

AMENDED IN SENATE AUGUST 21, 2014

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AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2220

Introduced by Assembly Member Daly

February 20, 2014

An act to amend Sections 7583.32 and 7583.40 of, *to add Section 7587.16 to*, and to repeal and add Section 7583.39 of, the Business and Professions Code, and to amend Section 28235 of, and to add Chapter 4.1 (commencing with Section 28010) to Division 6 of Title 4 of Part 6 of, the Penal Code, relating to private security services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2220, as amended, Daly. Private security services: private patrol operators.

The Private Security Services Act provides for the licensure and regulation of private patrol operators by the Bureau of Security and Investigative Services in the Department of Consumer Affairs. The act requires a private patrol operator employing a security guard who carries a firearm to maintain an insurance policy that provides minimum limits of insurance of \$500,000 for any one loss due to bodily injury or death and \$500,000 for any one loss due to injury or destruction of property.

This bill would instead require the bureau to require a private patrol operator or applicant for licensure, as a condition precedent to licensure or continued licensure, to file or have on file with the bureau an insurance policy that provides minimum limits of insurance of \$1,000,000 for any one loss due to bodily injury, including death, or property damage, or both, as specified. *The bill would provide that if a licensee fails to maintain sufficient insurance or provide proof of insurance as required, the license shall be automatically suspended.*

The act requires a private patrol operator licensee, qualified manager of a licensee, or security guard who, in the course of his or her employment, may be required to carry a firearm, to satisfy specified requirements prior to carrying a firearm, including the completion of a course of training in the carrying and use of firearms. Existing law exempts from this requirement a duly appointed peace officer, as defined, who has successfully completed a course of study in the use of firearms. The act prohibits the bureau from renewing an expired firearms qualification card unless, among other requirements, the applicant has requalified on the range and successfully passed a written examination, as specified.

This bill would exempt a duly appointed peace officer, as defined, who is authorized to carry a firearm in the course of his or her duties and has *successfully* completed requalification training ~~for another agency~~ from the requirements of requalifying on the range and passing the written examination.

Existing law generally requires a transfer of a firearm to be conducted by a firearms dealer, and requires specified information about the purchaser and the firearm in the transaction to be submitted to the Department of Justice. The department has created a form for this purpose known as the Dealers' Record of Sale form or DROS form. Existing law authorizes the department to charge a fee for the costs associated with the submission of the DROS form. Existing law does not authorize a business entity to own or register a firearm.

This bill would establish procedures, operative July 1, 2016, allowing a Private Patrol Operator (PPO) business entity to be the registered owner of a firearm. The bill would state findings and declarations of the Legislature, and express the intent of the Legislature in connection with these procedures. The bill would direct the Department of Justice to modify the DROS form and create a certificate of assignment (COA), and to charge a reasonable fee for the filing and processing of the COA for these purposes and for enforcement of these provisions. Among

other things, the bill would allow a security guard to be assigned a firearm by the PPO through a COA, as specified, and for a firearm custodian to be designated by the PPO. The bill would require submission to the Department of Justice of information pertaining to the ownership of a firearm by a PPO, the assignment of a firearm by a PPO, and the identity of a PPO firearms custodian, as specified. The bill would require PPO-owned firearms acquired prior to July 1, 2016, to be registered, as specified. The bill would provide that an assignment of a firearm by a PPO to a security guard employee for purposes of employment duties would not constitute a loan, sale, or transfer of a firearm. The bill would authorize the Director of the ~~Bureau of Security and Investigative Services~~ *Department of Consumer Affairs*, through his or her designee, to assess an administrative fine of up to \$1,000 against a PPO or a security guard for each willful violation of these and other provisions of the bill relating to firearms. The bill would require a security guard, upon request by the PPO, or upon separation of employment or revocation of the security guard's firearm qualification card, and within 48 hours, to return the assigned firearm to the PPO. The bill would provide that the failure of a security guard to return an assigned firearm as required would be a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7583.32 of the Business and Professions
- 2 Code is amended to read:
- 3 7583.32. (a) A firearms qualification card expires two years
- 4 from the date of issuance, if not renewed. A person who wishes
- 5 to renew a firearms qualification card shall file an application for
- 6 renewal at least 60 days prior to the card's expiration. A person
- 7 whose card has expired shall not carry a firearm until he or she
- 8 has been issued a renewal card by the bureau.

