

HOUSE AMENDMENTS TO HOUSE BILL 2527

By COMMITTEE ON JUDICIARY

April 13

- 1 On page 1 of the printed bill, line 2, delete “and”.
- 2 In line 3, delete “and 181A.845” and insert “, 181A.845, 181A.850 and 181A.995; and declaring
3 an emergency”.
- 4 Delete lines 5 through 29 and delete page 2.
- 5 On page 3, delete lines 1 through 32 and insert:
- 6 **“SECTION 1.** ORS 181A.840 is amended to read:
- 7 “181A.840. As used in ORS 181A.360, 181A.840 to 181A.891, 181A.895 and 181A.995:
- 8 “(1) ‘Certification’ means recognition by the Department of Public Safety Standards and Training
9 that a private security professional meets all of the qualifications listed in ORS 181A.855.
- 10 “(2) ‘Executive manager’ means a person:
- 11 “(a) Who is authorized to act on behalf of a company or business in matters of licensure and
12 certification;
- 13 “(b) Who is authorized to hire and terminate personnel;
- 14 “(c) Whose primary responsibility is the management of certified private security professionals;
15 and
- 16 “(d) Who has final responsibility for a company’s or business’s compliance with ORS 181A.840
17 to 181A.891.
- 18 “(3) ‘Instructor’ means any person who has been certified by the department as meeting the re-
19 quirements to provide instruction to private security providers or applicants.
- 20 “(4) ‘License’ means recognition by the department that an executive manager or supervisory
21 manager meets the requirements adopted by the Board on Public Safety Standards and Training as
22 necessary to provide private security services.
- 23 “(5) ‘Primary responsibility’ means an activity that is fundamental to, and required or expected
24 in, the regular course of employment and is not merely incidental to employment.
- 25 **“(6)(a) ‘Private security entity’ means a person engaged in the business of providing pri-
26 vate security that:**
- 27 **“(A) Employs private security providers; or**
- 28 **“(B) Contracts or subcontracts with an existing licensed private security entity to pro-
29 vide private security services.**
- 30 **“(b) ‘Private security entity’ does not include a special campus security provider com-
31 missioned under ORS 352.118 or a private security provider on a campus of an institution of
32 higher education regulated under ORS 181A.912.**
- 33 “[~~6~~] (7) ‘Private security professional’ means an individual who performs, as the individual’s
34 primary responsibility, private security services for consideration, regardless of whether the indi-
35 vidual, while performing the private security services, is armed or unarmed or wears a uniform or

1 plain clothes, and regardless of whether the individual is employed part-time or full-time to perform
2 private security services.

3 “[7] (8) ‘Private security provider’ means any individual who performs the functions of a pri-
4 vate security professional, executive manager, supervisory manager or instructor.

5 “[8] (9) ‘Private security services’ means the performance of at least one of the following ac-
6 tivities:

7 “(a) Observing and reporting unlawful activity.

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

9 “(c) Protecting individuals or property, including but not limited to proprietary information,
10 from harm or misappropriation.

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

14 “(e) Securely moving prisoners.

15 “(f) Taking enforcement action by detaining persons or placing persons under arrest under ORS
16 133.225.

17 “(g) Providing canine services for guarding premises or for detecting unlawful devices or sub-
18 stances.

19 “[9] (10) ‘Supervisory manager’ means an employee of or a person supervised by an executive
20 manager who has as a primary responsibility the supervision of certified private security profes-
21 sionals.

