

A-Engrossed
House Bill 2527

Ordered by the House April 13
Including House Amendments dated April 13

Sponsored by Representative SANCHEZ; Representatives MEEK, WILDE, Senator FREDERICK (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires Department of Public Safety Standards and Training to establish by rule standards and procedures for licensing of private security entities. Defines "private security entity." Requires that rules adopted by department require private security entity to provide [*executive managers, private security professionals and supervisory managers*] **private security providers** with professional training.

Conditions licensure upon applicant's successful passing of qualification examination **and upon applicant's character, competence and reliability.**

Establishes requirements for licensed private security entities **and for private security entities employing armed private security professionals.**

Prohibits private security entity from discharging or discriminating against private security provider employed or contracted by entity for making claim or participating in proceeding against entity.

Creates personal, joint and several liability for unpaid wages for person who retains unlicensed private security entity. Creates personal liability for all penalty wages for wages due.

Permits department to bring action to enjoin person from using or acting as private security entity and to seek damages. Prohibits entity from providing private security services without license, person from providing services as private security entity without first providing license information and person from retaining private security entity without first verifying entity's license.

Makes act of providing private security services as private security entity without license Class A violation. Makes act of retaining services of private security entity without first verifying entity's license information Class A violation. Permits Board on Public Safety Standards and Training to impose license sanctions against private security entity that has multiple violations.

Becomes operative January 1, 2024.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to regulation of private security entities; creating new provisions; amending ORS 181A.840,
3 181A.845, 181A.850 and 181A.995; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 181A.840 is amended to read:

6 181A.840. As used in ORS 181A.360, 181A.840 to 181A.891, 181A.895 and 181A.995:

7 (1) "Certification" means recognition by the Department of Public Safety Standards and Training
8 that a private security professional meets all of the qualifications listed in ORS 181A.855.

9 (2) "Executive manager" means a person:

10 (a) Who is authorized to act on behalf of a company or business in matters of licensure and
11 certification;

12 (b) Who is authorized to hire and terminate personnel;

13 (c) Whose primary responsibility is the management of certified private security professionals;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 and

2 (d) Who has final responsibility for a company's or business's compliance with ORS 181A.840 to
3 181A.891.

4 (3) "Instructor" means any person who has been certified by the department as meeting the re-
5 quirements to provide instruction to private security providers or applicants.

6 (4) "License" means recognition by the department that an executive manager or supervisory
7 manager meets the requirements adopted by the Board on Public Safety Standards and Training as
8 necessary to provide private security services.

9 (5) "Primary responsibility" means an activity that is fundamental to, and required or expected
10 in, the regular course of employment and is not merely incidental to employment.

11 **(6)(a) "Private security entity" means a person engaged in the business of providing pri-
12 vate security that:**

13 **(A) Employs private security providers; or**

14 **(B) Contracts or subcontracts with an existing licensed private security entity to provide
15 private security services.**

16 **(b) "Private security entity" does not include a special campus security provider com-
17 missioned under ORS 352.118 or a private security provider on a campus of an institution of
18 higher education regulated under ORS 181A.912.**

19 [(6)] (7) "Private security professional" means an individual who performs, as the individual's
20 primary responsibility, private security services for consideration, regardless of whether the indi-
21 vidual, while performing the private security services, is armed or unarmed or wears a uniform or
22 plain clothes, and regardless of whether the individual is employed part-time or full-time to perform
23 private security services.

24 [(7)] (8) "Private security provider" means any individual who performs the functions of a pri-
25 vate security professional, executive manager, supervisory manager or instructor.

26 [(8)] (9) "Private security services" means the performance of at least one of the following ac-
27 tivities:

28 (a) Observing and reporting unlawful activity.

29 (b) Preventing or detecting theft or misappropriation of goods, money or other items of value.

30 (c) Protecting individuals or property, including but not limited to proprietary information, from
31 harm or misappropriation.

32 (d) Controlling access to premises being protected or, with respect to a licensee of the Oregon
33 Liquor Control Commission, controlling access to premises at an entry to the premises or any por-
34 tion of the premises where minors are prohibited.

35 (e) Securely moving prisoners.

36 (f) Taking enforcement action by detaining persons or placing persons under arrest under ORS
37 133.225.

38 (g) Providing canine services for guarding premises or for detecting unlawful devices or sub-
39 stances.