1 (b) The bureau shall not renew a firearms qualification card
2 unless all of the following conditions are satisfied:

3 (1) The cardholder has filed with the bureau a completed
4 application for renewal of a firearms qualification card, on a form
5 prescribed by the director, dated and signed by the applicant under
6 penalty of perjury certifying that the information on the application
7 is true and correct.

8 (2) The applicant has requalified on the range and has
9 successfully passed a written examination based on course content
10 as specified in the firearms training manual approved by the
11 department and taught at a training facility approved by the bureau.

12 (3) The application is accompanied by a firearms requalification
13 fee as prescribed in this chapter.

14 (4) The applicant has produced evidence to the firearm training
15 facility, either upon receiving his or her original qualification card
16 or upon filing for renewal of that card, that he or she is a citizen
17 of the United States or has permanent legal alien status in the
18 United States. Evidence of citizenship or permanent legal alien
19 status is that deemed sufficient by the bureau to ensure compliance
20 with federal laws prohibiting possession of firearms by persons
21 unlawfully in the United States and may include, but not be limited
22 to, Department of Justice, Immigration and Naturalization Service
23 Form I-151 or I-551, Alien Registration Receipt Card,
24 naturalization documents, or birth certificates evidencing lawful
25 residence or status in the United States.

26 (c) An expired firearms qualification card may not be renewed.
27 A person with an expired registration is required to apply for a
28 new firearms qualification in the manner required of persons not
29 previously registered. A person whose card has expired shall not
30 carry a firearm until he or she has been issued a new firearms
31 qualification card by the bureau.

32 (d) Paragraph (2) of subdivision (b) shall not apply to a duly
33 appointed peace officer, as defined in Chapter 4.5 (commencing
34 with Section 830) of Title 3 of Part 2 of the Penal Code who is
35 authorized to carry a firearm in the course of his or her duties and
36 *who has successfully completed requalification training for another*
37 *agency: training.*

38 SEC. 2. Section 7583.39 of the Business and Professions Code
39 is repealed.

1 SEC. 3. Section 7583.39 is added to the Business and
2 Professions Code, to read:

3 7583.39. (a) The bureau shall require, as a condition precedent
4 to the issuance, reinstatement, reactivation, renewal, or continued
5 maintenance of a license, that the applicant or licensee file or have
6 on file with the bureau, an insurance policy, as defined in Section
7 7583.40.

8 (b) *If a licensee fails to maintain sufficient insurance, as*
9 *required by this section, or fails to provide proof of the required*
10 *insurance policy upon request by the bureau, the license shall be*
11 *automatically suspended by operation of law until the date that*
12 *the licensee provides proof to the bureau of compliance with the*
13 *insurance coverage requirement. Prior to an automatic suspension,*
14 *the bureau shall notify the licensee, in writing, that it has 30 days*
15 *to provide proof to the bureau of having the required insurance*
16 *policy or the license shall be automatically suspended.*

17 (c) (1) *A Certificate of Liability Insurance issued by an*
18 *authorized agent or employee of the insurer shall be submitted to*
19 *the bureau electronically, or in a manner authorized by the bureau,*
20 *for an insurance policy secured by a licensee in satisfaction of this*
21 *section.*

22 (2) *An insurer issuing a Certificate of Liability Insurance*
23 *pursuant to paragraph (1) shall report the following information*
24 *to the bureau for an insurance policy required by this section:*

25 (A) *The name of the insured.*

26 (B) *The licensee's license number.*

27 (C) *The policy number.*

28 (D) *The dates that coverage is scheduled to commence and end.*

29 (E) *The cancellation date, if applicable.*

30 SEC. 4. Section 7583.40 of the Business and Professions Code
31 is amended to read:

32 7583.40. "Insurance policy," as used in this article, means a
33 commercial general liability policy of insurance issued by an
34 insurance company authorized to transact business in this state
35 that provides minimum limits of insurance of one million dollars
36 (\$1,000,000) for any one loss or occurrence due to bodily injury,
37 including death, or property damage, or both.

38 SEC. 5. Section 7587.16 is added to the Business and
39 Professions Code, to read:

1 7587.16. (a) *The director, through his or her designee, may*
2 *assess an administrative fine pursuant to Section 28022 of the*
3 *Penal Code.*

4 (b) *An assessment imposed pursuant to that section may be*
5 *appealed pursuant to Section 7581.3.*

6 ~~SEC. 5.~~

7 SEC. 6. Chapter 4.1 (commencing with Section 28010) is added
8 to Division 6 of Title 4 of Part 6 of the Penal Code, to read:

9

10 CHAPTER 4.1. REGISTRATION AND ASSIGNMENT OF FIREARMS
11 BY PRIVATE PATROL OPERATORS
12

13 28010. (a) The Legislature finds and declares that current
14 practices and statutes authorize the purchase, registration, and
15 ownership of firearms by an individual, but not by a business entity.

