

SECURITY PERSONNEL AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill modifies the Security Personnel Licensing Act.

Highlighted Provisions:

This bill:

- ▶ defines terms, including "security service provider," "agreement for services," and "financial responsibility";
- ▶ modifies the requirements for being the qualifying agent of a licensed contract security company or licensed armored car company; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-63-102, as last amended by Laws of Utah 2012, Chapter 41

58-63-302, as last amended by Laws of Utah 2016, Chapter 238

58-63-304, as last amended by Laws of Utah 2013, Chapter 436

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

Section 1. Section **58-63-102** is amended to read:

58-63-102. Definitions.

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

31 (1) "Agreement for services" means a written and signed agreement between a security
32 service provider and a client that:

33 (a) contains clear language that addresses and assigns financial responsibility;

34 (b) describes the length, duties, and scope of the security services that will be provided;

35 and

36 (c) describes the compensation that will be paid by the client for the security services,
37 including the compensation for each security officer.

38 [~~(1)~~] (2) "Armed courier service" means a person engaged in business as a contract
39 security company who transports or offers to transport tangible personal property from one
40 place or point to another under the control of an armed security officer employed by that
41 service.

42 [~~(2)~~] (3) "Armed private security officer" means an individual:

43 (a) employed by a contract security company;

44 (b) whose primary duty is:

45 (i) guarding personal or real property; or

46 (ii) providing protection or security to the life and well being of humans or animals;

47 and

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

50 [~~(3)~~] (4) "Armored car company" means a person engaged in business under contract to
51 others who transports or offers to transport tangible personal property, currency, valuables,
52 jewelry, SNAP benefits as defined in Section 35A-1-102, or any other high value items, that
53 require secured delivery from one place to another under the control of an armored car security
54 officer employed by the company using a specially equipped motor vehicle offering a high
55 degree of security.

56 [~~(4)~~] (5) "Armored car security officer" means an individual:

57 (a) employed by an armored car company;

58 (b) whose primary duty is to guard the tangible property, currency, valuables, jewelry,
59 SNAP benefits as defined in Section 35A-1-102, or other high value items that require secured
60 delivery from one place to another; and

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

63 ~~[(5)]~~ (6) "Board" means the Security Services Licensing Board created in Section
64 58-63-201.

65 (7) "Client" means a person, company, or entity that contracts for and receives security
66 services from a contract security company or an armored car company.

67 ~~[(6)]~~ (8) "Contract security company" means a ~~[person engaged in business to provide~~
68 ~~security or guard services to another person on a contractual basis by assignment of an armed~~
69 ~~or unarmed private security officer]~~ company that is registered with the Division of
70 Corporations and Commercial Code and is engaged in business to provide security services to
71 another person, business, or entity on a contractual basis by assignment of an armed or
72 unarmed private security officer.

73 (9) "Corporate officer" means an individual who is on file with the Division of
74 Corporations and Commercial Code as:

75 (a) a corporate officer of a contract security company or an armored car company that
76 is a corporation; or

77 (b) a sole proprietor of a contract security company or an armored car company that is
78 not a corporation.

79 (10) "Financial responsibility," when referring to a contract security company, means
80 that a contract security company may only provide security services to a client if the contract
81 security company:

82 (a) enters into an agreement for services with the client;

83 (b) maintains a current general liability insurance policy with:

84 (i) at least an annual \$1,000,000 per occurrence limit;

85 (ii) at least an annual \$2,000,000 aggregate limit; and

- 86 (iii) the following riders:
- 87 (A) general liability;
- 88 (B) assault and battery;
- 89 (C) personal injury;
- 90 (D) false arrest;
- 91 (E) libel and slander;
- 92 (F) invasion of privacy;
- 93 (G) broad form property damage;
- 94 (H) damage to property in the care, custody, or control of the security service provider;

95 and

- 96 (I) errors and omissions;
- 97 (c) maintains a workers' compensation insurance policy with at least a \$1,000,000 per
- 98 occurrence limit and that covers each security officer employed by the contract security
- 99 company; and

- 100 (d) maintains a federal employer identification number and an unemployment
- 101 insurance employer account as required under state and federal law.

