

Senate Bill No. 2123

CHAPTER 683

An act to amend Sections 7583.2, 7583.9, and 7587.8 of, to amend and repeal Section 7583.11 of, and to add Section 7587.15 to, the Business and Professions Code, relating to private patrol operators.

[Approved by Governor September 24, 2000. Filed
with Secretary of State September 26, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2123, Figueroa. Private patrol operators.

The Private Security Services Act provides, among other matters, for the licensure and regulation of private patrol operators by the Bureau of Security and Investigative Services within the Department of Consumer Affairs and makes a violation of its provisions a crime. Under existing law, employees of those licensees who perform the function of a security guard or security patrol person are required, upon accepting employment, to apply to the bureau for registration and to submit to it fingerprint cards for the purpose of a background check. Existing law provides for the issuance of a temporary registration card, allowing an employee of a licensee to work until the bureau issues a registration card or denies the application for registration.

This bill would make the provisions authorizing and pertaining to the issuance of a temporary registration card inoperative on June 30, 2003.

This bill would require the application and fee to register an employee of a licensed private patrol operator to be submitted, as defined, on or before the same business day that the person is assigned to work, or, if that day is a weekend day or federal holiday, on the first business day immediately following the weekend or federal holiday and would prohibit a licensed private patrol operator from assigning an employee to work with a temporary registration card unless the registration application and fee were submitted in accordance with these time provisions. This bill would also require a licensed private patrol operator to certify proof of current and valid registration of each employee, as specified, and to certify, as specified, that the employee has submitted fingerprints to the bureau. This bill would provide for fines assessed by the Director of Consumer Affairs for the failure of a licensed private patrol operator to comply with these requirements.

Because this bill would expand the duties of a private patrol operator, the violation of which would be punishable as a

misdemeanor, it would create a new crime and thereby 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.

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

SECTION 1. Section 7583.2 of the Business and Professions Code is amended to read:

7583.2. No person licensed as a private patrol operator shall do any of the following:

(a) Fail to properly maintain an accurate and current record of all firearms or other deadly weapons that are in the possession of the licensee or of any employee while on duty. Within seven days after a licensee or his or her employees discover that a deadly weapon which has been recorded as being in his or her possession has been misplaced, lost, or stolen, or in any other way missing, the licensee or his or her manager shall mail or deliver to any local law enforcement agency who has jurisdiction, a written report concerning the incident. The report shall describe fully the circumstances surrounding the incident, any injuries or damages incurred, the identity of all participants, and whether a police investigation was conducted.

(b) Fail to properly maintain an accurate and current record of the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an employee is terminated.

(c) Fail to properly maintain an accurate and current record of proof of completion by each employee of the licensee of the course of training in the exercise of the power to arrest as required by Section 7583.5.

(d) Fail to certify an employee's completion of the course of training in the exercise of the power to arrest prior to placing the employee at a duty station.

(e) Fail to certify proof of current and valid registration for each employee who is subject to registration or fail to comply with the provisions of Section 7583.11 if employing an individual who does not possess a current and valid registration from the bureau.

(f) Fail to certify within three business days after assigning an employee to work with a temporary registration card that the employee has submitted fingerprint cards as required by Section 7583.9.



(g) Permit any employee to carry a firearm or other deadly weapon without first ascertaining that the employee is proficient in the use of each weapon to be carried. With respect to firearms, evidence of proficiency shall include a certificate from a firearm training facility approved by the director certifying that the employee is proficient in the use of that specified caliber of firearm and a current and valid firearm qualification permit issued by the department. With respect to other deadly weapons, evidence of proficiency shall include a certificate from a training facility approved by the director certifying that the employee is proficient in the use of that particular deadly weapon.

