

**PRESENTATION OF THE
BOARD OF PRIVATE DETECTIVES
AND GUARDS**

TO THE HOUSE COMMITTEE ON CONSUMER
PROTECTION AND COMMERCE

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, March 10, 2010
2:00 p.m.

**TESTIMONY ON SENATE BILL NO. 2165, S.D. 1, RELATING TO PRIVATE
GUARDS.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Charlene Tamanaha, Executive Officer of the Board of Private Detectives and Guards ("Board"). The Board thanks you for the opportunity to testify on Senate Bill No. 2165, S.D. 1, Relating to Private Guards. The Board supports the intent of the bill and believes that some form of training should be required for persons who act as guards; however, we respectfully oppose this measure as written.

Senate Bill No. 2165, S.D. 1 proposes to (1) add a new section that specifies the registration, instruction, training, testing, and continuing education requirements for all guards effective July 1, 2013; (2) require all guards to apply and register with the Board which includes guards who are employed solely by an employer in connection with the affairs of the employer (e.g., Macy's, Walmart, hotels, AOA's, and other entities that have in-house guards); (3) require classroom instructors to hold a bachelor's degree or higher in an appropriate field and possess at least three years of work experience in a relevant position as determined by the Board; (4) prohibit a guard agency or other private employer from providing classroom instruction and training to their employees;

(5) mandate a new employee meet 24 hours of classroom instruction within the first year of employment and eight hours annually thereafter; (6) set forth the specific content of classroom instruction; (7) repeal the license of a principal guard; and (8) repeal the exemption employees of private business entities who provide guard services in connection with the affairs of their employer currently have and require all to be registered with the Board.

The proposed bill increases regulation by now requiring the registration of all individual guards. This is a departure from the current approach that the guard agency and the principal guard are responsible: (1) to screen the age, criminal history, and education of employees; (2) ensure that the individual is not presently suffering from any psychiatric or psychological disorder which is directly related and detrimental to the person's performance in the profession; and (3) report on their employee guards to the Board. Should the Board move in this direction, it would like the time to develop sound registration requirements and consider cost implications on the individual, the guard agency, or now any private business entity employing guards. Ample time to provide notice must also be considered as private business entities that are currently exempt from registration will now be included. There are also cost and staffing implications for the Professional and Vocational Licensing Division as it is estimated a total of 10,700 individual guards will likely require registration.

In addition, this measure changes the current training approach for employee guards from one that the employing agency trains, to one where only a third party shall conduct the training and testing. Should the Board move in this direction, it would like

time to evaluate this approach since it does not find it problematic for the employing agency or private business entity to train, and further, consider cost implications on the individual guard or employer to pay for such third party training.

The Board is also concerned that there may be insufficient time to ensure that there are enough instructors who meet the specified qualifications, are ready and able to provide the training by the bill's effective date, and are available on each island.

Further, the Board believes the amount of classroom instruction seems excessive, as a new employee would have to have 24 hours of classroom instruction within the first year of employment.

In an effort to work with the Senate Commerce and Consumer Protection Committee on this bill, the Board was willing to support registration of individual guards but asked for a delayed implementation of three years (July 1, 2013) so that during the interim, cost and staffing implications could be addressed in advance of implementation. The Board was also willing to raise the education requirement for guard employees from having an eighth grade education to having a high school education or its equivalent, promulgate rules to set forth the standards and curriculum for pre-service and continuing education instruction and to provide time for employers and registrants to meet the June 30, 2014 renewal requirements. In addition, the Board was willing to create forms and to establish procedures with the Hawaii Criminal Justice Data Center to obtain national criminal history record checks (which are currently not available to private employers) for the approximately 10,700 potential registrants. The Board did not support the third party training, the specific qualifications of the instructors or the topics

of classroom instruction mandated in the bill, the eight hours of classroom instruction within the first six months of employment, and the annual eight hours of continuing education for a total of 16 hours per biennium to renew a guard registration.

We also wish to raise our concern with Section 2 of the bill that has the effect of eliminating the principal guard license to which the Board is strongly opposed. A principal guard is a guard agency's primary license who is fully responsible for the direct management and control of the agency and the agency's employees. The bill repeals the four year experience requirement and the requirement that the person shall not be presently suffering from any psychiatric or psychological disorder which is directly related or detrimental to a person's performance in the profession and requires only that the person designated as the principal guard meet the training requirements set forth in Section 1.

This bill also expands regulations to now include any private business entity that provides its own in-house guard services previously exempt from the law. The impact of this expansion may have ramifications not yet foreseen.

