

**Representative Lee B. Perry** proposes the following substitute bill:

**OFF DUTY EMPLOYMENT OF LAW ENFORCEMENT OFFICER**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lee B. Perry**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions regarding law enforcement officers.

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

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

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



26 **53-13-114. Off-duty peace officer working as a security officer.**

27 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

56 (b) in accordance with Subsection (4), the law enforcement officer or the law

57 enforcement agency that employs the law enforcement officer enters into a written employment  
58 agreement with the contract security company or other business or entity providing the off-duty  
59 employment.

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

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

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

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

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

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

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

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

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

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

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

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

88 (e) a clear description of the law enforcement agency's and the contract security  
89 company's or other entity's responsibility for:

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

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

93 (5) Notwithstanding any other provision of this section, a law enforcement agency's  
94 written policy pursuant to Subsections (3)(a) and (b), and a written employment agreement  
95 pursuant to Subsections (4)(a) through (e), shall state that when a law enforcement officer is  
96 working as an off-duty law enforcement officer or as an off-duty security officer, the contract  
97 security company or other business or entity providing the off-duty employment is responsible  
98 to provide liability insurance coverage for the off-duty officer and to indemnify the law  
99 enforcement agency for any claims arising from the off-duty employment.

100 (6) Notwithstanding the language of Subsection (5), a law enforcement agency is not  
101 prohibited from entering into a written agreement with a public or private entity to provide law  
102 enforcement services and to assume liability for those services.