40 [(9)] (10) "Supervisory manager" means an employee of or a person supervised by an executive
41 manager who has as a primary responsibility the supervision of certified private security profes-
42 sionals.

43 **SECTION 2. Sections 3 to 12 of this 2021 Act are added to and made a part of ORS
44 181A.840 to 181A.891.**

45 **SECTION 3. Duty of Department of Public Safety Standards and Training to establish**

1 **procedures and fees for licensing of private security entities; rules.** (1) The Department of
2 **Public Safety Standards and Training shall establish by rule standards and procedures for the**
3 **licensing of private security entities.**

4 (2) Rules adopted under this section must require that an applicant for a private security
5 entity license:

6 (a) Submit a written application to the Department of Public Safety Standards and
7 Training on a form approved by the department;

8 (b) Register the entity as a business with the Secretary of State;

9 (c) Be the principal owner or principal partner who exercises operational control over the
10 entity;

11 (d) Designate an executive manager licensed by the department;

12 (e) Be covered by a general liability insurance policy for which the applicant is a primary
13 insured that includes public liability, personal injury and property damage insurance covering
14 all aspects of the private security services being provided;

15 (f) Maintain and make available to the department upon request records of the training
16 hours completed by each private security provider employed by the entity;

17 (g) Demonstrate the existence of use of force and citizen arrest policies, unless the pri-
18 vate security entity exclusively monitors alarm systems; and

19 (h) Provide the following information to the department:

20 (A) The names and addresses of all persons financially interested, whether as partners,
21 shareholders, associates or profit-sharers, in the applicant's proposed operations as a private
22 security entity, together with the amount of their respective interests, and whether or not,
23 to the best of the applicant's knowledge, any of these persons was ever denied a certificate
24 or a license under ORS 181A.870 within the preceding three years, or had a certificate or li-
25 cense suspended or revoked within the preceding three years;

26 (B) Proof of the existence of adequate insurance under rules issued by the department;

27 (C) Proof of compliance with business tax requirements;

28 (D) Any claims for unpaid wages that have been made against the applicant within the
29 preceding two years;

30 (E) The physical address of the work location or locations at which private security ser-
31 vices are provided by private security professionals employed by or pursuant to a contract
32 or subcontract with the applicant; and

33 (F) For each work location at which private security services are provided by private
34 security professionals pursuant to a contract or subcontract with the applicant, the names
35 of the private security entity or entities contracted or subcontracted with the applicant.

36 (3) Each applicant shall submit with the application for a private security entity license,
37 proof of financial ability to promptly pay the wages of executive managers, private security
38 professionals and supervisory managers employed by or who contract with the private secu-
39 rity entity. The proof required in this subsection shall be in an amount and form as estab-
40 lished by the department by rule, including but not limited to, a corporate surety bond, a
41 cash deposit or a deposit the equivalent of cash.

42 (4) The department shall establish fees for issuing licenses to private security entities.
43 The fees may not exceed the prorated direct costs of administering:

44 (a) The licensing program required by this section;

45 (b) The license examinations required by section 8 of this 2021 Act; and

1 (c) The investigations required by section 9 of this 2021 Act.

2 **SECTION 4. Rules must require private security entity to provide professional training;**
3 **training requirements.** (1) Rules adopted under section 3 of this 2021 Act shall require that
4 a licensed private security entity provide professional training through the Bureau of Labor
5 and Industries to private security providers employed or contracted by the private security
6 entity on:

7 (a) Preventing sexual assault and sexual harassment in the workplace;

8 (b) Preventing discrimination in the workplace and promoting cultural competency; and

9 (c) Educating the workforce regarding protection for employees who report a violation
10 of a state or federal law, rule or regulation.

11 (2) A private security entity shall provide the training as follows:

12 (a) At least once during the year in which a private security entity license is first issued
13 to a private security entity;

14 (b) For new employees, within 90 days of the employee's initial hiring date; and

15 (c) At least once every two years after the renewal of a license.

16 **SECTION 5. Requirements for private security entity employing armed private security**
17 **professionals.** A private security entity that employs armed private security professionals
18 must ensure that training requirements imposed by the Department of Public Safety Stan-
19 dards and Training involving a firearm required for certification are successfully completed
20 with a firearm that matches the make, model and caliber of the firearm that will be pos-
21 sessed by or available to the armed private security professional while performing private
22 security services.

