

CHAPTER 618

AN ACT

HB 2527

Relating to regulation of private security entities; creating new provisions; amending ORS 181A.840, 181A.845, 181A.850 and 181A.995; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 181A.840 is amended to read: 181A.840. As used in ORS 181A.360, 181A.840 to 181A.891, 181A.895 and 181A.995:

(1) "Certification" means recognition by the Department of Public Safety Standards and Training that a private security professional meets all of the qualifications listed in ORS 181A.855.

(2) "Executive manager" means a person:

(a) Who is authorized to act on behalf of a company or business in matters of licensure and certification;

(b) Who is authorized to hire and terminate personnel;

(c) Whose primary responsibility is the management of certified private security professionals; and

(d) Who has final responsibility for a company's or business's compliance with ORS 181A.840 to 181A.891.

(3) "Instructor" means any person who has been certified by the department as meeting the requirements to provide instruction to private security providers or applicants.

(4) "License" means recognition by the department that an executive manager or supervisory manager meets the requirements adopted by the Board on Public Safety Standards and Training as necessary to provide private security services.

(5) "Primary responsibility" means an activity that is fundamental to, and required or expected in, the regular course of employment and is not merely incidental to employment.

(6)(a) "Private security entity" means a person engaged in the business of providing private security that:

(A) Employs private security providers; or

(B) Contracts or subcontracts with an existing licensed private security entity to provide private security services.

(b) "Private security entity" does not include a special campus security provider commissioned under ORS 352.118 or a private security provider on a campus of an institution of higher education regulated under ORS 181A.912.

[(6)] (7) "Private security professional" means an individual who performs, as the individual's primary responsibility, private security services for consideration, regardless of whether the individual, while performing the private security services, is armed or unarmed or wears a uniform or plain clothes, and regardless of whether the individual is employed part-time or full-time to perform private security services.

[(7)] (8) "Private security provider" means any individual who performs the functions of a private security professional, executive manager, supervisory manager or instructor.

[(8)] (9) "Private security services" means the performance of at least one of the following activities:

(a) Observing and reporting unlawful activity.

(b) Preventing or detecting theft or misappropriation of goods, money or other items of value.

(c) Protecting individuals or property, including but not limited to proprietary information, from harm or misappropriation.

(d) Controlling access to premises being protected or, with respect to a licensee of the Oregon Liquor Control Commission, controlling access to premises at an entry to the premises or any portion of the premises where minors are prohibited.

(e) Securely moving prisoners.

(f) Taking enforcement action by detaining persons or placing persons under arrest under ORS 133.225.

(g) Providing canine services for guarding premises or for detecting unlawful devices or substances.

[(9)] (10) "Supervisory manager" means an employee of or a person supervised by an executive manager who has as a primary responsibility the supervision of certified private security professionals.

SECTION 2. Sections 3 to 12 of this 2021 Act are added to and made a part of ORS 181A.840 to 181A.891.

SECTION 3. Duty of Department of Public Safety Standards and Training to establish procedures and fees for licensing of private security entities; rules. (1) The Department of Public Safety Standards and Training shall establish by rule standards and procedures for the licensing of private security entities.

(2) Rules adopted under this section must require that an applicant for a private security entity license:

(a) Submit a written application to the Department of Public Safety Standards and Training on a form approved by the department;

(b) Register the entity as a business with the Secretary of State;

(c) Be the principal owner or principal partner who exercises operational control over the entity;

(d) Designate an executive manager licensed by the department;

(e) Be covered by a general liability insurance policy for which the applicant is a primary insured that includes public liability, personal injury and property damage insurance covering all aspects of the private security services being provided;

(f) Maintain and make available to the department upon request records of the training

hours completed by each private security provider employed by the entity;

(g) Demonstrate the existence of use of force and citizen arrest policies, unless the private security entity exclusively monitors alarm systems; and

(h) Provide the following information to the department:

(A) The names and addresses of all persons financially interested, whether as partners, shareholders, associates or profit-sharers, in the applicant's proposed operations as a private security entity, together with the amount of their respective interests, and whether or not, to the best of the applicant's knowledge, any of these persons was ever denied a certificate or a license under ORS 181A.870 within the preceding three years, or had a certificate or license suspended or revoked within the preceding three years;

(B) Proof of the existence of adequate insurance under rules issued by the department;

(C) Proof of compliance with business tax requirements;

(D) Any claims for unpaid wages that have been made against the applicant within the preceding two years;

(E) The physical address of the work location or locations at which private security services are provided by private security professionals employed by or pursuant to a contract or subcontract with the applicant; and

(F) For each work location at which private security services are provided by private security professionals pursuant to a contract or subcontract with the applicant, the names of the private security entity or entities contracted or subcontracted with the applicant.