102 ~~[(7)]~~ (11) "Identification card" means a personal pocket or wallet size card issued by
 103 the division to each armored car and armed or unarmed private security officer licensed under
 104 this chapter.

105 (12) "Law enforcement agency" means the same as that term is defined in Section
 106 [53-1-102](#).

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

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

112 (13) "Owner" means an individual who is listed with the Division of Corporations and
 113 Commercial Code as a majority stockholder of a company, a general partner of a partnership,

114 or the proprietor of a sole proprietorship.

115 ~~[(10)]~~ (14) "Peace officer" means a person who:

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

118 (b) derives total or special law enforcement powers from, and is an employee of, the
119 federal government, the state, or a political subdivision, agency, department, branch, or service
120 of either, of a municipality, or a unit of local government.

121 ~~[(11)]~~ (15) "Regular basis" means at least 20 hours per month.

122 ~~[(12)]~~ (16) (a) "Security officer" means an individual who is licensed as an armed or
123 unarmed private security officer under this chapter and who:

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

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

128 (B) larceny;

129 (C) vandalism or other abuse;

130 (D) arson or other criminal activity; or

131 (E) personal injury caused by another person or as a result of an act or omission by
132 another person;

133 (ii) is controlling, regulating, or directing the flow of movements of an individual or
134 vehicle; or

135 (iii) providing street patrol service.

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

139 ~~[(c)(i)]~~ (b) "Security officer" does not include an individual whose duties include
140 taking admission tickets, checking credentials, ushering, or checking bags, purses, backpacks,
141 or other materials ~~[going into a facility as described in Subsection (12)(c)(ii)]~~ of individuals

142 who are entering a sports venue, concert venue, theatrical venue, convention center,
143 fairgrounds, public assembly facility, or mass gathering location if:

144 (A) the individual carries out these duties without the use of specialized equipment;

145 (B) the authority of the individual is limited to denying entry or passage of [~~a person~~]
146 another individual into or within the facility; and

147 (C) the individual is not authorized to use physical force in the performance of the
148 individual's duties under this Subsection [~~(12)(c)~~] (16)(b).

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

152 (17) "Security service provider" means a contract security company or an armored car
153 company licensed under this chapter.

154 [~~(13)~~] (18) "Security system" means equipment, a device, or an instrument installed
155 for:

156 (a) detecting and signaling entry or intrusion by an individual into or onto, or exit from
157 the premises protected by the system; or

158 (b) signaling the commission of criminal activity at the election of an individual having
159 control of the features of the security system.

160 [~~(14)~~] (19) "Specialized resource, motor vehicle, or equipment" means an item of
161 tangible personal property specifically designed for use in law enforcement or in providing
162 security or guard services, or that is specially equipped with a device or feature designed for
163 use in providing law enforcement, security, or guard services, but does not include:

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

166 (b) an item of tangible personal property, other than a firearm or nonlethal weapon, that
167 may be used without modification in providing security or guard services.

168 [~~(15)~~] (20) "Street patrol service" means a contract security company that provides
169 patrols by means of foot, vehicle, or other method of transportation using public streets,

170 thoroughfares, or property in the performance of the company's duties and responsibilities.

171 [(16)] (21) "Unarmed private security officer" means an individual:

172 (a) employed by a contract security company;

173 (b) whose primary duty is guarding personal or real property or providing protection or
174 security to the life and well being of humans or animals;

175 (c) who does not wear, carry, possess, or have immediate access to a firearm in the
176 performance of the individual's duties; and

177 (d) who wears clothing of distinctive design or fashion bearing a symbol, badge,
178 emblem, insignia, or other device that identifies the individual as a security officer.