23 **SECTION 6. Requirements for licensed private security entities.** A licensed private se-
24 curity entity shall:

25 (1) Furnish to each private security professional employed by a private security entity,
26 at the time of hiring, a written statement that includes a description of:

27 (a) The employee's rights and remedies under ORS chapters 652, 653, 654, 656 and 659A,
28 the Service Contract Act (41 U.S.C. 351-401) and any other such law specified by the De-
29 partment of Public Safety Standards and Training, in plain and simple language in a form
30 specified by the department; and

31 (b) The terms and conditions of employment, including the method of computing the rate
32 of compensation.

33 (2) Furnish to each private security provider employed by the private security entity,
34 each time the provider receives a compensation payment from the entity, a written state-
35 ment itemizing the total payment and amount and purpose of each deduction from the total
36 payment, hours worked and rate of pay.

37 **SECTION 7. Prohibitions relating to discharge of or discrimination against person em-**
38 **ployed or contracted.** A private security entity may not discharge or in any other manner
39 discriminate against any private security provider employed by or who contracts with the
40 private security entity because:

41 (1) The private security provider has made a claim against the private security entity for
42 compensation for the private security provider's own personal services;

43 (2) The private security provider has caused to be instituted any proceedings under or
44 related to ORS 181A.840 to 181A.891;

45 (3) The private security provider has testified or is about to testify in any such pro-

1 ceedings; or

2 (4) The private security provider has discussed or consulted with anyone concerning the
3 private security provider's rights under ORS 181A.840 to 181A.891.

4 **SECTION 8. License examination; rules.** The Department of Public Safety Standards and
5 Training may not issue a license to operate as a private security entity until an applicant for
6 such a license has successfully passed a qualifying examination designed to test the
7 applicant's knowledge of the entity's responsibility to prevent sexual assault, sexual
8 harassment and discrimination in the workplace. The director of the department shall pre-
9 scribe by rule the requirements for and the manner of testing the competency of license
10 applicants.

11 **SECTION 9. Issue or renew license; character, competence and reliability.** (1) The De-
12 partment of Public Safety Standards and Training shall conduct an investigation of each
13 applicant's character, competence and reliability, and any other matter related to the man-
14 ner and method by which the applicant proposes to conduct and conducted operations as a
15 private security entity.

16 (2) The department may not issue or renew a license to operate as a private security
17 entity until the department is satisfied as to the applicant's character, competence and re-
18 liability.

19 (3) Evidence of unsatisfactory character, competence or reliability includes committing
20 an unlawful act or violating or failing to comply with any provision of sections 3 to 12 of this
21 2021 Act or ORS 181A.840 to 181A.891.

22 (4) Any person may protest the issuance or renewal of a license to any applicant at any
23 time, and the department shall give the person an opportunity to state the reasons for the
24 objection.

25 **SECTION 10. Interagency agreement.** The Department of Public Safety Standards and
26 Training may enter into an interagency agreement with the Bureau of Labor and Industries
27 to assist with the licensure, technical assistance and compliance services related to sections
28 3 to 12 of this 2021 Act.

29 **SECTION 11. Hiring unlicensed private security entity; unpaid wages; jointly and se-**
30 **verally liable.** Any person who retains the services of an unlicensed private security entity
31 shall:

32 (1) Be personally and jointly and severally liable to any employee as far as the employee
33 has not been paid wages in full for the services performed or work done for that person.

34 (2) Be personally liable for all penalty wages that have occurred under ORS 652.150 for
35 the wages due under this section.

36 **SECTION 12. Enforcement; enjoinder.** The Department of Public Safety Standards and
37 Training, or any other person, may bring an action in circuit court to enjoin any person from
38 using the services of an unlicensed private security entity or to enjoin any person acting as
39 a private security entity in violation of sections 3 to 12 of this 2021 Act or ORS 181A.840 to
40 181A.891, or rules promulgated pursuant thereto, from committing future violations. The
41 court may award to the prevailing party costs and disbursements and a reasonable attorney
42 fee. In addition, the amount of damages recoverable from a person acting as a private secu-
43 rity entity in violation of sections 3 to 12 of this 2021 Act or ORS 181A.840 to 181A.891 is
44 actual damages or \$2,000, whichever amount is greater.

