

HB0268S01 compared with HB0268

~~text~~ shows text that was in HB0268 but was deleted in HB0268S01.

Inserted text shows text that was not in HB0268 but was inserted into HB0268S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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: _____

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

HB0268S01 compared with HB0268

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

HB0268S01 compared with HB0268

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

~~[(2) 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]~~

~~[(3) 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.]~~

(b) in accordance with Subsection (4), the law enforcement officer or the law enforcement agency that employs the law enforcement officer enters into a written employment agreement with the contract security company or other business or entity providing the off-duty employment.

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

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

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

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

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

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

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

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

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

HB0268S01 compared with HB0268

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

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

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

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

(i) financial responsibility, including liability coverage; and

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

(5) ~~Unless the terms of~~ **Notwithstanding any other provision of this section, a law enforcement agency's written policy pursuant to Subsections (3)(a) and (b), and a written employment agreement ~~described in Subsections (2)(b) and (4) state otherwise, whenever a law enforcement officer is engaged in off-duty employment in accordance with this section, liability for the law enforcement officer is presumed to lie with the law enforcement agency if:~~**

~~(a) the~~ **pursuant to Subsections (4)(a) through (e), shall state that when a law**

~~enforcement officer is working as an off-duty law enforcement officer~~ **;**

~~or~~ **;** ~~(b)~~ **or as an off-duty security officer, the contract security company or other business or entity providing the off-duty employment is responsible to provide liability insurance coverage for the off-duty officer and to indemnify the law enforcement**

~~officer, while engaged in~~ **agency for any claims arising from the** off-duty employment ~~as a security officer, engages in actions beyond the scope of a security officer but within the scope of~~;

(6) **Notwithstanding the language of Subsection (5), a law enforcement** ~~officer.~~

Legislative Review Note

HB0268S01 compared with HB0268

~~Office of Legislative Research and General Counsel~~agency is not prohibited from entering into a written agreement with a public or private entity to provide law enforcement services and to assume liability for those services.