179 [(17)] (22) "Unlawful conduct" ~~is as~~ means the same as that term is defined in
180 Sections 58-1-501 and 58-63-501.

181 [(18)] (23) "Unprofessional conduct" ~~is as~~ means the same as that term is defined in
182 Sections 58-1-501 and 58-63-502 and as may be further defined by rule.

183 Section 2. Section 58-63-302 is amended to read:

184 **58-63-302. Qualifications for licensure.**

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

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

188 (b) pay a fee determined by the department under Section 63J-1-504;

189 (c) have a qualifying agent who:

190 (i) shall meet with the division and the board and demonstrate that the applicant and
191 the qualifying agent meet the requirements of this section;

192 [(i)] (ii) is a resident of the state and ~~[an officer, director, partner, proprietor, or~~
193 ~~manager of the applicant]~~ is a corporate officer or owner of the applicant;

194 (iii) exercises material day-to-day authority in the conduct of the applicant's business
195 by making substantive technical and administrative decisions and whose primary employment
196 is with the applicant;

197 (iv) is not concurrently acting as a qualifying agent or employee of another armored car

198 company or contract security company and is not engaged in any other employment on a
199 regular basis;

200 (v) is not involved in any activity that would conflict with the qualifying agent's duties
201 and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's
202 performance under this chapter does not jeopardize the health or safety of the general public;

203 (vi) is not an employee of a government agency;

204 [(ii)] (vii) passes an examination component established by rule by the division in
205 collaboration with the board; and

206 [(iii)] (viii) (A) demonstrates 6,000 hours of compensated experience as a manager,
207 supervisor, or administrator of an armored car company or a contract security company; or

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

211 (d) if a corporation, provide:

212 (i) the names, addresses, dates of birth, and social security numbers of all corporate
213 officers, directors, and those responsible management personnel employed within the state or
214 having direct responsibility for managing operations of the applicant within the state; and

215 (ii) the names, addresses, dates of birth, and social security numbers, of all
216 shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by
217 the division if the stock is publicly listed and traded;

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

219 (i) the names, addresses, dates of birth, and social security numbers of all company
220 officers, and those responsible management personnel employed within the state or having
221 direct responsibility for managing operations of the applicant within the state; and

222 (ii) the names, addresses, dates of birth, and social security numbers of all individuals
223 owning 5% or more of the equity of the company;

224 (f) if a partnership, provide the names, addresses, dates of birth, and social security
225 numbers of all general partners, and those responsible management personnel employed within

226 the state or having direct responsibility for managing operations of the applicant within the
227 state;

228 (g) if a proprietorship, provide the names, addresses, dates of birth, and social security
229 numbers of the proprietor, and those responsible management personnel employed within the
230 state or having direct responsibility for managing operations of the applicant within the state;

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

234 (i) a felony;

235 (ii) a misdemeanor involving moral turpitude; or

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

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

241 (i) have been declared by a court of competent jurisdiction incompetent by reason of
242 mental defect or disease and not been restored; and

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

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

245 (i) comprehensive general liability insurance in a form and in amounts established by
246 rule by the division in collaboration with the board;

