

AMENDED IN SENATE MARCH 11, 1997

SENATE BILL

No. 243

Introduced by Senator Peace

February 4, 1997

An act to amend Sections 7522, ~~7582.2, 7583.31, and 7596.6~~ 7582.2, 7583.31, 7583.37, 7596.6, and 7597.6 of, and to repeal Section 7522.1 of, the Business and Professions Code, and to amend Sections 70 and 12033 of the Penal Code, relating to security services, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 243, as amended, Peace. Security services: concealed firearms.

(1) The Private Investigator Act requires licensing of persons acting as private investigators, subject to specified exemptions. The act does not require licensing of a person who serves process if that person is registered as a process server.

This bill would make technical changes in these provisions.

(2) The ~~Private Security Services Act~~ *act* requires a person who engages in any business regulated by the act to be licensed, as specified. Certain persons are exempt from the act, including, among others, peace officers that meet specified requirements.

This bill would additionally exempt from the act a peace officer acting in accordance with provisions permitting casual or part-time employment as a private security guard or patrolman for a public or private entity. The bill would also

delete outdated provisions related to the employment of peace officers as security guards or patrolmen, and make technical changes.

(3) *The act prohibits a licensee, qualified manager, or registered security guard from engaging in specified acts, including carrying a concealed firearm. This prohibition does not apply when certain circumstances exist, including that the person has been issued a permit to carry the concealed firearm.*

This bill would, in addition, provide that the prohibition does not apply to certain peace officers.

(4) *Existing provisions of the Alarm Company Act prohibit a licensee, qualified manager, branch office manager, or alarm agent from carrying a concealed firearm unless a permit to do so has been issued.*

This bill would, in the alternative, permit the carrying of a concealed firearm if the person is an honorably retired peace officer authorized to carry a concealed firearm, or a duly appointed peace officer, as specified, authorized to carry a concealed firearm.

(5) Existing law provides that a firearms qualification card does not authorize its holder to carry a concealed weapon.

This bill would make clarifying changes to these provisions.

(4)

(6) This bill would ~~provide~~ *declare* that it is to take effect immediately as an urgency statute. However, the bill would provide that it will not take effect before July 1, 1997.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.

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

1 SECTION 1. Section 7522 of the Business and
 2 Professions Code, as amended by Section 2.1 of Chapter
 3 1064 of the Statutes of 1996, is amended to read:

4 7522. This chapter does not apply to:

5 (a) A person employed exclusively and regularly by
 6 any employer who does not provide contract security
 7 services for other entities or persons, in connection with
 8 the affairs of such employer only and where there exists



1 an employer-employee relationship, ~~provided~~ *if* that
2 person at no time carries or uses any deadly weapon in the
3 performance of his or her duties. For purposes of this
4 subdivision, “deadly weapon” is defined to include any
5 instrument or weapon of the kind commonly known as a
6 blackjack, slungshot, billy, sandclub, sandbag, metal
7 knuckles, any dirk, dagger, pistol, revolver, or any other
8 firearm, any knife having a blade longer than five inches,
9 any razor with an unguarded blade and any metal pipe or
10 bar used or intended to be used as a club.

11 (b) An officer or employee of the United States of
12 America, or of this state or a political subdivision thereof,
13 while the officer or employee is engaged in the
14 performance of his or her official duties, including
15 uniformed peace officers employed part time by a public
16 agency pursuant to a written agreement between a chief
17 of police or sheriff and the public agency, provided the
18 part-time employment does not exceed 50 hours in any
19 calendar month.

20 (c) A person engaged exclusively in the business of
21 obtaining and furnishing information as to the financial
22 rating of persons.

23 (d) A charitable philanthropic society or association
24 duly incorporated under the laws of this state which is
25 organized and maintained for the public good and not for
26 private profit.

27 (e) An attorney at law in performing his or her duties
28 as an attorney at law.

29 (f) Admitted insurers and agents and insurance
30 brokers licensed by the state, performing duties in
31 connection with insurance transacted by them.

32 (g) Any bank subject to the jurisdiction of the
33 Commissioner of Financial Institutions of the State of
34 California under Division 1 (commencing with Section
35 99) of the Financial Code or the Comptroller of Currency
36 of the United States.

