

HB0425S01 compared with HB0425

~~{deleted text}~~ shows text that was in HB0425 but was deleted in HB0425S01.

Inserted text shows text that was not in HB0425 but was inserted into HB0425S01.

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Representative Lee B. Perry proposes the following substitute bill:

SECURITY PERSONNEL AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: _____

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;~~{~~

→ ~~modifies the education and training requirements of licensed security officers;}~~ and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

HB0425S01 compared with HB0425

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.

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

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

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

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

(c) describes the compensation that will be paid by the client for the security services, including the compensation for each security officer; and

(d) describes what government-owned vehicles or other equipment may be used, if any, by the security service provider while providing security services, including the compensation that will be provided by the client for the use of such vehicles or other equipment.

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

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

(a) employed by a contract security company;

(b) whose primary duty is:

(i) guarding personal or real property; or

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

and

HB0425S01 compared with HB0425

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

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

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

(a) employed by an armored car company;

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

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

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

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

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

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

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

(b) a ~~chief executive or company officer~~ sole proprietor of a contract security company or an armored car company that is not a corporation.

HB0425S01 compared with HB0425

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

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

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

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

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

(iii) the following riders:

(A) general liability;

(B) assault and battery;

(C) personal injury;

(D) false arrest;

(E) libel and slander;

(F) invasion of privacy;

(G) broad form property damage;

(H) damage to property in the care, custody, or control of the security service provider;

and

(I) errors and omissions;

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

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

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

(12) (a) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(b) "Law enforcement agency" does not include an individual law enforcement officer.

~~[(8)]~~ "Officer" means a president, vice president, secretary, treasurer, or other officer of a corporation or limited liability company listed as an officer in the files with the Division of

HB0425S01 compared with HB0425

~~Corporations and Commercial Code.]~~

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

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

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

(a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer

Classifications; and

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

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

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

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

(A) trespass or other unlawful intrusion or entry;

(B) larceny;

(C) vandalism or other abuse;

(D) arson or other criminal activity; or

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

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

(iii) providing street patrol service.

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

~~[(c)(i)]~~ (b) "Security officer" does not include an individual whose duties include

HB0425S01 compared with HB0425

taking admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other materials ~~[going into a facility as described in Subsection (12)(c)(ii)]~~ of individuals who are entering a sports venue, concert venue, theatrical venue, convention center, fairgrounds, public assembly facility, or mass gathering location if:

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

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

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

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

(17) "Security service provider" means a contract security company licensed under this chapter, an armored car company licensed under this chapter, or a law enforcement agency.

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

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

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

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

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

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

~~[(15)]~~ (20) "Street patrol service" means a contract security company that provides patrols by means of foot, vehicle, or other method of transportation using public streets, thoroughfares, or property in the performance of the company's duties and responsibilities.

HB0425S01 compared with HB0425

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

- (a) employed by a contract security company;
- (b) whose primary duty is guarding personal or real property or providing protection or security to the life and well being of humans or animals;
- (c) who does not wear, carry, possess, or have immediate access to a firearm in the performance of the individual's duties; and
- (d) who wears clothing of distinctive design or fashion bearing a symbol, badge, emblem, insignia, or other device that identifies the individual as a security officer.

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

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

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

58-63-302. Qualifications for licensure.

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

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;
- (c) have a qualifying agent who:

~~(i)~~ shall meet with the division and the board and demonstrate that the applicant and the qualifying agent meet the requirements of this section:

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

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

~~(iii)~~ ~~(iv)~~ is not concurrently acting as a qualifying agent or employee of another armored car company or contract security company and is not engaged in any other employment on a regular basis;

~~(iv)~~ ~~(v)~~ is not involved in any activity that would conflict with the qualifying agent's duties and responsibilities under this chapter to ensure that the qualifying agent's and the

HB0425S01 compared with HB0425

applicant's performance under this chapter does not jeopardize the health or safety of the general public;

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

~~(~~ii~~)~~ (~~fv~~vii) passes an examination component established by rule by the division in collaboration with the board; and

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

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

(d) if a corporation, provide:

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

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

(e) if a limited liability company, provide:

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

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

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

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

HB0425S01 compared with HB0425

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

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

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

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

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

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

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

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

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

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

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

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

(B) State Tax Commission; and

(C) Internal Revenue Service; and

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

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

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

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

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

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

HB0425S01 compared with HB0425

(iii) a crime that when considered with the duties and responsibilities of an armed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

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

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

(g) successfully complete basic education and training requirements established by rule by the division in collaboration with the board~~;~~, which shall include 24 hours of classroom or online curriculum~~{ of which: }~~;

~~{ (i) eight hours shall be completed before an applicant may engage in work providing security services; and~~

~~(ii) the remaining 16 hours shall be completed within 45 days of completing the initial eight hours;~~

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

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

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

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

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

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

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

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of an unarmed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not have been declared incompetent by a court of competent jurisdiction by reason

HB0425S01 compared with HB0425

of mental defect or disease and not been restored;

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

(f) successfully complete basic education and training requirements established by rule by the division in collaboration with the board~~;~~, which shall include 24 hours of classroom or online curriculum ~~of which:~~;

~~{ (i) eight hours shall be completed before an applicant may engage in work providing security services; and~~

~~—— (ii) the remaining 16 hours shall be completed within 45 days of completing the initial eight hours;~~

~~†~~ (g) pass the examination requirement established by rule by the division in collaboration with the board; and

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

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

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

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

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

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

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

(d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

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

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

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

(h) successfully complete firearms training requirements established by rule by the

HB0425S01 compared with HB0425

division in collaboration with the board;

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

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

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

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

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

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

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

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

(b) the results of the FBI review concerning an applicant in a timely manner after receipt of information from the FBI.

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

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

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

HB0425S01 compared with HB0425

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

58-63-304. Exemptions from licensure.

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

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

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

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

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

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

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

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

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

†

~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel†~~