

1 **OFF DUTY EMPLOYMENT OF LAW ENFORCEMENT**

2 **OFFICER**

3 2018 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Lee B. Perry**

6 Senate Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions regarding law enforcement officers.

11 **Highlighted Provisions:**

12 This bill:

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

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **53-13-114**, as last amended by Laws of Utah 2012, Chapter 196

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

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

27 **53-13-114. Off-duty peace officer working as a security officer.**



28 (1) As used in this section:

29 (a) "Contract security company" means the same as that term is defined in Section
30 58-63-102.

31 (b) "Law enforcement officer" means the same as that term is defined in Section
32 53-13-103.

33 (c) "Off-duty employment" means the employment of a law enforcement officer while
34 off-duty as an off-duty law enforcement officer or as a security officer.

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

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

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

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

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

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

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

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

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

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

57 (b) in accordance with Subsection (4), the law enforcement officer or the law
58 enforcement agency that employs the law enforcement officer enters into a written employment

59 agreement with the contract security company or other business or entity providing the off-duty
60 employment.

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

64 (i) the scope of the duties that may be provided while engaging in off-duty
65 employment;

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

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

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

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

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

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

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

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

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

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

89 (e) a clear description of the law enforcement agency's and the contract security

90 company's or other entity's responsibility for:

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

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

94 (5) Unless the terms of a written employment agreement described in Subsections
95 (2)(b) and (4) state otherwise, whenever a law enforcement officer is engaged in off-duty
96 employment in accordance with this section, liability for the law enforcement officer is
97 presumed to lie with the law enforcement agency if:

98 (a) the law enforcement officer is working as an off-duty law enforcement officer; or

99 (b) the law enforcement officer, while engaged in off-duty employment as a security
100 officer, engages in actions beyond the scope of a security officer but within the scope of a law
101 enforcement officer.

Legislative Review Note
Office of Legislative Research and General Counsel