37 (h) A person engaged solely in the business of securing
38 information about persons or property from public
39 records.



1 (i) A peace officer of this state or a political subdivision
2 thereof while the peace officer is employed by a private
3 employer to engage in off-duty employment in
4 accordance with Section 1126 of the Government Code.
5 However, nothing herein shall exempt a peace officer
6 who either contracts for his or her services or the services
7 of others as a private investigator or contracts for his or
8 her services as *or is employed as* an armed private
9 investigator. For purposes of this subdivision, “armed
10 private investigator” means an individual who carries or
11 uses a firearm in the course and scope of that *contract or*
12 employment.

13 (j) A licensed insurance adjuster in performing his or
14 her duties within the scope of his or her license as an
15 insurance adjuster.

16 (k) Any savings association subject to the jurisdiction
17 of the Commissioner of Financial Institutions or the
18 Office of Thrift Supervision.

19 (l) Any secured creditor engaged in the repossession
20 of the creditor’s collateral and any lessor engaged in the
21 repossession of leased property in which it claims an
22 interest.

23 ~~(m) An individual serving process when~~ *The act of*
24 *serving process by an individual who is* registered as a
25 process server pursuant to Section 22350.

26 SEC. 2. Section 7522.1 of the Business and Professions
27 Code is repealed.

28 SEC. 3. Section 7582.2 of the Business and Professions
29 Code, as amended by Section 3.1 of Chapter 1064 of the
30 Statutes of 1996, is amended to read:

31 7582.2. This chapter does not apply to:

32 (a) A person employed exclusively and regularly by
33 any employer who does not provide contract security
34 services for other entities or persons, in connection with
35 the affairs of the employer only and where there exists an
36 employer-employee relationship, ~~provided that the~~ *if*
37 *that* person at no time carries or uses any deadly weapon
38 in the performance of his or her duties. For purposes of
39 this subdivision, “deadly weapon” is defined to include
40 any instrument or weapon of the kind commonly known



1 as a blackjack, slungshot, billy, sandclub, sandbag, metal
2 knuckles, any dirk, dagger, pistol, revolver, or any other
3 firearm, any knife having a blade longer than five inches,
4 any razor with an unguarded blade and any metal pipe or
5 bar used or intended to be used as a club.

6 (b) An officer or employee of the United States of
7 America, or of this state or a political subdivision thereof,
8 while the officer or employee is engaged in the
9 performance of his or her official duties, including
10 uniformed peace officers employed part time by a public
11 agency pursuant to a written agreement between a chief
12 of police or sheriff and the public agency, provided the
13 part-time employment does not exceed 50 hours in any
14 calendar month.

15 (c) A person engaged exclusively in the business of
16 obtaining and furnishing information as to the financial
17 rating of persons.

18 (d) A charitable philanthropic society or association
19 duly incorporated under the laws of this state which is
20 organized and maintained for the public good and not for
21 private profit.

22 (e) Patrol special police officers appointed by the
23 police commission of any city, county, or city and county
24 under the express terms of its charter who also under the
25 express terms of the charter (1) are subject to suspension
26 or dismissal after a hearing on charges duly filed with the
27 commission after a fair and impartial trial, (2) must be not
28 less than 18 years of age nor more than 40 years of age, (3)
29 must possess physical qualifications prescribed by the
30 commission, and (4) are designated by the police
31 commission as the owners of a certain beat or territory as
32 may be fixed from time to time by the police commission.

33 (f) An attorney at law in performing his or her duties
34 as an attorney at law.

35 (g) A collection agency or an employee thereof while
36 acting within the scope of his or her employment, while
37 making an investigation incidental to the business of the
38 agency, including an investigation of the location of a
39 debtor or his or her property where the contract with an
40 assignor creditor is for the collection of claims owed or



1 due or asserted to be owed or due or the equivalent
2 thereof.

3 (h) Admitted insurers and agents and insurance
4 brokers licensed by the state, performing duties in
5 connection with insurance transacted by them.

6 (i) Any bank subject to the jurisdiction of the
7 Commissioner of Financial Institutions of the State of
8 California under Division 1 (commencing with Section
9 99) of the Financial Code or the Comptroller of Currency
10 of the United States.