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

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

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

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

253 (B) State Tax Commission; and

- 254 (C) Internal Revenue Service; and
- 255 (k) meet with the division and board if requested by the division or board.
- 256 (2) Each applicant for licensure as an armed private security officer shall:
- 257 (a) submit an application in a form prescribed by the division;
- 258 (b) pay a fee determined by the department under Section 63J-1-504;
- 259 (c) have good moral character in that the applicant has not been convicted of:
- 260 (i) a felony;
- 261 (ii) a misdemeanor involving moral turpitude; or
- 262 (iii) a crime that when considered with the duties and responsibilities of an armed
- 263 private security officer by the division and the board indicates that the best interests of the
- 264 public are not served by granting the applicant a license;
- 265 (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec.
- 266 922(g);
- 267 (e) not have been declared incompetent by a court of competent jurisdiction by reason
- 268 of mental defect or disease and not been restored;
- 269 (f) not be currently suffering from habitual drunkenness or from drug addiction or
- 270 dependence;
- 271 (g) successfully complete basic education and training requirements established by rule
- 272 by the division in collaboration with the board[;], which shall include 24 hours of classroom or
- 273 online curriculum;
- 274 (h) successfully complete firearms training requirements established by rule by the
- 275 division in collaboration with the board;
- 276 (i) pass the examination requirement established by rule by the division in
- 277 collaboration with the board; and
- 278 (j) 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 63J-1-504;

- 282 (c) 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
- 285 (iii) a crime that when considered with the duties and responsibilities of an unarmed
- 286 private security officer by the division and the board indicates that the best interests of the
- 287 public are not served by granting the applicant a license;
- 288 (d) not have been declared incompetent by a court of competent jurisdiction by reason
- 289 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[?], which shall include 24 hours of classroom or
- 294 online curriculum;
- 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 [63J-1-504](#);
- 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 be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec.
- 308 922(g);
- 309 (e) not have been declared incompetent by a court of competent jurisdiction by reason

310 of mental defect or disease and not been restored;

311 (f) not be currently suffering from habitual drunkenness or from drug addiction or
312 dependence;

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

315 (h) successfully complete firearms training requirements established by rule by the
316 division in collaboration with the board;

317 (i) pass the examination requirements established by rule by the division in
318 collaboration with the board; and

319 (j) meet with the division and board if requested by the division or the board.

320 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
321 division may make a rule establishing when the division shall request a Federal Bureau of
322 Investigation records' review for an applicant.

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

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

330 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
331 requiring a check of records of the FBI for criminal history information under this section.

332 (7) The Department of Public Safety shall send the division:

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

337 (b) the results of the FBI review concerning an applicant in a timely manner after

338 receipt of information from the FBI.

339 (8) (a) The division shall charge each applicant a fee, in accordance with Section
340 63J-1-504, equal to the cost of performing the records reviews under this section.

341 (b) The division shall pay the Department of Public Safety the costs of all records
342 reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews
343 under this chapter.

344 (9) The division shall use or disseminate the information it obtains from the reviews of
345 criminal history records of the Department of Public Safety and the FBI only to determine if an
346 applicant for licensure under this chapter is qualified for licensure.

347 Section 3. Section **58-63-304** is amended to read:

348 **58-63-304. Exemptions from licensure.**

349 (1) In addition to the exemptions from licensure in Section 58-1-307, an individual
350 may engage in acts regulated under this chapter without being licensed under this chapter if the
351 individual is:

352 (a) a peace officer employed by~~[, or licensed as,]~~ a contract security company~~[,]~~ as
353 provided in Subsection (2); or

354 (b) employed by a contract security company for the sole purpose of operating or
355 staffing security apparatus, including a magnetometer, magnetometer wand, x-ray viewing
356 device, or other device approved by rule of the division.

357 (2) A peace officer may only engage in off-duty employment as a security officer if:

358 (a) the law enforcement agency employing the peace officer has a written policy
359 regarding peace officer employees working while off duty as a security officer and the written
360 policy addresses the issue of financial responsibility;

361 (b) the agency's chief administrative officer, or that officer's designee, provides written
362 authorization for an off-duty peace officer to work as a security officer; and

363 (c) the business or entity employing the off-duty peace officer to work as a security
364 officer complies with state and federal income reporting and withholding requirements
365 regarding the off-duty officer's wages.

366 (3) In addition to the exemptions from licensure in Section 58-1-307, an individual
367 holding a valid license as an armed private security officer under this chapter may also function
368 as an unarmed private security officer without the additional license.

369 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
370 division may make rules approving security apparatus under Subsection (1)(b).