

AMENDED IN SENATE APRIL 13, 2009

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 741

Introduced by Senator Maldonado

February 27, 2009

An act to add Section 7574.9 to, and to repeal and add Chapter 11.4 (commencing with Section 7574) of Division 3 of, the Business and Professions Code, relating to security services.

LEGISLATIVE COUNSEL'S DIGEST

SB 741, as amended, Maldonado. Proprietary security services.

~~(1) Existing~~

Existing law, the Proprietary Security Services Act, requires a person who meets the definition of a proprietary private security officer to register with the Department of Consumer Affairs. Existing law requires a proprietary private security officer to complete training in security officer skills within a specified period of time. Existing law authorizes, except as otherwise specified, a registered person to request review by a private security disciplinary review committee, to contest the assessment of fines or to appeal the denial, revocation, or suspension of a registration.

This bill would revise and recast these provisions by requiring, on and after January 1, 2011, proprietary private security officers and proprietary private security employers, as defined, to register with the department. The bill would require applicants for registration to apply to the department on forms provided by the department and would require these applications to include, among other things, a \$50 fee for officers and a \$75 fee for employers as well as fingerprints for the officer application. The bill would require that, upon approval of an

application by the Director of Consumer Affairs, officer and employer applicants be issued a registration card or registration certificate, respectively. ~~The bill would make it a felony for a person to knowingly falsify fingerprints submitted with an application for registration and would make it a misdemeanor for a person to knowingly make a false statement on an application for registration.~~

This bill would, on and after July 1, 2011, require registered proprietary private security officers to complete training in security officer skills, as specified. The bill would require *registered proprietary private security* employers to maintain specified records regarding the employment of officers and the completion by officers of training in security officer skills. The bill would *also* require *these* officers on duty to carry a valid and current registration card or a specified alternative as well as other identification and failure to comply with this requirement would result in the imposition of a \$25 fine for the first violation and a \$50 fine for each subsequent violation.

~~Because the bill would create new crimes, the bill would impose state-mandated local programs.~~

~~(2) 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-no*.

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

- 1 SECTION 1. It is the intent of the Legislature that, in
- 2 determining whether or not an employee is a proprietary security
- 3 officer, the primary factor shall be the employee's duties.
- 4 SEC. 2. Section 7574.9 is added to the Business and Professions
- 5 Code, to read:
- 6 7574.9. This chapter shall remain in effect only until January
- 7 1, 2011, and as of that date is repealed, unless a later enacted
- 8 statute, that is enacted before January 1, 2011, deletes or extends
- 9 that date.
- 10 SEC. 3. Chapter 11.4 (commencing with Section 7574) is added
- 11 to Division 3 of the Business and Professions Code, to read:

CHAPTER 11.4. PROPRIETARY SECURITY SERVICES

Article 1. General

7574. This chapter may be cited as the Proprietary Security Services Act.

7574.01. For the purposes of this chapter, the following terms shall have the following meanings:

(a) “Bureau” means the Bureau of Security and Investigative Services.

(b) “Chief” means the Chief of the Bureau of Security and Investigative Services.

(c) “Director” means the Director of Consumer Affairs, unless the context indicates otherwise.

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

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

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

(1) Is required to wear a distinctive uniform, to be determined by the director, identifying the individual as a security officer.

(2) Is likely to interact with the public while performing his or her duties.

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

7574.02. The director shall administer and enforce the provisions of this chapter.

7574.03. Every power granted or duty imposed upon the director under this chapter may be exercised or performed by any other officer or employee of the Department of Consumer Affairs as authorized by the director, however, the director shall have the

1 supervision of and the responsibility for all powers and duties
2 exercised by those officers and employees.

3 7574.04. The director may, in accordance with the State Civil
4 Service Act (Part 2 (commencing with Section 18500) of Division
5 5 of Title 2 of the Government Code) and subject to the provisions
6 of Section 159.5, appoint and fix the compensation of inspectors,
7 investigators, and other personnel as may be necessary for the
8 enforcement of this chapter.

9 7574.05. The director may adopt regulations as necessary for
10 the administration and enforcement of this chapter.

11 7574.06. Except as provided in Section 7574.23, all fees and
12 fines collected pursuant to this chapter shall be deposited in the
13 Private Security Services Fund.

14 7574.08. This article shall become operative on January 1,
15 2011.

16 17 Article 2. Registration 18

19 7574.10. No person shall engage in the business of a proprietary
20 private security officer unless registered with the department
21 pursuant to this chapter.

22 7574.11. (a) An applicant seeking registration as a proprietary
23 private security officer shall apply to the department on forms
24 provided by the department.