45 **SECTION 13.** ORS 181A.850 is amended to read:

1 181A.850. (1) It is unlawful:

2 (a) **For a private security entity to provide private security services unless the entity has**
3 **obtained a license under section 3 of this 2021 Act.**

4 (b) **For a person to perform any service as a private security entity without first pro-**
5 **viding to the person to whom services are to be provided the Internet address for the De-**
6 **partment of Public Safety Standards and Training's webpage where a copy of or information**
7 **pertaining to the private security entity's license may be accessed.**

8 (c) **For a person to retain the services of a private security entity without first verifying**
9 **through the Department of Public Safety Standards and Training's webpage where a copy of**
10 **or information pertaining to the private security entity's license may be accessed.**

11 [(a)] (d) For a person to engage in the business of, or perform any service as a private security
12 professional, or to offer services in such capacity unless the person has obtained a certificate under
13 ORS 181A.870.

14 [(b)] (e) For a person to engage in the business of, or perform any service as an executive
15 manager or supervisory manager, or to offer services in such capacities unless the person has ob-
16 tained a license under ORS 181A.870.

17 [(c)] (f) For a person to perform supervisory duties over persons performing crowd management
18 or guest services, as described in ORS 181A.845, unless the person has obtained a license or certif-
19 icate under ORS 181A.870.

20 [(d)] (g) Except as otherwise provided in subsection (2) of this section, for an executive manager
21 to assign a person to perform private security services unless the person is certified as a private
22 security professional under ORS 181A.870.

23 (2) An executive manager may temporarily assign a person who is not certified as required by
24 this section to perform private security services within this state for a period of time not to exceed
25 90 days if:

26 (a) The person is employed in another state;

27 (b) The person holds a private security professional's certification or license from the other
28 state; and

29 (c) The certification or licensing standards of the other state meet or exceed the standards of
30 this state.

31 **SECTION 14.** ORS 181A.995 is amended to read:

32 181A.995. (1) A person commits a:

33 (a) Class A misdemeanor if the person knowingly falsifies any information pertinent to an ap-
34 plication for a license or certificate under ORS 181A.840 to 181A.891.

35 (b) Class A violation if the person provides private security services as a private security pro-
36 fessional without being certified to do so under ORS 181A.870 and having in the person's possession
37 the certificate issued under ORS 181A.870.

38 (c) **Class A violation if the person provides private security services as a private security**
39 **entity without being licensed to do so under section 3 of this 2021 Act.**

40 (d) **Class A violation if the person retains the services of a private security entity without**
41 **first verifying through the Department of Public Safety Standards and Training's webpage**
42 **where a copy of or information pertaining to the private security entity's license may be**
43 **accessed.**

44 (2) In addition to any other liability or penalty provided by law, the Board on Public Safety
45 Standards and Training may impose a civil penalty not to exceed \$1,500 for a violation of any pro-

1 vision of ORS 181A.840 to 181A.891 or any rule adopted by the Board on Public Safety Standards
2 and Training or Department of Public Safety Standards and Training pursuant to ORS 181A.840 to
3 181A.891.

4 **(3) In addition to any civil penalty assessed by the board, if a private security entity has**
5 **two or more prior violations under subsection (2) of this section, the board may impose li-**
6 **cence sanctions on the private security entity. The license sanctions:**

7 **(a) For a third violation may not exceed the suspension of, or refusal to reissue, a license**
8 **for six months;**

9 **(b) For a fourth violation may not exceed revocation of the license for three years; or**

10 **(c) For a fifth or subsequent violation may provide for permanent revocation of the li-**
11 **cence.**

12 ~~[(3)]~~ **(4) Judicial review of civil penalties or license sanctions** imposed under ~~[subsection (2)]~~
13 **subsections (2) or (3)** of this section shall be as provided under ORS 183.480.

14 **SECTION 15.** ORS 181A.845 is amended to read:

15 181A.845. (1) ORS 181A.840 to 181A.891 do not apply to:

16 (a) A person certified by the Department of Public Safety Standards and Training as a police
17 officer or a parole and probation officer.

18 (b) A law enforcement officer of the United States.

19 (c) An officer or employee of this state, Oregon Health and Science University established by
20 ORS 353.020 or the United States while performing duties of the office or employment.

21 (d) A person appointed or commissioned by the Governor to perform law enforcement or security
22 services.

23 (e) An attorney admitted to practice law in this state while engaged in the practice of law.

24 (f) An insurance adjuster licensed in this state while performing duties authorized by the license.