11 (j) A person engaged solely in the business of securing
12 information about persons or property from public
13 records.

14 (k) A peace officer of this state or a political
15 subdivision thereof while the peace officer is employed
16 by a private employer to engage in off-duty employment
17 in accordance with Section 1126 of the Government
18 Code. However, nothing herein shall exempt such peace
19 officer who either contracts for his or her services or the
20 services of others as a private patrol operator or contracts
21 for his or her services as *or is employed as* an armed
22 private security officer. For purposes of this subdivision,
23 “armed security officer” means an individual who carries
24 or uses a firearm in the course and scope of that *contract*
25 *or employment*.

26 (l) A retired peace officer of the state or political
27 subdivision thereof when the retired peace officer is
28 employed by a private employer in employment
29 approved by the chief law enforcement officer of the
30 jurisdiction where the employment takes place, provided
31 that the retired officer is in a uniform of a public law
32 enforcement agency, has registered with the bureau on
33 a form approved by the director, and has met any training
34 requirements or their equivalent as established for
35 security personnel under Section 7583.5. This officer may
36 not carry a loaded or concealed firearm unless he or she
37 is exempted under the provisions of subdivision (a) of
38 Section 12027 of the Penal Code or paragraph (1) of
39 subdivision (b) of Section 12031 of the Penal Code or has
40 met the requirements set forth in Section 12033 of the



1 Penal Code. However, nothing herein shall exempt the
2 retired peace officer who contracts for his or her services
3 or the services of others as a private patrol operator.

4 (m) A licensed insurance adjuster in performing his or
5 her duties within the scope of his or her license as an
6 insurance adjuster.

7 (n) Any savings association subject to the jurisdiction
8 of the Commissioner of Financial Institutions or the
9 Office of Thrift Supervision.

10 (o) Any secured creditor engaged in the repossession
11 of the creditor's collateral and any lessor engaged in the
12 repossession of leased property in which it claims an
13 interest.

14 (p) A peace officer acting in accordance with
15 subdivisions (c) and (d) of Section 70 of the Penal Code.

16 SEC. 4. Section 7583.31 of the Business and
17 Professions Code is amended to read:

18 7583.31. A firearms qualification card does not, in and
19 of itself, authorize its holder to carry a concealed pistol,
20 revolver, or other firearm capable of being concealed
21 upon the person.

22 SEC. 5. *Section 7583.37 of the Business and*
23 *Professions Code is amended to read:*

24 7583.37. The director may assess fines as enumerated
25 in Article 7 (commencing with Section 7587). Assessment
26 of administrative fines shall be independent of any other
27 action by the bureau or any local, state, or federal
28 governmental agency ~~which~~ *that* may result from a
29 violation of this article. In addition to other prohibited
30 acts under this chapter, no licensee, qualified manager, or
31 registered security guard shall, during the course and
32 scope of licensed activity, do any of the following:

33 (a) Carry any inoperable, replica, or other simulated
34 firearm.

35 (b) Use a firearm in violation of the law, or in knowing
36 violation of the standards for the carrying and usage of
37 firearms as taught in the course of training in the carrying
38 and use of firearms. Unlawful or prohibited uses of
39 firearms shall include, but not be limited to, the following:



1 (1) Illegally using, carrying, or possessing a dangerous
2 weapon.

3 (2) Brandishing a weapon.

4 (3) Drawing a weapon without proper cause.

5 (4) Provoking a shooting incident without cause.

6 (5) Carrying or using a firearm while on duty while
7 under the influence of alcohol or dangerous drugs.

8 (6) Carrying or using a firearm of a caliber for which
9 a firearms permit has not been issued by the bureau.

10 (c) Carry or use a baton in the performance of his or
11 her duties, unless he or she has in his or her possession a
12 valid baton certificate issued pursuant to Section 7585.14.

13 (d) Carry or use tear gas or any other nonlethal
14 chemical agent in the performance of his or her duties
15 unless he or she has in his or her possession proof of
16 completion of a course in the carrying and use of tear gas
17 or any other nonlethal chemical agent.