25 (b) An application for registration as a proprietary private
26 security officer shall include, but not be limited to, the following:

27 (1) Submission of fingerprints for submission to the Department
28 of Justice.

29 (2) A fee of fifty dollars (\$50).

30 (c) Upon approval of an application for registration as a
31 proprietary private security officer by the director, the chief shall
32 cause to be issued to the applicant a registration card in a form
33 approved by the director. A registration card shall be valid for two
34 years from the date of issue.

35 (d) A person may work as a proprietary private security officer
36 pending receipt of the registration card if he or she has been
37 approved by the director and carries on his or her person a hard
38 copy printout of the bureau's approval from the bureau's Internet
39 Web site and either a valid driver's license issued pursuant to
40 Section 12811 of the Vehicle Code or a valid ~~driver's license~~

1 *identification card* issued pursuant to Section 13000 of the Vehicle
2 Code.

3 (e) In the event of the loss or destruction of a registration card,
4 the registrant may apply to the bureau on a form provided by the
5 bureau for a certified replacement of the card, stating the
6 circumstances surrounding the loss, and pay a replacement fee of
7 ten dollars (\$10), whereupon the bureau shall issue a replacement
8 of the card.

9 (f) A registered proprietary private security officer shall apply
10 for renewal biennially with the department on forms provided by
11 the department. The department shall charge a renewal fee of
12 thirty-five dollars (\$35).

13 7574.12. No person shall engage in the business of a proprietary
14 private security employer unless registered with the department
15 pursuant to this chapter. However, a proprietary private security
16 employer meeting one of the requirements of Section 7574.14 shall
17 be considered exempt from registration.

18 7574.13. (a) A person seeking registration as a proprietary
19 private security employer shall apply to the department on forms
20 provided by the department.

21 (b) An application for registration as a proprietary private
22 security employer shall include, but not be limited to, a fee of
23 seventy-five dollars (\$75).

24 (c) Upon approval of an application for registration as a
25 proprietary private security employer by the director, the chief
26 shall cause to be issued to the applicant a registration certificate
27 in a form approved by the director. A registration certificate shall
28 be valid for two years from the date of issue.

29 (d) A registered proprietary private security employer shall
30 apply for renewal biennially with the department on forms provided
31 by the department. The department shall charge a renewal fee of
32 thirty-five dollars (\$35).

33 7574.14. This chapter shall not apply to a proprietary private
34 security employer who meets one of the following requirements:

35 (a) An officer or employee of the United States of America, or
36 of this state or a political subdivision thereof, while the officer or
37 employee is engaged in the performance of his or her official
38 duties, including uniformed peace officers employed part time by
39 a public agency pursuant to a written agreement between a chief

1 of police or sheriff and the public agency, provided the part-time
2 employment does not exceed 50 hours in any calendar month.

3 (b) A person engaged exclusively in the business of obtaining
4 and furnishing information as to the financial rating of persons.

5 (c) A charitable philanthropic society or association incorporated
6 under the laws of this state that is organized and duly maintained
7 for the public good and not for private profit.

8 (d) Patrol special police officers appointed by the police
9 commission of any city, county, or city and county under the
10 express terms of its charter who also under the express terms of
11 the charter (1) are subject to suspension or dismissal after a hearing
12 on charges duly filed with the commission after a fair and impartial
13 trial, (2) must be not less than 18 years of age nor more than 40
14 years of age, (3) must possess physical qualifications prescribed
15 by the commission, and (4) are designated by the police
16 commission as the owners of a certain beat or territory as may be
17 fixed from time to time by the police commission.

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

20 (f) A collection agency or an employee thereof while acting
21 within the scope of his or her employment, while making an
22 investigation incidental to the business of the agency, including
23 an investigation of the location of a debtor or his or her property
24 where the contract with an assignor creditor is for the collection
25 of claims owed or due or asserted to be owed or due or the
26 equivalent thereof.

27 (g) Admitted insurers and agents and insurance brokers licensed
28 by the state, performing duties in connection with insurance
29 transacted by them.

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

34 (i) A person engaged solely in the business of securing
35 information about persons or property from public records.

36 (j) A peace officer of this state or a political subdivision thereof
37 while the peace officer is employed by a private employer to
38 engage in off-duty employment in accordance with Section 1126
39 of the Government Code. However, nothing herein shall exempt
40 such a peace officer who either contracts for his or her services or

1 the services of others as a private patrol operator or contracts for
2 his or her services as or is employed as an armed private security
3 officer. For purposes of this subdivision, “armed security officer”
4 means an individual who carries or uses a firearm in the course
5 and scope of that contract or employment.

