

AMENDED IN SENATE JUNE 23, 2015

AMENDED IN ASSEMBLY MAY 18, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 1042**

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**Introduced by Assembly Member Cooper**

February 26, 2015

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An act to amend Section 7574.01 of the Business and Professions Code, *and Section 201.3 of the Labor Code*, relating to professions and vocations.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1042, as amended, Cooper. Proprietary security services.

The Proprietary Security Services Act generally regulates the proprietary private security vocation, and requires a proprietary private security officer to, among other things, register with the Department of Consumer Affairs and complete specified training. The act defines a proprietary private security officer as an unarmed individual who, among other qualifications, meets 2 specific criteria of being required to wear a distinctive uniform clearly identifying him or her as a security officer and of being likely to interact with the public while performing his or her duties.

This bill would expand the definition of a proprietary private security officer by instead requiring one of the 2 specific criteria to be met and would include examples of the security officer's duties that are likely to involve interacting with the public.

*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. Existing law defines a private patrol operator as a person who, for consideration, agrees to furnish, or furnishes, a watchman, guard patrolperson, or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any property; or performs the service of a watchman, guard, patrolperson, or other person, for any of these purposes. Existing law defines a security guard as an employee of a private patrol operator who performs those above-referenced functions on or about the premises owned or controlled by the customer of the private patrol operator or by the guard's employer or in the company of persons being protected.*

*Existing law generally requires that an employee of a temporary services employer, as defined, be paid weekly. Existing law provides that a violation of these provisions is punishable as a misdemeanor.*

*This bill would provide for that weekly pay requirement to apply to a security officer employed by a private patrol operator who is a temporary services employer, as provided.*

*By expanding the scope of crime, the 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: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. Section 7574.01 of the Business and Professions
- 2 Code is amended to read:
- 3 7574.01. For the purposes of this chapter, the following terms
- 4 shall have the following meanings:
- 5 (a) "Bureau" means the Bureau of Security and Investigative
- 6 Services.
- 7 (b) "Chief" means the Chief of the Bureau of Security and
- 8 Investigative Services.
- 9 (c) "Director" means the Director of Consumer Affairs, unless
- 10 the context indicates otherwise.

1 (d) “Person” includes any individual, firm, company,  
2 association, organization, partnership, and corporation.

3 (e) “Proprietary private security employer” means a person who  
4 has one or more employees who provide security services for the  
5 employer and only for the employer. A person who employs  
6 proprietary private security officers pursuant to this chapter at  
7 more than one location shall be considered a single employer.

8 (f) “Proprietary private security officer” means an unarmed  
9 individual who is employed exclusively by any one employer  
10 whose primary duty is to provide security services for his or her  
11 employer, whose services are not contracted to any other entity or  
12 person, and who is not exempt pursuant to Section 7582.2, and  
13 who meets either of the following criteria:

14 (1) Is required to wear a distinctive uniform or marked shirt or  
15 jacket clearly identifying the individual as a security officer.

16 (2) Is likely to interact with the public while providing security  
17 services, which may include, but not be limited to, acting to prevent  
18 unapproved or unlawful entry, directing persons causing a  
19 disturbance to leave the facility, ensuring that persons removing  
20 property from the facility are acting within appropriate policy  
21 requirements, observing and reporting incidents or suspicious  
22 activity to management and to public safety authorities as  
23 appropriate, and responding to or reporting incidents of fire,  
24 medical emergency, hazardous materials, and other incidents or  
25 conditions following procedures established by the employer.

26 (g) “Registrant” means an individual registered with the bureau  
27 under this chapter.

28 *SEC. 2. Section 201.3 of the Labor Code is amended to read:*

29 201.3. (a) For purposes of this section, the following  
30 definitions apply:

31 (1) “Temporary services employer” means an employing unit  
32 that contracts with clients or customers to supply workers to  
33 perform services for the clients or customers and that performs all  
34 of the following functions:

35 (A) Negotiates with clients and customers for matters such as  
36 the time and place where the services are to be provided, the type  
37 of work, the working conditions, and the quality and price of the  
38 services.

39 (B) Determines assignments or reassignments of workers, even  
40 if workers retain the right to refuse specific assignments.

1 (C) Retains the authority to assign or reassign a worker to  
2 another client or customer when the worker is determined  
3 unacceptable by a specific client or customer.

4 (D) Assigns or reassigns workers to perform services for clients  
5 or customers.