(3) Each applicant shall submit with the application for a private security entity license, proof of financial ability to promptly pay the wages of executive managers, private security professionals and supervisory managers employed by or who contract with the private security entity. The proof required in this subsection shall be in an amount and form as established by the department by rule, including but not limited to, a corporate surety bond, a cash deposit or a deposit the equivalent of cash.

(4) The department shall establish fees for issuing licenses to private security entities. The fees may not exceed the prorated direct costs of administering:

(a) The licensing program required by this section;

(b) The license examinations required by section 8 of this 2021 Act; and

(c) The investigations required by section 9 of this 2021 Act.

SECTION 4. Rules must require private security entity to provide professional training; training requirements. (1) Rules adopted under

section 3 of this 2021 Act shall require that a licensed private security entity provide professional training through the Bureau of Labor and Industries to private security providers employed or contracted by the private security entity on:

(a) Preventing sexual assault and sexual harassment in the workplace;

(b) Preventing discrimination in the workplace and promoting cultural competency; and

(c) Educating the workforce regarding protection for employees who report a violation of a state or federal law, rule or regulation.

(2) A private security entity shall provide the training as follows:

(a) At least once during the year in which a private security entity license is first issued to a private security entity;

(b) For new employees, within 90 days of the employee's initial hiring date; and

(c) At least once every two years after the renewal of a license.

SECTION 5. Requirements for private security entity employing armed private security professionals. A private security entity that employs armed private security professionals must ensure that training requirements imposed by the Department of Public Safety Standards and Training involving a firearm required for certification are successfully completed with a firearm that matches the make, model and caliber of the firearm that will be possessed by or available to the armed private security professional while performing private security services.

SECTION 6. Requirements for licensed private security entities. A licensed private security entity shall:

(1) Furnish to each private security professional employed by a private security entity, at the time of hiring, a written statement that includes a description of:

(a) The employee's rights and remedies under ORS chapters 652, 653, 654, 656 and 659A, the Service Contract Act (41 U.S.C. 351-401) and any other such law specified by the Department of Public Safety Standards and Training, in plain and simple language in a form specified by the department; and

(b) The terms and conditions of employment, including the method of computing the rate of compensation.

(2) Furnish to each private security provider employed by the private security entity, each time the provider receives a compensation payment from the entity, a written statement itemizing the total payment and amount and purpose of each deduction from the total payment, hours worked and rate of pay.

SECTION 7. Prohibitions relating to discharge of or discrimination against person employed or contracted. A private security entity may not discharge or in any other manner discriminate against any private security provider employed by or who contracts with the private security entity because:

(1) The private security provider has made a claim against the private security entity for compensation for the private security provider's own personal services;

(2) The private security provider has caused to be instituted any proceedings under or related to ORS 181A.840 to 181A.891;

(3) The private security provider has testified or is about to testify in any such proceedings; or

(4) The private security provider has discussed or consulted with anyone concerning the private security provider's rights under ORS 181A.840 to 181A.891.

SECTION 8. License examination; rules. The Department of Public Safety Standards and Training may not issue a license to operate as a private security entity until an applicant for such a license has successfully passed a qualifying examination designed to test the applicant's knowledge of the entity's responsibility to prevent sexual assault, sexual harassment and discrimination in the workplace. The director of the department shall prescribe by rule the requirements for and the manner of testing the competency of license applicants.

SECTION 9. Issue or renew license; character, competence and reliability. (1) The Department of Public Safety Standards and Training shall conduct an investigation of each applicant's character, competence and reliability, and any other matter related to the manner and method by which the applicant proposes to conduct and conducted operations as a private security entity.

(2) The department may not issue or renew a license to operate as a private security entity until the department is satisfied as to the applicant's character, competence and reliability.

(3) Evidence of unsatisfactory character, competence or reliability includes committing an unlawful act or violating or failing to comply with any provision of sections 3 to 12 of this 2021 Act or ORS 181A.840 to 181A.891.

(4) Any person may protest the issuance or renewal of a license to any applicant at any time, and the department shall give the person an opportunity to state the reasons for the objection.

SECTION 10. Interagency agreement. The Department of Public Safety Standards and Training may enter into an interagency agree-

ment with the Bureau of Labor and Industries to assist with the licensure, technical assistance and compliance services related to sections 3 to 12 of this 2021 Act.