25 (g) A person who monitors alarm systems that are not designed to detect threats to public safety
26 or personal well-being.

27 (h) A person while protecting the person's property.

28 (i) A person who repairs and installs intrusion alarms while repairing or installing intrusion
29 alarms.

30 (j) A person acting as an investigator as defined in ORS 703.401.

31 (k) A person performing crowd management or guest services, including, but not limited to, a
32 person described as a ticket taker, an usher, a parking attendant or event staff.

33 (L) A person who has a valid service permit issued by the Oregon Liquor Control Commission
34 pursuant to ORS 471.360 and who is an employee of a licensee of the commission when the person
35 is performing age verification and controlling access to premises of the licensee, if the person is not:

36 (A) Armed;

37 (B) Permitted to initiate confrontational activities, including physical contact and the confis-
38 cation of property; or

39 (C) Hired with the primary responsibility of taking enforcement action as described in ORS
40 181A.840 ~~[(8)(f)]~~ **(9)(f)**.

41 (m) A person performing security services at a facility regulated by the United States Nuclear
42 Regulatory Commission if the facility is operated by the person's employer.

43 (n) An individual while on active duty as a member of the armed services or while performing
44 duties as a law enforcement officer.

45 (o) An employee of a financial institution who has been designated as a security officer for the

1 financial institution pursuant to the Bank Protection Act of 1968 (12 U.S.C. 1881 et seq.) and regu-
2 lations adopted under the act.

3 (p) A person who provides security services as a volunteer or for de minimis consideration other
4 than money for an event operated for the benefit of a corporation that is organized not for profit
5 pursuant to ORS chapter 65 or any predecessor of ORS chapter 65 or that is exempt from taxation
6 under section 501(a) of the Internal Revenue Code as an organization described in section 501(c) of
7 the Internal Revenue Code.

8 (q) A student enrolled in a community college as defined in ORS 341.005 while engaged in non-
9 confrontational activities that contribute to campus safety under the direct or indirect supervision
10 of a law enforcement professional or private security professional certified or licensed by the De-
11 partment of Public Safety Standards and Training, provided the community college has conducted
12 a criminal background check on the student.

13 (2) The exemption provided by subsection (1)(k) of this section applies only:

14 (a) To a person who is not:

15 (A) Armed;

16 (B) Permitted to initiate confrontational activities, including physical contact and the confis-
17 cation of property; or

18 (C) Hired with the primary responsibility of taking enforcement action as described in ORS
19 181A.840 [(8)(f)] (9)(f);

20 (b) If there is at least one person on-site who is certified or licensed under ORS 181A.870 for
21 every 10 or fewer uncertified persons performing the services described in subsection (1)(k) of this
22 section;

23 (c) If any enforcement action, as described in ORS 181A.840 [(8)(f)] (9)(f), other than incidental
24 or temporary action, is taken by or under the supervision of a person certified or licensed under
25 ORS 181A.870; and

26 (d) During the time when a crowd has assembled for the purpose of attending or taking part in
27 an organized event, including pre-event assembly, event operation hours and post-event departure
28 activities.

29 (3) The exemption provided by subsection (1)(L) of this section does not apply during an organ-
30 ized event that is on a scale substantially outside the ordinary course of the licensee's business.

31 **SECTION 16. Captions. The section captions used in this 2021 Act are provided only for**
32 **the convenience of the reader and do not become part of the statutory law of this state or**
33 **express any legislative intent in the enactment of this 2021 Act.**

34 **SECTION 17. Sections 2 to 12 of this 2021 Act and the amendments to ORS 181A.840,**
35 **181A.845, 181A.850 and 181A.995 by sections 1, 13, 14 and 15 of this 2021 Act become operative**
36 **on January 1, 2024.**

37 **SECTION 18. The Department of Public Safety Standards and Training may take any**
38 **action before the operative date specified in section 17 of this 2021 Act that is necessary for**
39 **the department to exercise, on and after the operative date specified in section 17 of this 2021**
40 **Act, all of the duties, functions and powers conferred on the department by sections 2 to 12**
41 **of this 2021 Act and the amendments to ORS 181A.840, 181A.845, 181A.850 and 181A.995 by**
42 **sections 1, 13, 14 and 15 of this 2021 Act.**

43 **SECTION 19. This 2021 Act being necessary for the immediate preservation of the public**
44 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
45 **on its passage.**