16 (b) It is the intent of the Legislature in enacting this chapter to
17 allow business ownership and registration of firearms in the case
18 of licensed Private Patrol Operators (PPOs) who are actively
19 providing armed private contract security services. It is further the
20 intent of the Legislature to establish procedures whereby a PPO
21 may assign firearms it owns to its employees who are licensed to
22 carry firearms and that assignment of a firearm by a PPO to that
23 employee would not constitute a loan, sale, or transfer of a firearm.

24 (c) It is the intent of the Legislature to require notification of
25 the Bureau of Security and Investigative Services any time a
26 security guard is listed on the Prohibited Armed Persons File so
27 that the bureau may proceed with appropriate action regarding the
28 licensing of the employee.

29 (d) For purposes of this chapter, the following definitions apply:

30 (1) "Bureau" means the Bureau of Security and Investigative
31 Services within the Department of Consumer Affairs.

32 (2) "Department" means the Department of Justice.

33 (3) "Director" means the Director of the ~~Bureau of Security and~~
34 ~~Investigative Services~~ *Department of Consumer Affairs.*

35 (4) "Private patrol operator" or "PPO" means a private patrol
36 operator licensed pursuant to Chapter 11.5 (commencing with
37 Section 7580) of Division 3 of the Business and Professions Code
38 whose license is not suspended, revoked, *expired, inactive,*
39 *delinquent, or canceled.*

1 (5) “Security guard” means a security guard registered pursuant
2 to Chapter 11.5 (commencing with Section 7580) of Division 3 of
3 the Business and Professions Code whose registration is not
4 suspended, revoked, *expired*, *inactive*, delinquent, or canceled.

5 28012. (a) A PPO may be the registered owner of a firearm if
6 the PPO is registered with the department pursuant to procedures
7 established by the department.

8 (b) The department shall modify the department’s Dealers’
9 Record of Sale (DROS) form to allow a PPO to be listed as the
10 purchaser and registered owner of a firearm. The form shall also
11 require the PPO to identify its type of business formation and to
12 include any tax identification number or other identifying number
13 of the PPO that may be required by the department.

14 (c) (1) The department shall modify the department’s DROS
15 form to require the PPO to designate a “firearms custodian” for
16 the firearm owned by the PPO that is listed in the DROS. A
17 firearms custodian shall possess a valid firearms qualification
18 permit issued by the bureau. A firearms custodian is responsible
19 for the tracking, safekeeping, and inventory of those firearms of
20 the PPO for which the custodian is designated, and shall serve as
21 a point of contact for the department regarding the firearms for
22 which the custodian is designated.

23 (2) If a firearms custodian is no longer employed by the PPO
24 in that capacity, or otherwise becomes ineligible to be the firearms
25 custodian, the PPO shall notify the department of that fact within
26 seven days in a manner prescribed by the department, and the PPO
27 shall notify the department of the designated replacement firearms
28 custodian within 20 days of the original notice.

29 (d) A security guard shall possess a valid firearm qualification
30 permit issued by the bureau prior to receiving a firearm from a
31 PPO pursuant to a Certificate of Assignment (COA). A firearm
32 shall be assigned by a PPO to a security guard who is employed
33 to work for the PPO only when that employment requires the
34 security guard to be armed.

35 (e) (1) (A) The department shall prescribe a “Certificate of
36 Assignment” or “COA.” The COA may include fields that are in
37 the DROS form, and shall be used to identify the employee of the
38 PPO who has been assigned a PPO-owned firearm by the PPO
39 pursuant to this chapter.

1 (B) The COA shall also be used to identify an employee of the
2 PPO who will use his or her own firearm in the course of his or
3 her duties as a security guard. The COA shall not require specific
4 information regarding an employee-owned firearm.

5 (2) A PPO shall register a PPO-owned firearm acquired prior
6 to July 1, 2016, as a PPO-owned firearm in a manner prescribed
7 by the department prior to filing a COA for that firearm.

8 (3) Upon the PPO assigning a firearm to an employee who is a
9 security guard, the PPO shall complete the COA and file it with
10 the department in a timely manner as prescribed by the department.