SECTION 11. Hiring unlicensed private security entity; unpaid wages; jointly and severally liable. Any person who retains the services of an unlicensed private security entity shall:

(1) Be personally and jointly and severally liable to any employee as far as the employee has not been paid wages in full for the services performed or work done for that person.

(2) Be personally liable for all penalty wages that have occurred under ORS 652.150 for the wages due under this section.

SECTION 12. Enforcement; injunction. The Department of Public Safety Standards and Training, or any other person, may bring an action in circuit court to enjoin any person from using the services of an unlicensed private security entity or to enjoin any person acting as a private security entity in violation of sections 3 to 12 of this 2021 Act or ORS 181A.840 to 181A.891, or rules promulgated pursuant thereto, from committing future violations. The court may award to the prevailing party costs and disbursements and a reasonable attorney fee. In addition, the amount of damages recoverable from a person acting as a private security entity in violation of sections 3 to 12 of this 2021 Act or ORS 181A.840 to 181A.891 is actual damages or \$2,000, whichever amount is greater.

SECTION 13. ORS 181A.850 is amended to read: 181A.850. (1) It is unlawful:

(a) For a private security entity to provide private security services unless the entity has obtained a license under section 3 of this 2021 Act.

(b) For a person to perform any service as a private security entity without first providing to the person to whom services are to be provided the Internet address for the Department of Public Safety Standards and Training's webpage where a copy of or information pertaining to the private security entity's license may be accessed.

(c) For a person to retain the services of a private security entity without first verifying through the Department of Public Safety Standards and Training's webpage where a copy of or information pertaining to the private security entity's license may be accessed.

[(a)] (d) For a person to engage in the business of, or perform any service as a private security professional, or to offer services in such capacity unless the person has obtained a certificate under ORS 181A.870.

[(b)] (e) For a person to engage in the business of, or perform any service as an executive manager or supervisory manager, or to offer services in such

capacities unless the person has obtained a license under ORS 181A.870.

[(c)] (f) For a person to perform supervisory duties over persons performing crowd management or guest services, as described in ORS 181A.845, unless the person has obtained a license or certificate under ORS 181A.870.

[(d)] (g) Except as otherwise provided in subsection (2) of this section, for an executive manager to assign a person to perform private security services unless the person is certified as a private security professional under ORS 181A.870.

(2) An executive manager may temporarily assign a person who is not certified as required by this section to perform private security services within this state for a period of time not to exceed 90 days if:

(a) The person is employed in another state;

(b) The person holds a private security professional's certification or license from the other state; and

(c) The certification or licensing standards of the other state meet or exceed the standards of this state.

SECTION 14. ORS 181A.995 is amended to read: 181A.995. (1) A person commits a:

(a) Class A misdemeanor if the person knowingly falsifies any information pertinent to an application for a license or certificate under ORS 181A.840 to 181A.891.

(b) Class A violation if the person provides private security services as a private security professional without being certified to do so under ORS 181A.870 and having in the person's possession the certificate issued under ORS 181A.870.

(c) Class A violation if the person provides private security services as a private security entity without being licensed to do so under section 3 of this 2021 Act.

(d) Class A violation if the person retains the services of a private security entity without first verifying through the Department of Public Safety Standards and Training's webpage where a copy of or information pertaining to the private security entity's license may be accessed.

(2) In addition to any other liability or penalty provided by law, the Board on Public Safety Standards and Training may impose a civil penalty not to exceed \$1,500 for a violation of any provision of ORS 181A.840 to 181A.891 or any rule adopted by the Board on Public Safety Standards and Training or Department of Public Safety Standards and Training pursuant to ORS 181A.840 to 181A.891.

(3) In addition to any civil penalty assessed by the board, if a private security entity has two or more prior violations under subsection (2) of this section, the board may impose license sanctions on the private security entity. The license sanctions:

(a) For a third violation may not exceed the suspension of, or refusal to reissue, a license for six months;

(b) For a fourth violation may not exceed revocation of the license for three years; or

(c) For a fifth or subsequent violation may provide for permanent revocation of the license.

[(3)] (4) Judicial review of civil penalties or license sanctions imposed under [subsection (2)] subsection (2) or (3) of this section shall be as provided under ORS 183.480.

SECTION 15. ORS 181A.845 is amended to read: 181A.845. (1) ORS 181A.840 to 181A.891 do not apply to:

(a) A person certified by the Department of Public Safety Standards and Training as a police officer or a parole and probation officer.