Therefore, the Board respectfully requests that Senate Bill No. 2165, S.D. 1 be held. However, should the Committee desire to move forward with this measure, the Board is amenable to the registration of individual guards with a delayed implementation date of July 1, 2013.

Thank you for the opportunity to provide testimony on this measure.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Consumer Protection and Commerce
March 10, 2010 at 2:00 p.m.

by
John Morton
Vice President for Community Colleges, University of Hawai'i

SB2165 SD1 RELATING TO PRIVATE GUARDS

Chair Herkes, Vice Chair Wakai, and Members of the Committee:

There has been increasing interest in insuring that positions in our communities, such as security officers, have proper vetting and training. This has been especially the case regarding the security of our airports and marine docks. And, the concern stretches beyond these vital interests to any number of other private and public commercial areas or areas of high sensitivity. Senate Bill 2165 SD1 addresses this general issue. Within the UH Community College system, there are a few courses offered related to the training asked for in this bill. However, whether the UH Community Colleges presently have the right course offerings, personnel, and or facilities to respond to the measure before us today requires more detail and study to properly respond to the UH Community Colleges' readiness and capability to deliver such certification.

DARRYL D. PERRY
CHIEF OF POLICE
COUNTY OF Kaua'i

TO THE HOUSE OF REPRESENTATIVES COMMITTEE
ON CONSUMER PROTECTION & COMMERCE

TWENTY-FIFTH LEGISLATURE
Regular Session 2010

Wednesday, March 10, 2010
2:00 p.m.

TESTIMONY ON SENATE BILL NO. 2165, SD1, RELATING TO PRIVATE GUARDS.

TO THE HONORABLE ROBERT N. HERKES, CHAIR
AND MEMBERS OF THE COMMITTEE:

Aloha, my name is Darryl Perry, Chief of Police for Kaua'i County, and recently confirmed member of the Board of Private Detectives and Guards. I am in **support** of SB2165, SD1.

I understand the need for law enforcement to partner with private security. However, within this partnership there must be a standard level of competency and professionalism.

SB2165, SD1, will lead the way toward establishing a minimum standard of training so that each respective community can be confident that responses of private security to both natural and man-made threats will be consistent with instituted "best practices" guidelines.

Additionally, the effectuation date of July 1, 2013, should allow sufficient time for the economy to improve, and hopefully provide necessary resources to execute the conditions of this bill.

Thank you for the opportunity to provide testimony on this bill.

wakai2-Daniel

From: timhav [timhav@hawaii.rr.com]
Sent: Tuesday, March 09, 2010 10:30 AM
To: wakai2-Daniel
Subject: Re: CPC testimony

TO THE HOUSE COMMITTEE ON CPC

3-10-10

TESTIMONY ON SENATE BILL 2165, SD 1, RELATING TO PRIVATE GUARDS.

To the honorable Rep. Robert Herkes and members of the committee:

I am Tim Haverly, chief of security of the Marine Surf AOA. I have worked in Hawaii for 40 years in both contract security firms and as in-house or proprietary security. I have worked for contract security firms such as Burns security, HPA, HIS, assigned in guard services for many condo's and as Store Detective trainer for clients including Safeway, ABD stores, Honolulu Book Stores, and many others. (Not to mislead, I did not work FOR Safeway, ABC, etc.)

My employment with proprietary companies include Pearlridge Shopping Center (13 years), Marine Surf Hotel (two times, total on and off for 40 years), Tower Records as the Hawaii Regional Loss Prevention director, and other condo's.

I believe there are good points to both type of operations, and stand in opposition of SB 2165. I believe it should remain up to the employer, AOA, or owners of various types of entities. There are advantages and disadvantages to both, and think I am aware of most of them.

I firmly believe that having the options for both types of operations should be left as is. Many people will provide horror stories for both types of operations. Poor training, failure to discover felons amongst the staff, licensed guard company owners engaged in illegal activity, causing employee pay checks to be late because they were in Hong Kong gambling the payrolls, or those "allowed" to quit from HPD just prior of criminal charges, etc., etc., ad nauseum.

On the other hand, I do support one item in SB 2165: the ability to require the employee/applicant to get a FEDERAL criminal check, vs. Hawaii's current Criminal CONVICTION records check.

I would like to go on for a few pages, but to save the committees time, will stop here. Thanks for the opportunity to testify.

Tim Haverly
Marine Surf AOA
364 seaside ave
255-4815

TESTIMONY ON SB2165

Edward R. Akiona
Owner/All State Security LLC
1314 S. King St. Suite 422
Honolulu, Hawaii 96814

House of Representatives
Committee On Consumer Protection and Commerce
Rep. Robert N. Herkes, Chair
Rep. Glenn Wakai, Vice Chair

Wednesday, March 10, 2010
2.00pm

SB2165, SDI
(SSCR2490)

Thanks for the opportunity to hear my testimony. As an owner of a security company for the past 2 years and managing a security company for over 8 years, I have seen the quality of the security guards in the industry and welcome the effort to upgrade the quality of their training.

