451 (ii) ~~(A)~~ The division may serve the individual ~~[may be served]~~ personally or ~~[service~~  
 452 ~~may be made upon]~~ serve the individual's agent~~[-and in either case the service can be made].~~
- 453 ~~(B)~~ The division may serve the summons by a division investigator, by a person  
 454 designated by the director, or by mail.
- 455 (e) (i) If within 20 days from the service of a citation the person to whom the citation  
 456 was issued fails to request a hearing to contest the citation, the citation becomes the final order  
 457 of the division and is not subject to further agency review.
- 458 (ii) The division may grant an extension of the 20-day period for cause.
- 459 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
 460 the license of a licensee who fails to comply with a citation after it becomes final.
- 461 (g) The division may not issue a citation for an alleged violation under this section

462 after the expiration of six months following the occurrence of the alleged violation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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**Legislative Review Note**  
as of 11-8-07 9:22 AM

**Office of Legislative Research and General Counsel**

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**S.B. 98 - Licensing of Security Services**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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