(h) Fail to deliver to the director a written report describing fully the circumstances surrounding the discharge of any firearm, or physical altercation with a member of the public while on duty, by a licensee or any officer, partner, or employee of a licensee while acting within the course and scope of his or her employment within seven days after the incident. For the purposes of this subdivision, a report shall be required only for physical altercations that result in any of the following: (1) the arrest of a security guard, (2) the filing of a police report by a member of the public, (3) injury on the part of a member of the public that requires medical attention, or (4) the discharge, suspension, or reprimand of a security guard by his or her employer. The report shall include, but not be limited to, a description of any injuries or damages incurred, the identity of all participants, and whether a police investigation was conducted. Any report may be investigated by the director to determine if any disciplinary action is necessary.

(i) Fail to notify the bureau in writing and within 30 days that a manager previously qualified pursuant to this chapter is no longer connected with the licensee.

SEC. 2. Section 7583.9 of the Business and Professions Code is amended to read:

7583.9. (a) Upon accepting employment by a private patrol operator, any employee who performs the function of a security guard or security patrolperson who is not currently registered with the bureau, shall complete an application for registration on a form as prescribed by the director, and obtain two classifiable fingerprint cards for submission to the Department of Justice. The Department of Justice shall forward one classifiable fingerprint card to the Federal Bureau of Investigation for purposes of a background check. The applicant shall submit the application and registration fee to the bureau on or before the same business day that he or she is assigned to work as a security guard or security patrolperson performing any of the functions set forth in subdivision (a) of Section 7582.1. If the applicant is assigned to work on a Saturday, Sunday, or on a federal holiday, the applicant may submit the application and registration fee to the bureau on the first business day immediately following the



Saturday, Sunday, or federal holiday. The applicant shall submit the fingerprints to the bureau within three business days after being assigned to work with a temporary registration card.

(b) If a private patrol operator pays the application fee on behalf of the applicant, nothing in this section shall preclude the private patrol operator from withholding the amount of the fee from the applicant's compensation.

(c) The licensee shall maintain supplies of applications and fingerprint cards that shall be provided by the bureau upon request.

(d) In lieu of classifiable fingerprint cards provided for in this section, the bureau may authorize applicants to submit their fingerprints into an electronic fingerprinting system administered by the Department of Justice. Applicants who submit their fingerprints by electronic means shall have their fingerprints entered into the system through a terminal operated by a law enforcement agency or other facility authorized by the Department of Justice to conduct electronic fingerprinting. The enforcement agency responsible for operating the terminal may charge a fee sufficient to reimburse it for the costs incurred in providing this service.

(e) Upon receipt of an applicant's electronic fingerprints as provided in this section, the Department of Justice shall determine whether the applicant has been convicted of any crime and forward the information to the bureau.

(f) The requirement of submission of fingerprint cards to the Federal Bureau of Investigation shall not apply to currently employed, full-time peace officers holding peace officer status under Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or to level I or level II reserve officers as described in paragraphs (1) and (2) of subdivision (a) of Section 832.6 of the Penal Code.

(g) In addition to the amount authorized pursuant to Section 7570.1, the bureau may impose an additional fee not to exceed three dollars (\$3) for processing classifiable fingerprint cards submitted by applicants excluding those submitted into an electronic fingerprint system using electronic fingerprint technology.

(h) An employee shall, on the first day of employment, display to the client his or her registration card if it is feasible and practical to comply with this disclosure requirement. The employee shall thereafter display to the client his or her registration card upon the request of the client.

(i) "Submit," as used in subdivision (a), means any of the following:

(1) To ensure that the application and registration fee have been received by the bureau on or before the business day that the employee is assigned to work.

(2) To ensure that the application and registration fee either have been mailed to the bureau and officially postmarked with a date on



or before the employee is assigned to work or have been deposited with a carrier performing overnight delivery services on or before the business day that the employee is assigned to work.

(3) To ensure, if the applicant is assigned to work on a Saturday, Sunday, or on a federal holiday, that the application and registration fee either have been mailed to the bureau and officially postmarked with a date on the first business day immediately following that Saturday, Sunday, or federal holiday or have been deposited with a carrier performing overnight delivery services on the first business day immediately following that Saturday, Sunday, or federal holiday.