22 **“SECTION 2. Sections 3 to 12 of this 2021 Act are added to and made a part of ORS
23 181A.840 to 181A.891.**

24 **“SECTION 3. Duty of Department of Public Safety Standards and Training to establish
25 procedures and fees for licensing of private security entities; rules. (1) The Department of
26 Public Safety Standards and Training shall establish by rule standards and procedures for the
27 licensing of private security entities.**

28 **“(2) Rules adopted under this section must require that an applicant for a private secu-
29 rity entity license:**

30 **“(a) Submit a written application to the Department of Public Safety Standards and
31 Training on a form approved by the department;**

32 **“(b) Register the entity as a business with the Secretary of State;**

33 **“(c) Be the principal owner or principal partner who exercises operational control over
34 the entity;**

35 **“(d) Designate an executive manager licensed by the department;**

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

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

41 **“(g) Demonstrate the existence of use of force and citizen arrest policies, unless the
42 private security entity exclusively monitors alarm systems; and**

43 **“(h) Provide the following information to the department:**

44 **“(A) The names and addresses of all persons financially interested, whether as partners,
45 shareholders, associates or profit-sharers, in the applicant’s proposed operations as a private**

1 security entity, together with the amount of their respective interests, and whether or not,
2 to the best of the applicant's knowledge, any of these persons was ever denied a certificate
3 or a license under ORS 181A.870 within the preceding three years, or had a certificate or li-
4 cense suspended or revoked within the preceding three years;

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

6 “(C) Proof of compliance with business tax requirements;

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

9 “(E) The physical address of the work location or locations at which private security
10 services are provided by private security professionals employed by or pursuant to a contract
11 or subcontract with the applicant; and

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

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

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

23 “(a) The licensing program required by this section;

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

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

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

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

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

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

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

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

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

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

40 “SECTION 5. Requirements for private security entity employing armed private security
41 professionals. A private security entity that employs armed private security professionals
42 must ensure that training requirements imposed by the Department of Public Safety Stan-
43 dards and Training involving a firearm required for certification are successfully completed
44 with a firearm that matches the make, model and caliber of the firearm that will be pos-
45 sessed by or available to the armed private security professional while performing private

1 security services.

2 **“SECTION 6. Requirements for licensed private security entities.** A licensed private se-
3 curity entity shall:

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

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

10 **“(b) The terms and conditions of employment, including the method of computing the**
11 **rate of compensation.**

12 **“(2) Furnish to each private security provider employed by the private security entity,**
13 **each time the provider receives a compensation payment from the entity, a written state-**
14 **ment itemizing the total payment and amount and purpose of each deduction from the total**
15 **payment, hours worked and rate of pay.**

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

20 **“(1) The private security provider has made a claim against the private security entity**
21 **for compensation for the private security provider’s own personal services;**

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

24 **“(3) The private security provider has testified or is about to testify in any such pro-**
25 **ceedings; or**

26 **“(4) The private security provider has discussed or consulted with anyone concerning the**
27 **private security provider’s rights under ORS 181A.840 to 181A.891.**

28 **“SECTION 8. License examination; rules.** The Department of Public Safety Standards and
29 **Training may not issue a license to operate as a private security entity until an applicant for**
30 **such a license has successfully passed a qualifying examination designed to test the**
31 **applicant’s knowledge of the entity’s responsibility to prevent sexual assault, sexual**
32 **harassment and discrimination in the workplace. The director of the department shall pre-**
33 **scribe by rule the requirements for and the manner of testing the competency of license**
34 **applicants.**

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

40 **“(2) The department may not issue or renew a license to operate as a private security**
41 **entity until the department is satisfied as to the applicant’s character, competence and re-**
42 **liability.**

43 **“(3) Evidence of unsatisfactory character, competence or reliability includes committing**
44 **an unlawful act or violating or failing to comply with any provision of sections 3 to 12 of this**
45 **2021 Act or ORS 181A.840 to 181A.891.**

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

4 “SECTION 10. Interagency agreement. The Department of Public Safety Standards and
5 Training may enter into an interagency agreement with the Bureau of Labor and Industries
6 to assist with the licensure, technical assistance and compliance services related to sections
7 3 to 12 of this 2021 Act.