11 (f) The department shall cause the information contained on the
12 COA to be entered into the Automated Firearms System in a timely
13 manner. Upon termination of the employment assignment that
14 requires the security guard to be armed and the transfer of the
15 firearm from the security guard back to the PPO, the PPO shall
16 complete a COA indicating that the firearm is no longer assigned
17 to the employee and that the firearm is in the possession of the
18 PPO *and shall file the COA with the department in a timely*
19 *manner, as prescribed.*

20 (g) If a security guard becomes listed on the Prohibited Armed
21 Persons File, the department shall immediately notify the bureau
22 of the listing by secured electronic delivery. Upon that notification,
23 the bureau shall take appropriate action regarding the security
24 guard. In addition, the department shall notify the PPO, in the
25 manner the department deems appropriate, that the PPO employee
26 is prohibited from being armed. This chapter does not prohibit the
27 department from also notifying the bureau if a security guard has
28 been arrested and charged with an offense that, upon conviction,
29 would constitute a basis for revocation of a firearms qualification
30 permit or security guard registration.

31 28014. The department shall charge a fee not to exceed the
32 reasonable costs to the department for filing and processing a COA,
33 and for the costs incurred in the implementation and administration
34 of this chapter, including, but not limited to, entering information
35 obtained pursuant to this chapter into the Automated Firearms
36 System and other databases as deemed necessary by the
37 department. The fee shall be deposited in the Dealers' Record of
38 Sale Special Account.

39 28016. (a) If the PPO ceases to do business, ceases to possess
40 a valid PPO license ~~as determined by the director~~ *issued by the*

1 *bureau that is not suspended, revoked, expired, inactive,*
2 *delinquent, or canceled, ceases as a business entity, or changes its*
3 *type of business formation, the PPO shall, within 30 days and*
4 *unless otherwise prohibited by law, lawfully sell or transfer all*
5 *PPO-owned firearms.*

6 (b) A PPO shall notify the department of the sale or transfer of
7 a PPO-owned firearm within five business days of the transaction
8 in a manner prescribed by the department. This subdivision shall
9 not apply if the sale or transfer was made to or through a licensed
10 firearms dealer pursuant to Chapter 5 (commencing with Section
11 28050).

12 28018. Notwithstanding any other law, an assignment of a
13 firearm pursuant to this chapter shall not constitute a loan, sale, or
14 transfer of a firearm.

15 28020. (a) Within 48 hours of the PPO's request, for any
16 reason, or within 48 hours of separation of employment or
17 revocation of the firearm qualification card, the security guard
18 shall return to the PPO the firearm owned by the PPO and listed
19 on a COA.

20 (b) The failure of a security guard to comply with subdivision
21 (a) is a misdemeanor.

22 (c) If a security guard employed by a PPO does not comply with
23 subdivision (a), the PPO shall notify the bureau within seven
24 business days ~~after the PPO becomes aware of the violation of~~
25 ~~subdivision (a) from the date that the security guard was required~~
26 ~~to return the firearm to the PPO.~~

27 (d) This chapter does not limit the right of a security guard to
28 use, possess, or otherwise lawfully carry a firearm owned by that
29 security guard.

30 28022. (a) The director, through his or her designee, may
31 assess an administrative fine of up to one thousand dollars (\$1,000)
32 against a PPO or a security guard for each willful violation of this
33 chapter. All fines collected pursuant to this chapter shall be
34 deposited in the Private Security Services Fund.

35 (b) An assessment imposed pursuant to this section may be
36 appealed pursuant to Section 7581.3 of the Business and
37 Professions Code.

38 28024. This chapter shall become operative on July 1, 2016.

39 ~~SEC. 6.~~

40 *SEC. 7.* Section 28235 of the Penal Code is amended to read:

1 28235. All moneys received by the department pursuant to this
2 article shall be deposited in the Dealers’ Record of Sale Special
3 Account of the General Fund, which is hereby created, to be
4 available, upon appropriation by the Legislature, for expenditure
5 by the department to offset the costs incurred pursuant to any of
6 the following:

- 7 (a) This article.
- 8 (b) Section 18910.
- 9 (c) Section 27555.
- 10 (d) Subdivisions (d) and (e) of Section 27560.
- 11 (e) Chapter 4.1 (commencing with Section 28010).
- 12 (f) Article 6 (commencing with Section 28450).
- 13 (g) Section 31110.
- 14 (h) Section 31115.
- 15 (i) Subdivision (a) of Section 32020.
- 16 (j) Section 32670.
- 17 (k) Section 33320.

18 ~~SEC. 7.~~

19 SEC. 8. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.