6 (k) A retired peace officer of the state or political subdivision
7 thereof when the retired peace officer is employed by a private
8 employer in employment approved by the chief law enforcement
9 officer of the jurisdiction where the employment takes place,
10 provided that the retired officer is in a uniform of a public law
11 enforcement agency, has registered with the bureau on a form
12 approved by the director, and has met any training requirements
13 or their equivalent as established for security personnel under
14 Section 7583.5. This officer may not carry a loaded or concealed
15 firearm unless he or she is exempted under the provisions of
16 subdivision (a) of Section 12027 of the Penal Code or paragraph
17 (1) of subdivision (b) of Section 12031 of the Penal Code or has
18 met the requirements set forth in Section 12033 of the Penal Code.
19 However, nothing herein shall exempt the retired peace officer
20 who contracts for his or her services or the services of others as a
21 private patrol operator.

22 (l) A licensed insurance adjuster in performing his or her duties
23 within the scope of his or her license as an insurance adjuster.

24 (m) Any savings association subject to the jurisdiction of the
25 Commissioner of Financial Institutions or the Office of Thrift
26 Supervision.

27 (n) Any secured creditor engaged in the repossession of the
28 creditor’s collateral and any lessor engaged in the repossession of
29 leased property in which it claims an interest.

30 (o) A peace officer in his or her official police uniform acting
31 in accordance with subdivisions (c) and (d) of Section 70 of the
32 Penal Code.

33 (p) An unarmed, uniformed security person employed
34 exclusively and regularly by a motion picture studio facility
35 employer who does not provide contract security services for other
36 entities or persons in connection with the affairs of that employer
37 only and where there exists an employer-employee relationship if
38 that person at no time carries or uses any deadly weapon, as defined
39 in subdivision (a), in the performance of his or her duties, which

1 may include, but are not limited to, the following business
2 purposes:

3 (1) The screening and monitoring access of employees of the
4 same employer.

5 (2) The screening and monitoring access of prearranged and
6 preauthorized invited guests.

7 (3) The screening and monitoring of vendors and suppliers.

8 (4) Patrolling the private property facilities for the safety and
9 welfare of all who have been legitimately authorized to have access
10 to the facility.

11 7574.15. (a) The director may refuse to approve a proprietary
12 private security officer or proprietary private security employer
13 registration pursuant to this chapter to a person who has had any
14 license or registration revoked, or whose license or registration is
15 under suspension, or has failed to renew his or her license or
16 registration while it was under suspension.

17 (b) The director may refuse to issue a proprietary private security
18 officer or proprietary private security employer registration to a
19 person who has committed any act that, if committed by a
20 registrant, would be grounds for refusing to issue a registration,
21 or for the suspension or revocation of a registration issued pursuant
22 to this chapter.

23 ~~7574.16. (a) A person who knowingly falsifies the fingerprints~~
24 ~~submitted with an application for registration pursuant to this~~
25 ~~chapter is guilty of a felony.~~

26 ~~(b) A person who knowingly makes a false statement on an~~
27 ~~application for registration pursuant to this chapter is guilty of a~~
28 ~~misdemeanor.~~

29 ~~7574.17.~~

30 7575.16. This article shall become operative on January 1,
31 2011.

32 Article 3. Training

34 7574.18. (a) (1) Except for a person who has completed the
35 course of training required by Section 7583.45, a person registered
36 and hired as a proprietary private security officer shall complete
37 training in security officer skills pursuant to this section.

38 (2) The training requirement in paragraph (1) shall apply on
39 and after July 1, 2011, to any person registered and hired as a
40

1 proprietary private security officer on and after January 1, 2011.
2 For a person registered and hired as a proprietary private security
3 officer before January 1, 2011, the training requirement in
4 paragraph (1) shall apply on and after January 1, 2012.

5 (b) A course provider shall issue a certificate to a proprietary
6 private security officer upon satisfactory completion of a required
7 course, conducted in accordance with the department's
8 requirements. An employer of a proprietary private security officer
9 may provide training programs and courses in addition to the
10 training required in this section.

11 (c) The department shall develop and approve by regulation a
12 standard course and curriculum, which shall include a minimum
13 number of hours of instruction, for the skills training required by
14 subdivision (a) to promote and protect the safety of persons and
15 the security of property. For this purpose, the department may
16 consult with security directors at proprietary facilities, including,
17 but not limited to, sports or entertainment complex owners,
18 retailers, and restaurants, labor organizations representing security
19 officers, law enforcement representatives, representatives of the
20 Commission on Peace Officer Standards and Training, subject
21 matter experts, and other interested parties.