There are over forty states that require the licensing of guards and it is long overdue in Hawaii. It will benefit the community and the industry overall. I think it wise to have the trainers certified and be independent of any security company. This insures the integrity of the program. I only wish the effective date could be sooner, three years seems to be a long time.

Again thanks for the opportunity and this bill is so badly needed in the security industry. Security plays such an important role in today's world that every effort should be made to better train those involved.

wakai2-Daniel

From: verickerbob@hawaii.rr.com
Sent: Monday, March 08, 2010 2:55 PM
To: CPCtestimony
Subject: SB 2165 SD1

I am providing the following to CPC (the Agenda also lists FIN) for the 3/10/10 House Meeting at 2 PM regarding SB 2165 SD 1. Bob Vericker - Retired law enforcement officer.

I am supportive of the Bill which raises the bar for selection and training of security guards.
It should be noted that a similar measure endorsed by Senator Baker 15 years ago was killed, in large part, because DCCA was not supportive, based upon what I have been told. Further, the national criminal check for guards became Federal law in 2004. Hawaii has yet to utilize this service, used by a majority of the States. I note this history only because this Bill dictates an effective date more than 3 years from now. I find it difficult to believe that the necessary mechanism to effect this criminal check will take that amount of time. I strongly recommend a start date of 2012 or sooner, rather than 2013.
Mahalo,
Bob Vericker

wakai2-Daniel

From: Richard Spacer [rspacer@yahoo.com]
Sent: Monday, March 08, 2010 1:23 PM
To: CPCtestimony
Subject: SB 2165, SD1, SSCR2490 Testimony: Security Guards

Dear House Consumer Protection and Commerce Committee:

I understand there will be a hearing on SB 2165, SD1, SSCR2490 on Wed. March 10, 2010 at 2 P.M.

Please consider my testimony regarding this bill to amend regulations governing private security guards in Hawaii.

In late 2007 early 2008 the union Service Employees International ranked the security guard industry in Hawaii an F due to lack of training and poor regulation required for guards compared to the other states. I hope legislation now considered will dramatically improve that ranking, and improve the standard of guards in our state. You now have this opportunity.

First and foremost, I want ALL security guards in Hawaii to be subject to all licensing and training requirements as below, not just the head of the guard agency. Each and every guard. Anyone calling himself or herself a security guard or wearing uniforms or insignia saying the words "security" or "security guards" in Hawaii must be licensed under this chapter.

I object to lines 6 and 7 of the bill. Giving the Board the authority to determine if a guard is qualified can allow the Board to side-step the legislative requirements in individual cases. The legislation would then be meaningless. The Board must be required to follow the guard requirements to the letter. It must be the legislation that determines the requirements, not the Board. Please craft your bill to eliminate this loophole. This must be airtight.

I am adamant that at a minimum a high school diploma or GED is required for all security guards. No exceptions. I am appalled that an 8th grade education has been the standard for guards in Hawaii. Appalled. I am pleased the senate bill modifies this.

Guards must be US citizens or permanent residents with green cards. They should have no immigration limits on their time in the United States. Immigration status must be verified prior to licensing.

There does NOT need to be a minimum level of experience at all, otherwise how would all security guards be licensed?

Training for guards must replace experience for new employees to the industry, otherwise you will have no qualified guards. It is unreasonable to expect significant periods of guard experience in order to be licensed. My goal is to have ALL guards in Hawaii licensed and regulated. Therefore, a new guard trainee MUST be given thorough and proficient training, which counts for years of experience if done correctly by qualified trainers. Experience is gained on the job AFTER training and licensing. Therefore, it is in the best interests of the state and The People to have a minimum of at least forty (40) clock hours of required pre-licensing training and at least eight (8) clock hours required annual refresher training. The senate bill does not require enough training. If the training requirement means that for a short time some guards would be legally unable to perform their duties under this proposed legislation, a grace period of no more than six (6) months from the effective date could be included to allow guards to comply. The security guard industry needs to have this training

requirement as guards have the potential to directly impact the physical safety of the public and the integrity of items of significant intrinsic value. This is not the place to skimp. I honestly feel not enough attention has been put into the training of guards in Hawaii to date and the legislature now has the opportunity to change that. Professional security guard companies currently do business in Hawaii that have the expertise to train new guards to these standards and they should be consulted in getting all of Hawaii's guards trained.

