



Oregon

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DATE: February 3, 2021

TO: Honorable Members of the Senate Committee on Judiciary and Ballot Measure 110 Implementation

FROM: Linsay Hale, Professional Standards/Interim Training Division Director

SUBJECT: DPSST Testimony: SB 114

Summary: SB 114 was introduced on behalf of the Board on Public Safety Standards and Training (BPSST) to expand the Department of Public Safety Standards and Training (DPSST) and Board regulatory authority to include the ability to regulate and license the entities that employ private security providers in Oregon. This change would allow the DPSST, in consultation with the Board, to further promote public safety by ensuring ongoing competency and accountability of Oregon's private security providers as well as the safety of those who come into contact with a private security provider.

Background: The DPSST, in consultation with the Board on Public Safety Standards and Training (BPSST), currently regulates just over 20,000 individuals as providers of private security services through the issuance and removal of licensure as dictated by Oregon Revised Statute Chapter 181A, and Oregon Administrative Rule Division 259, Chapter 060. The statutory purpose of the DPSST regulation is to "... promote consistent standards for private security services by improving the competence of private security providers ..." [ORS 181A.870] This is done through the establishment of minimum physical, emotional, intellectual, moral fitness and training standards that are required to be met and maintained by all providers of private security services.¹

Oregon law currently requires providers of private security services be trained and certified by the DPSST. Providers who possess or have access to a firearm at any time while providing private security services are required to earn and maintain armed certification.

Prior to becoming certified as an armed private security provider, an individual must attend and successfully complete training, delivered by a DPSST-certified Private Security Firearms Instructor. The training includes a minimum of 24 hours of instruction and an open-book written examination covering firearms instruction materials; a safe gun handling test; and a marksmanship qualification using firearms

¹ ORS 181A.840(8) "Private security services" means the performance of at least one of the following activities:

- (a) Observing and reporting unlawful activity.
- (b) Preventing or detecting theft or misappropriation of goods, money or other items of value.
- (c) Protecting individuals or property, including but not limited to proprietary information, from harm or misappropriation.
- (d) Controlling access to premises being protected or, with respect to a licensee of the Oregon Liquor Control Commission, controlling access to premises at an entry to the premises or any portion of the premises where minors are prohibited.
- (e) Securely moving prisoners.
- (f) Taking enforcement action by detaining persons or placing persons under arrest under ORS 133.225.
- (g) Providing canine services for guarding premises or for detecting unlawful devices or substances.

qualification standards and targets. An armed provider is also required to attend and successfully complete the 14-hour unarmed basic classroom instruction, exam and assessments.

Armed provider certification, like all levels of private security certification, is valid for two years. Armed providers are required to complete the firearms marksmanship qualification and armed refresher course annually to prove continued competency with a firearm.

Current law gives DPSST, the BPSST or a combination of the two entities the following authorities:

- To offer certifications and licenses to private security providers in levels and categories as established by the Board. [ORS 181A.875(2)]
- Set minimum standards of physical, emotional, intellectual and moral fitness standards for private security providers to promote consistent standards and improve the competence of providers. [ORS 181A.870(1)(a)]
- Establish the content of and standards for all training courses and testing required for certification as a private security professional. [ORS 181A.870(4)(b)]

Over the past several years DPSST staff have worked closely with the Private Security/Investigator Policy Committee and its various Subcommittees and the Board to identify and address a number of issues aimed at ensuring armed private security providers remain capable and competent to possess or have access to a firearm while providing armed private security services, including:

- 2015: The passage of SB 39, granting the DPSST the authority to immediately suspend private security provider certifications and licensure who fail to complete training requirements in a timely manner.
- 2018: The implementation of an administrative rule allowing the DPSST to emergency suspend the certification of armed providers and firearms instructors upon receipt of information that the individual has demonstrated a lack of emotional fitness to another public agency.
- 2018: The implementation of an administrative rule requiring the DPSST emergency suspend the certification of armed providers and firearms instructors who fail to successfully complete the annual firearms refresher training in a timely manner.

Despite these proactive adjustments to the DPSST's regulation, a number of recent, high-profile events involving armed private security providers have highlighted a gap in the oversight of armed providers created by the DPSST's limited jurisdiction and the lack of regulatory oversight of the employers of these individuals. Specifically identified is the lack of requirements that employers:

- Maintain liability insurance;
- Assume responsibility for on-going employee competency;
- Maintain use of force and citizen's arrest policies (when employing providers expected to come into physical contact with members of the public); and
- Ensure employees demonstrate competency using assigned duty weapon(s).

To address these issues, the Board and the DPSST are requesting the expansion of the agency's authority to include the regulation/licensing of entities employing armed private security providers providing services in Oregon.

Effect of SB 114: SB 114 requires licensure for private security entities and defines private security entities as an employer, company or business that employs private security providers. A private security entity will be required to have a licensed executive manager, maintain liability insurance, maintain use of force and citizen's arrest policies, and, in the case of armed private security providers, ensure employees demonstrate competency using assigned duty weapon(s).

The additional regulation would not become effective until January 1, 2023 allowing the DPSST, the Private Security Policy Committee, the BPSST and members of the private security industry time to work collaboratively on establishing the parameters of the additional regulation.

Impact of SB 114 on DPSST: This bill as introduced is expected to have a fiscal and operational impact on the DPSST by adding to the existing regulatory workload associated with the administration of the program. The additional workload will include an increase in administrative duties (to include processing applications and issuing entity licenses), as well as an increase in compliance duties, (to include investigation into issues of non-compliance and the administrative processes involved with the removal or denial of an entity license for non-compliance.)

The actual impact to DPSST will not be known until the program is established through the administrative rulemaking process, which will be done in consultation with the Private Security Policy Committee and BPSST. Any resulting staffing or fee requests will be managed through future legislative processes as necessary.

Note: The Private Security Program is a fee based certification and licensure program. Therefore, the licensing fee established for private security entities will be used for the fiscal and operational costs within the DPSST Private Security Program as a result of the expanded regulatory authority. SB 114 does not result in a specific budget request and there is no known impact to State budget.

Impact of SB 114 on Constituents: This legislative concept was reviewed and approved by the Private Security Policy Committee² and the Board. The DPSST anticipates some private security business owners to be generally opposed to additional state regulation. Upon passage of the bill and adoption of administrative rules, private security entities will experience a fiscal impact because of this new licensure requirement. The fiscal impacts for private security entities would be further identified and addressed through the rulemaking process.

² The Private Security Policy Committee includes the following constituent representation: The two private security Board members who represent private security generally; one person representing unarmed private security professionals; one person representing armed private security professionals; one person representing the health care industry; one person representing the manufacturing industry; one person representing the retail industry; one person representing the hospitality industry; one person representing private business or a governmental entity that utilizes private security services; one person representing persons who monitor alarm systems; two persons who are investigators licensed under ORS 703.430, one of whom is recommended by the Oregon State Bar and one of whom is in private practice; and one person representing the public. [ORS 181A.375(7)]