22 (d) The course of training required by subdivision (a) may be
23 administered, tested, and certified by any proprietary private
24 security employer, organization, or school approved by the
25 department. The department may approve any proprietary private
26 security employer, organization, or school to teach the course.

27 (e) (1) A proprietary private security employer shall annually
28 provide each employee registered pursuant to this chapter with
29 specifically dedicated review or practice of security officer skills
30 prescribed in the training required in this section. The bureau shall
31 adopt and approve by regulation the minimum number of hours
32 required for annual review.

33 (2) A proprietary private security employer shall maintain at
34 the principal place of business or branch office a record verifying
35 completion of the review or practice training for a period of not
36 less than two years. The records shall be available for inspection
37 by the department upon request.

38 (f) This section does not apply to a peace officer, as defined in
39 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2
40 of the Penal Code, who has successfully completed a course of

1 study in the exercise of the power to arrest approved by the
2 Commission on Peace Officer Standards and Training. This section
3 does not apply to armored vehicle guards.

4 7574.19. This article shall become operative on July 1, 2011.

5
6 Article 4. Conduct of Business
7

8 7574.20. No proprietary private security employer shall sublet
9 proprietary private security officers employed by them to any other
10 person, business, or entity. Nothing in this section shall be
11 construed to prohibit an employer from transferring employees
12 from one location to another or from one subsidiary to another.

13 7574.21. A person registered as a proprietary private security
14 employer shall do the following with respect to proprietary private
15 security officers in his or her employment:

16 (a) Maintain an accurate and current record of the name, address,
17 commencing date of employment, and position of each proprietary
18 private security officer, and the date of termination of employment
19 when a proprietary private security officer is terminated.

20 (b) Maintain an accurate and current record of proof of
21 completion by each proprietary private security officer of the
22 training described in Section 7574.5.

23 7574.22. (a) A person registered as a proprietary private
24 security officer shall carry on his or her person, while on duty, a
25 valid and current proprietary private security officer's registration
26 card or a hard copy printout of the bureau's approval from the
27 bureau's Internet Web site and either a valid driver's license issued
28 pursuant to Section 12811 of the Vehicle Code or a valid
29 identification card issued pursuant to Section 13000 of the Vehicle
30 Code.

31 (b) Failure to comply with subdivision (a) shall result in a fine
32 of twenty-five dollars (\$25) for the first violation and a fine of
33 fifty dollars (\$50) for each subsequent violation.

34 7574.23. This article shall become operative on January 1,
35 2011.

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37 Article 5. Disciplinary Proceedings
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39 7574.30. (a) A person registered with the department under
40 this chapter may request a review by a private security disciplinary

1 review committee, as established in Section 7581.1, to contest the
2 assessment of an administrative fine or to appeal a denial,
3 revocation, or suspension of a registration unless the denial,
4 revocation, or suspension is ordered by the director in accordance
5 with Chapter 5 (commencing with Section 11500) of Part 1 of
6 Division 3 of Title 2 of the Government Code.

7 A request for a review shall be by written notice to the
8 department within 30 days of the issuance of the citation and
9 assessment, denial, revocation, or suspension.

10 Following a review by a disciplinary review committee, the
11 appellant shall be notified within 30 days, in writing, by regular
12 mail, of the committee's decision.

13 If the appellant disagrees with the decision made by a
14 disciplinary review committee, he or she may request a hearing in
15 accordance with Chapter 5 (commencing with Section 11500) of
16 Part 1 of Division 3 of Title 2 of the Government Code. A request
17 for a hearing following a decision by a disciplinary review
18 committee shall be by written notice to the department within 30
19 days following notice of the committee's decision.

20 If the appellant does not request a hearing within 30 days, the
21 review committee's decision shall become final.

22 (b) Notwithstanding subdivision (a), where a hearing is held
23 under this chapter to determine whether an application for
24 registration should be granted, the proceedings shall be conducted
25 in accordance with Chapter 5 (commencing with Section 11500)
26 of Part 1 of Division 3 of Title 2 of the Government Code, and the
27 director shall have all of the powers granted therein.

28 7574.31. This article shall become operative on January, 1,
29 2011.

30 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
31 ~~Section 6 of Article XIII B of the California Constitution because~~
32 ~~the only costs that may be incurred by a local agency or school~~
33 ~~district will be incurred because this act creates a new crime or~~
34 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
35 ~~for a crime or infraction, within the meaning of Section 17556 of~~
36 ~~the Government Code, or changes the definition of a crime within~~
37 ~~the meaning of Section 6 of Article XIII B of the California~~
38 ~~Constitution.~~