All guard applicants must pass a criminal record check. I am pleased the senate bill proposes this. Fingerprints and a head and shoulders photo must be submitted and be kept on file with the Board. The Board must design a licensing application form which includes provision for submittal of the photo and fingerprints, as well as the normal expected biographical information. Please disqualify convicted felons from any jurisdiction from being guards. No one with any kind of conviction in any jurisdiction for any crime of violence such as rape, terroristic threatening, assault, battery, etc. should be a guard. Neither one convicted of larceny or burglary. Drug convictions must disqualify.

Guard applicants cannot be addicted to, or use drugs even if never convicted of drug offenses. Legislation must require a mandatory drug test for all guards before licensing. Random, unannounced drug tests with negative result of each and every licensed guard must take place annually before the guard can renew their license/ID.

Security guards being a regulated industry in Hawaii, all individual guards must therefore be registered and licensed like barbers, doctors, etc. and should have their name, company and county of residence and guard registration number in a publically available security guard database. Presently we can look up anyone with a business name or GE number. It should be that way for guards too.

Guards shall be issued with a State of Hawaii Security Guard photo ID card displaying their name, face photo, title, DOB, a guard registration number, issue date and expiration date. No guard can work as a guard without being issued such a valid card and having it on their person at all times while working. Such ID cards, and the legal authority to act as a guard, shall be for a period of one year at a time. A license as a security guard cannot be for an indefinite period, especially if annual refresher training is to be required for continued licensing.

Guards must be required by legislation to identify themselves immediately upon request. Police have their names and badge numbers displayed, or should have them clearly displayed on their uniforms, so should security guards. Their names and employer/guard company name must be provided upon request to any person for any reason without delay. Guards must show their state guard photo ID upon demand to any person just like police must show their badge upon demand. There have been innumerable instances where guards refuse to state their name. This has been a real problem in Hawaii. Please address this in your bill.

All guards prior to licensing must have as part of their training and instruction what they CANNOT do and where they DO NOT have authority. For example, here on Kauai for many years we have had persistent, major problems with employers of security guards (hotels, arrogant landowners with homes behind beaches) posting security guards on property adjacent to public beaches and even ON public beaches, and these guards have been telling people they are trespassing on the beach or telling people what to do on the beach. Many private persons take it upon themselves to call themselves security guards and act as vigilantes. Security guards cannot under any circumstances patrol beaches. Legislation must be crafted to allow the public redress from this abuse. Guards must be taught they have NO authority on any public land in Hawaii including our beaches. Only police have authority on public lands including beaches. Please make this crystal clear in your legislation and provide significant penalties for violation, eliminating this problem once and for all.

463-13 must be re-written. The exemption must be eliminated for regulation of guards working for only one employer. I want ALL guards to be licensed and treated the same. All licensed, no exceptions. If a guard works for only one employer, or an employer has only one guard, it does not matter. A guard is a guard and all must be trained and licensed prior to the start of employment. I support the senate bill elimination of the exemption.

Financial and custodial penalties for violating any of these elements of the act must be included of sufficient intensity to deter violation thereof. An act without penalties is incomplete.

I feel that the effective date of July 2013 is too far in the future. Please have an effective date within the year.

Thank you very much for considering this testimony.

Richard Spacer

Private resident
Beach Access Activist
Kauai



Representative Robert Herkes, Chair
Representative Glenn Wakai, Vice Chair
Committee on Consumer Protection & Commerce

HEARING Wednesday, March 10, 2010
 2:00 pm
 Conference Room 325
 State Capitol, Honolulu, Hawaii 96813

RE: SB2165, SD1, Relating to Private Guards

Chair Herkes, Vice Chair Wakai, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to the support of the retail industry and business in general in Hawaii.

RMH opposes SB2165, SD1, which establishes licensure requirements, including training, instruction, and continuing education, for guards and individuals acting in guard capacity.

While we understand and appreciate the intent of this measure, we believe that further dialogue between the stakeholders, including private guard services, government, individual employers, and the Board of Private Detectives and Guards is necessary and warranted. My discussions with retailers and their asset protection professionals indicate that there are areas in §463, Hawaii Revised Statutes, that are not clearly defined with regard to retail operations.

Rather than impose additional mandated costs on individuals and industry during this difficult economy, we respectfully ask the Legislature to consider a resolution calling the subject parties together to consider the broad implications of the statute, any relevant activities in the marketplace, and the fundamental needs of society, and to craft language appropriate to all segments of the industry.

There are numerous professionals, including former members of the Honolulu Police Department, employed in retail, who are able and willing to bring a wealth of knowledge and experience to the discussion.

Thank you for your consideration and for the opportunity to testify on SB2165, SD1.

Carol Pregill, President

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