SEC. 3. Section 7583.11 of the Business and Professions Code is amended to read:

7583.11. (a) Except as provided in subdivision (b), an employee of a licensee may be assigned to work with a temporary registration card that indicates completion of the course in the exercise of the power to arrest until the bureau issues a registration card or denies the application for registration. However, a licensee shall not assign an employee to work with a temporary registration card unless the licensee submits the employee's application and registration fee to the bureau on or before the same business day that the employee is assigned to work as a security guard or security patrolperson performing any of the functions set forth in subdivision (a) of Section 7582.1. If a licensee assigns an employee to work with a temporary registration card on a Saturday, Sunday, or on a federal holiday, the licensee may submit the employee's application and registration fee to the bureau on the first business day immediately following the Saturday, Sunday, or federal holiday. A temporary registration card shall in no event be valid for more than 120 days. However, the director may extend the expiration date beyond the 120 days at any time when there is an abnormal delay in processing applications for prospective security guards. For purposes of this section, the 120-day period shall commence on the date the applicant signs the application.

(b) An employee who has been convicted of a crime prior to applying for a position as a security guard shall not be issued a temporary registration card and shall not be assigned to work as a security guard until the bureau issues a permanent registration card. This subdivision shall apply only if the applicant for registration as a security guard has disclosed the conviction to the bureau on his or her application form, or if the fact of the conviction has come to the attention of the bureau through official court or other governmental documents. In no event shall the director, the department, the bureau, the chief, or the State of California be liable for any civil damages in the event of the issuance of a temporary registration if the applicant has falsified his or her application to conceal a prior criminal conviction.



(c) A temporary registration card issued pursuant to this section shall include the name, address, and license number of the private patrol operator employer or training facility that issued the temporary registration card.

(d) An employee shall, on the first day of employment, display to the client his or her registration card or temporary registration card, when it is feasible and practical to comply with this disclosure requirement. The employee shall thereafter display to the client his or her registration card or temporary registration card upon the request of the client.

(e) “Submit” as used in subdivision (a), means any of the following:

(1) To ensure that the application and registration fee have been received by the bureau on or before the business day that the employee is assigned to work.

(2) To ensure that the application and registration fee either have been mailed to the bureau and officially postmarked with a date on or before the employee is assigned to work or have been deposited with a carrier performing overnight delivery services on or before the business day that the employee is assigned to work.

(3) To ensure, if the applicant is assigned to work on a Saturday, Sunday, or on a federal holiday, that the application and registration fee either have been mailed to the bureau and officially postmarked with a date on the first business day immediately following that Saturday, Sunday, or federal holiday or have been deposited with a carrier performing overnight delivery services on the first business day immediately following that Saturday, Sunday, or federal holiday.

(f) This section shall become inoperative on June 30, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 7587.8 of the Business and Professions Code is amended to read:

7587.8. The director may assess fines for the following acts pursuant to Article 4 (commencing with Section 7583) only as follows:

(a) Violation of subdivisions (a), (b), and (c) of Section 7583.2; twenty-five dollars (\$25) per violation.

(b) Violation of subdivisions (h) and (i) of Section 7583.2; twenty-five dollars (\$25) for the first violation and one hundred dollars (\$100) per violation for each violation thereafter.

(c) Violation of subdivision (d) of Section 7583.2; one hundred dollars (\$100) per violation.

(d) Violation of subdivision (g) of Section 7583.2; two hundred fifty dollars (\$250) per violation.



(e) Violation of subdivision (f) of Section 7583.2; two thousand five hundred dollars (\$2,500) per violation, notwithstanding any other provision of law.

SEC. 5. Section 7587.15 is added to the Business and Professions Code, to read:

7587.15. Notwithstanding any other provision of law, the director may assess a fine of up to five thousand dollars (\$5,000) per violation against any licensee for a failure to comply with subdivision (e) of Section 7583.2 or Section 7583.11. In addition, the director may deny, suspend, or revoke a license issued under this chapter for a failure to comply with Section 7583.11.

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