8 “SECTION 11. Hiring unlicensed private security entity; unpaid wages; jointly and se-
9 verally liable. Any person who retains the services of an unlicensed private security entity
10 shall:

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

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

15 “SECTION 12. Enforcement; enjoinder. The Department of Public Safety Standards and
16 Training, or any other person, may bring an action in circuit court to enjoin any person from
17 using the services of an unlicensed private security entity or to enjoin any person acting as
18 a private security entity in violation of sections 3 to 12 of this 2021 Act or ORS 181A.840 to
19 181A.891, or rules promulgated pursuant thereto, from committing future violations. The
20 court may award to the prevailing party costs and disbursements and a reasonable attorney
21 fee. In addition, the amount of damages recoverable from a person acting as a private secu-
22 rity entity in violation of sections 3 to 12 of this 2021 Act or ORS 181A.840 to 181A.891 is
23 actual damages or \$2,000, whichever amount is greater.

24 “SECTION 13. ORS 181A.850 is amended to read:

25 “181A.850. (1) It is unlawful:

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

28 “(b) For a person to perform any service as a private security entity without first pro-
29 viding to the person to whom services are to be provided the Internet address for the De-
30 partment of Public Safety Standards and Training’s webpage where a copy of or information
31 pertaining to the private security entity’s license may be accessed.

32 “(c) For a person to retain the services of a private security entity without first verifying
33 through the Department of Public Safety Standards and Training’s webpage where a copy of
34 or information pertaining to the private security entity’s license may be accessed.

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

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

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

44 “[(d)] (g) Except as otherwise provided in subsection (2) of this section, for an executive man-
45 ager to assign a person to perform private security services unless the person is certified as a pri-

1 vate security professional under ORS 181A.870.

2 “(2) An executive manager may temporarily assign a person who is not certified as required by
3 this section to perform private security services within this state for a period of time not to exceed
4 90 days if:

5 “(a) The person is employed in another state;

6 “(b) The person holds a private security professional’s certification or license from the other
7 state; and

8 “(c) The certification or licensing standards of the other state meet or exceed the standards of
9 this state.

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

11 “181A.995. (1) A person commits a:

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

14 “(b) Class A violation if the person provides private security services as a private security
15 professional without being certified to do so under ORS 181A.870 and having in the person’s pos-
16 session the certificate issued under ORS 181A.870.

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

19 “(d) **Class A violation if the person retains the services of a private security entity
20 without first verifying through the Department of Public Safety Standards and Training’s
21 webpage where a copy of or information pertaining to the private security entity’s license
22 may be accessed.**

23 “(2) In addition to any other liability or penalty provided by law, the Board on Public Safety
24 Standards and Training may impose a civil penalty not to exceed \$1,500 for a violation of any pro-
25 vision of ORS 181A.840 to 181A.891 or any rule adopted by the Board on Public Safety Standards
26 and Training or Department of Public Safety Standards and Training pursuant to ORS 181A.840 to
27 181A.891.

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

31 “(a) **For a third violation may not exceed the suspension of, or refusal to reissue, a li-
32 cense for six months;**

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

34 “(c) **For a fifth or subsequent violation may provide for permanent revocation of the li-
35 cense.**

36 “[3] (4) Judicial review of civil penalties **or license sanctions** imposed under [subsection (2)]
37 **subsections (2) or (3)** of this section shall be as provided under ORS 183.480.”.

38 In line 33, delete “7” and insert “15”.

39 On page 5, line 5, delete “8” and insert “16”.

40 After line 7, insert:

41 “**SECTION 17. Sections 2 to 12 of this 2021 Act and the amendments to ORS 181A.840,
42 181A.845, 181A.850 and 181A.995 by sections 1, 13, 14 and 15 of this 2021 Act become operative
43 on January 1, 2024.**

44 “**SECTION 18. The Department of Public Safety Standards and Training may take any
45 action before the operative date specified in section 17 of this 2021 Act that is necessary for**

1 the department to exercise, on and after the operative date specified in section 17 of this 2021
2 Act, all of the duties, functions and powers conferred on the department by sections 2 to 12
3 of this 2021 Act and the amendments to ORS 181A.840, 181A.845, 181A.850 and 181A.995 by
4 sections 1, 13, 14 and 15 of this 2021 Act.

5 “SECTION 19. This 2021 Act being necessary for the immediate preservation of the public
6 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
7 on its passage.”.

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