18 (e) Carry a concealed pistol, revolver, or other firearm
19 capable of being concealed upon the person unless one of
20 the following circumstances applies:

21 (1) The person has been issued a permit to carry a
22 pistol, revolver, or other firearm capable of being
23 concealed upon the person in a concealed manner by a
24 local law enforcement agency pursuant to Section 12050
25 of the Penal Code.

26 (2) The person is employed as a guard or messenger of
27 a common carrier, bank, or other financial institution and
28 he or she carries the weapon while actually employed in
29 and about the shipment, transportation, or delivery of any
30 money, treasure, bullion, bonds, or other thing of value
31 within this state, as specified in subdivision (e) of Section
32 12027 of the Penal Code.

33 (3) *The person is an honorably retired peace officer*
34 *authorized to carry a concealed firearm pursuant to*
35 *subdivision (a) or (i) of Section 12027 of the Penal Code.*

36 (4) *The person is a duly appointed peace officer, as*
37 *defined in Chapter 4.5 (commencing with Section 830) of*
38 *Title 3 of Part 2 of the Penal Code, who is authorized to*
39 *carry a concealed firearm in the course and scope of his*



1 *or her employment pursuant to subdivision (a) of Section*
2 *12027 of the Penal Code.*

3 *SEC. 6.* Section 7596.6 of the Business and Professions
4 Code is amended to read:

5 7596.6. A firearms qualification card does not, in and
6 of itself, authorize its holder to carry a concealed pistol,
7 revolver, or other firearm capable of being concealed
8 upon the person.

9 ~~SEC. 6.~~

10 *SEC. 7.* Section 7597.6 of the Business and Professions
11 Code is amended to read:

12 7597.6. (a) No licensee, qualified manager, branch
13 office manager, or alarm agent shall carry a pistol,
14 revolver, or other firearm capable of being concealed
15 upon the person in a concealed manner unless ~~the~~ *one of*
16 *the following circumstances apply:*

17 (1) *The person has been issued a permit to carry that*
18 *firearm in a concealed manner by a local law*
19 *enforcement agency pursuant to Section 12050 of the*
20 *Penal Code.*

21 (2) *The person is an honorably retired peace officer*
22 *authorized to carry a concealed firearm pursuant to*
23 *subdivision (a) or (i) of Section 12027 of the Penal Code.*

24 (3) *The person is a duly appointed peace officer, as*
25 *defined in Chapter 4.5 (commencing with Section 830) of*
26 *Title 3 of Part 2 of the Penal Code, who is authorized to*
27 *carry a concealed firearm in the course and scope of his*
28 *or her employment pursuant to subdivision (a) of Section*
29 *12027 of the Penal Code.*

30 ~~A~~

31 (b) A fine of five hundred dollars (\$500) may be
32 assessed for each violation of ~~this section~~ *subdivision (a).*

33 *SEC. 8.* Section 70 of the Penal Code is amended to
34 read:

35 70. (a) Every executive or ministerial officer,
36 employee, or appointee of the State of California, or any
37 county or city therein, or any political subdivision thereof,
38 who knowingly asks, receives, or agrees to receive any
39 emolument, gratuity, or reward, or any promise thereof



1 excepting such as may be authorized by law for doing an
2 official act, is guilty of a misdemeanor.

3 (b) This section does not prohibit deputy registrars of
4 voters from receiving compensation when authorized by
5 local ordinance from any candidate, political committee,
6 or statewide political organization for securing the
7 registration of voters.

8 (c) Nothing in this section precludes a peace officer, as
9 defined in Chapter 4.5 (commencing with Section 830) of
10 Title 3 of Part 2, from engaging in, or being employed in,
11 casual or part-time employment as a private security
12 guard or patrolman for a public entity while off duty from
13 his or her principal employment and outside his or her
14 regular employment as a peace officer of a state or local
15 agency, and exercising the powers of a peace officer
16 concurrently with that employment, provided that the
17 peace officer is in a police uniform and is subject to
18 reasonable rules and regulations of the agency for which
19 he or she is a peace officer. Notwithstanding the above
20 provisions, any and all civil and criminal liability arising
21 out of the secondary employment of any peace officer
22 pursuant to this subdivision shall be borne by the officer's
23 secondary employer.