(b) A law enforcement officer of the United States.

(c) An officer or employee of this state, Oregon Health and Science University established by ORS 353.020 or the United States while performing duties of the office or employment.

(d) A person appointed or commissioned by the Governor to perform law enforcement or security services.

(e) An attorney admitted to practice law in this state while engaged in the practice of law.

(f) An insurance adjuster licensed in this state while performing duties authorized by the license.

(g) A person who monitors alarm systems that are not designed to detect threats to public safety or personal well-being.

(h) A person while protecting the person's property.

(i) A person who repairs and installs intrusion alarms while repairing or installing intrusion alarms.

(j) A person acting as an investigator as defined in ORS 703.401.

(k) A person performing crowd management or guest services, including, but not limited to, a person described as a ticket taker, an usher, a parking attendant or event staff.

(L) A person who has a valid service permit issued by the Oregon Liquor Control Commission pursuant to ORS 471.360 and who is an employee of a licensee of the commission when the person is performing age verification and controlling access to premises of the licensee, if the person is not:

(A) Armed;

(B) Permitted to initiate confrontational activities, including physical contact and the confiscation of property; or

(C) Hired with the primary responsibility of taking enforcement action as described in ORS 181A.840 [(8)(f)] (9)(f).

(m) A person performing security services at a facility regulated by the United States Nuclear Regulatory Commission if the facility is operated by the person's employer.

(n) An individual while on active duty as a member of the armed services or while performing duties as a law enforcement officer.

(o) An employee of a financial institution who has been designated as a security officer for the financial institution pursuant to the Bank Protection Act of 1968 (12 U.S.C. 1881 et seq.) and regulations adopted under the act.

(p) A person who provides security services as a volunteer or for de minimis consideration other than money for an event operated for the benefit of a corporation that is organized not for profit pursuant to ORS chapter 65 or any predecessor of ORS chapter 65 or that is exempt from taxation under section 501(a) of the Internal Revenue Code as an organization described in section 501(c) of the Internal Revenue Code.

(q) A student enrolled in a community college as defined in ORS 341.005 while engaged in nonconfrontational activities that contribute to campus safety under the direct or indirect supervision of a law enforcement professional or private security professional certified or licensed by the Department of Public Safety Standards and Training, provided the community college has conducted a criminal background check on the student.

(2) The exemption provided by subsection (1)(k) of this section applies only:

(a) To a person who is not:

(A) Armed;

(B) Permitted to initiate confrontational activities, including physical contact and the confiscation of property; or

(C) Hired with the primary responsibility of taking enforcement action as described in ORS 181A.840 [(8)(f)] **(9)(f)**;

(b) If there is at least one person on-site who is certified or licensed under ORS 181A.870 for every 10 or fewer uncertified persons performing the services described in subsection (1)(k) of this section;

(c) If any enforcement action, as described in ORS 181A.840 [(8)(f)] **(9)(f)**, other than incidental or temporary action, is taken by or under the supervision of a person certified or licensed under ORS 181A.870; and

(d) During the time when a crowd has assembled for the purpose of attending or taking part in an organized event, including pre-event assembly, event operation hours and post-event departure activities.

(3) The exemption provided by subsection (1)(L) of this section does not apply during an organized

event that is on a scale substantially outside the ordinary course of the licensee's business.

SECTION 16. Expenditure limits. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (1), chapter 381, Oregon Laws 2021 (Enrolled House Bill 5031), for the biennium beginning July 1, 2021, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Department of Public Safety Standards and Training, for Operations, is increased by \$665,972 to implement the provisions of this 2021 Act.

SECTION 17. Captions. The section captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

SECTION 18. Sections 2 to 12 of this 2021 Act and the amendments to ORS 181A.840, 181A.845, 181A.850 and 181A.995 by sections 1, 13, 14 and 15 of this 2021 Act become operative on January 1, 2024.

SECTION 19. The Department of Public Safety Standards and Training may take any action before the operative date specified in section 18 of this 2021 Act that is necessary for the department to exercise, on and after the operative date specified in section 18 of this 2021 Act, all of the duties, functions and powers conferred on the department by sections 2 to 12 of this 2021 Act and the amendments to ORS 181A.840, 181A.845, 181A.850 and 181A.995 by sections 1, 13, 14 and 15 of this 2021 Act.

SECTION 20. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Approved by the Governor July 27, 2021

Filed in the office of Secretary of State August 2, 2021

Effective date July 27, 2021