6 (E) Sets the rate of pay of workers, whether or not through  
7 negotiation.

8 (F) Pays workers from its own account or accounts.

9 (G) Retains the right to hire and terminate workers.

10 (2) “Temporary services employer” does not include any of the  
11 following:

12 (A) A bona fide nonprofit organization that provides temporary  
13 service employees to clients.

14 (B) A farm labor contractor, as defined in subdivision (b) of  
15 Section 1682.

16 (C) A garment manufacturing employer, which, for purposes  
17 of this section, has the same meaning as “contractor,” as defined  
18 in subdivision (d) of Section 2671.

19 (3) “Employing unit” has the same meaning as defined in  
20 Section 135 of the Unemployment Insurance Code.

21 (4) “Client” and “customer” means the person with whom a  
22 temporary services employer has a contractual relationship to  
23 provide the services of one or more individuals employed by the  
24 temporary services employer.

25 (b) (1) (A) Except as provided in paragraphs (2) to (5),  
26 inclusive, if an employee of a temporary services employer is  
27 assigned to work for a client, that employee’s wages are due and  
28 payable no less frequently than weekly, regardless of when the  
29 assignment ends, and wages for work performed during any  
30 calendar week shall be due and payable not later than the regular  
31 payday of the following calendar week. A temporary services  
32 employer shall be deemed to have timely paid wages upon  
33 completion of an assignment if wages are paid in compliance with  
34 this subdivision.

35 (B) *Except as provided in paragraphs (2) to (5), inclusive, if an*  
36 *employee of a temporary services employer is employed in the*  
37 *security services industry as a security officer who is registered*  
38 *pursuant to Chapter 11.5 (commencing with Section 7580) of*  
39 *Division 3 of the Business and Professions Code, is employed by*  
40 *a private patrol operator registered pursuant to that chapter, and*

1 *is assigned to work for a client, that employee's wages are due*  
2 *and payable no less frequently than weekly, regardless of when*  
3 *the assignment ends, and wages for work performed during any*  
4 *workweek, as defined under Section 500, shall be due and payable*  
5 *not later than the regular payday of the following workweek.*

6 (2) If an employee of a temporary services employer is assigned  
7 to work for a client on a day-to-day basis, that employee's wages  
8 are due and payable at the end of each day, regardless of when the  
9 assignment ends, if each of the following occurs:

10 (A) The employee reports to or assembles at the office of the  
11 temporary services employer or other location.

12 (B) The employee is dispatched to a client's worksite each day  
13 and returns to or reports to the office of the temporary services  
14 employer or other location upon completion of the assignment.

15 (C) The employee's work is not executive, administrative, or  
16 professional, as defined in the wage orders of the Industrial Welfare  
17 Commission, and is not clerical.

18 (3) If an employee of a temporary services employer is assigned  
19 to work for a client engaged in a trade dispute, that employee's  
20 wages are due and payable at the end of each day, regardless of  
21 when the assignment ends.

22 (4) If an employee of a temporary services employer is assigned  
23 to work for a client and is discharged by the temporary services  
24 employer or leasing employer, wages are due and payable as  
25 provided in Section 201.

26 (5) If an employee of a temporary services employer is assigned  
27 to work for a client and quits his or her employment with the  
28 temporary services employer, wages are due and payable as  
29 provided in Section 202.

30 (6) If an employee of a temporary services employer is assigned  
31 to work for a client for over 90 consecutive calendar days, this  
32 section shall not apply unless the temporary services employer  
33 pays the employee weekly in compliance with paragraph (1) of  
34 subdivision (b).

35 (c) A temporary services employer who violates this section  
36 shall be subject to the civil penalties provided for in Section 203,  
37 and to any other penalties available at law.

38 (d) Nothing in this section shall be interpreted to limit any rights  
39 or remedies otherwise available under state or federal law.

1     *SEC. 3. No reimbursement is required by this act pursuant to*  
2     *Section 6 of Article XIII B of the California Constitution because*  
3     *the only costs that may be incurred by a local agency or school*  
4     *district will be incurred because this act creates a new crime or*  
5     *infraction, eliminates a crime or infraction, or changes the penalty*  
6     *for a crime or infraction, within the meaning of Section 17556 of*  
7     *the Government Code, or changes the definition of a crime within*  
8     *the meaning of Section 6 of Article XIII B of the California*  
9     *Constitution.*

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