24 It is the intent of the Legislature by this subdivision to
25 abrogate the holdings in *People v. Corey*, 21 Cal. 3d 738,
26 and *Cervantez v. J.C. Penney Co.*, 24 Cal. 3d 579, to
27 reinstate prior judicial interpretations of this section as
28 they relate to criminal sanctions for battery on peace
29 officers who are employed, on a part-time or casual basis,
30 by a public entity, while wearing a police uniform as
31 private security guards or patrolmen, and to allow the
32 exercise of peace officer powers concurrently with that
33 employment.

34 (d) Nothing in this section precludes a peace officer,
35 as defined in Chapter 4.5 (commencing with Section 830)
36 of Title 3 of Part 2, from engaging in, or being employed
37 in, casual or part-time employment as a private security
38 guard or patrolman by a private employer while off duty
39 from his or her principal employment and outside his or
40 her regular employment as a peace officer, and exercising



1 the powers of a peace officer concurrently with that
2 employment, provided that all of the following are true:

3 (1) The peace officer is in his or her police uniform.

4 (2) The casual or part-time employment as a private
5 security guard or patrolman is approved by the county
6 board of supervisors with jurisdiction over the principal
7 employer or by the board's designee or by the city council
8 with jurisdiction over the principal employer or by the
9 council's designee.

10 (3) The wearing of uniforms and equipment is
11 approved by the principal employer.

12 (4) The peace officer is subject to reasonable rules and
13 regulations of the agency for which he or she is a peace
14 officer.

15 Notwithstanding the above provisions, a peace officer
16 while off duty from his or her principal employment and
17 outside his or her regular employment as a peace officer
18 of a state or local agency shall not exercise the powers of
19 a police officer if employed by a private employer as a
20 security guard during a strike, lockout, picketing, or other
21 physical demonstration of a labor dispute at the site of the
22 strike, lockout, picketing, or other physical
23 demonstration of a labor dispute. The issue of whether or
24 not casual or part-time employment as a private security
25 guard or patrolman pursuant to this subdivision is to be
26 approved shall not be a subject for collective bargaining.
27 Any and all civil and criminal liability arising out of the
28 secondary employment of any peace officer pursuant to
29 this subdivision shall be borne by the officer's principal
30 employer. The principal employer shall require the
31 secondary employer to enter into an indemnity
32 agreement as a condition of approving casual or part-time
33 employment pursuant to this subdivision.

34 It is the intent of the Legislature by this subdivision to
35 abrogate the holdings in *People v. Corey*, 21 Cal. 3d 738,
36 and *Cervantez v. J. C. Penney Co.*, 24 Cal. 3d 579, to
37 reinstate prior judicial interpretations of this section as
38 they relate to criminal sanctions for battery on peace
39 officers who are employed, on a part-time or casual basis,
40 while wearing a police uniform approved by the principal



1 employer, as private security guards or patrolmen, and to
2 allow the exercise of peace officer powers concurrently
3 with that employment.

4 ~~SEC. 7.~~

5 SEC. 9. Section 12033 of the Penal Code is amended
6 to read:

7 12033. The Department of Consumer Affairs may
8 issue a certificate to any person referred to in subdivision
9 (d) of Section 12031, upon notification by the school
10 where the course was completed, that the person has
11 successfully completed a course in the carrying and use
12 of firearms and a course of training in the exercise of the
13 powers of arrest which meet the standards prescribed by
14 the department pursuant to Section 7583.5 of the Business
15 and Professions Code.

16 ~~SEC. 8.~~

17 SEC. 10. This act is an urgency statute necessary for
18 the immediate preservation of the public peace, health,
19 or safety within the meaning of Article IV of the
20 Constitution and shall go into immediate effect. The facts
21 constituting the necessity are:

22 To correct incorrect references in the Business and
23 Professions Code and to clarify ambiguities that have
24 resulted from the enactment of recent legislation relating
25 to the interaction of Section 70 of the Penal Code and
26 Chapter 11.5 (commencing with Section 7580) of the
27 Business and Professions Code as soon as possible, it is
28 necessary that this act take effect immediately.

29 ~~SEC. 9.~~

30 SEC. 11. This act shall become operative on July 1,
31 1997, or on its effective date, whichever is later.

