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**BEFORE THE
CONSUMER PROTECTION AND COMMERCE COMMITTEE**

Representative Robert N. Herkes, Chair
Representative Glenn Wakai, Vice Chair

SB 2165 RELATING TO PRIVATE GUARDS

TESTIMONY OF

ALBERT "SPIKE" DENIS, CPP

March 10, 2010, 2:00 pm
House Conference Room 325

Chair Herkes and Vice Chair Wakai:

My name is Albert "Spike" Denis. I have over forty years of experience in the security industry. I am the former CEO of SafeGuard Services. I served as Chair of Board of Private Detectives and Guards for six years. I am currently the Principal of Pacific Security Group, LLC, a forensic premises security firm. I have been retained as an expert in over fifty premises security negligence cases, for both plaintiff and defense, and have been qualified as an expert by the First, Second and Fifth Circuit Courts. I am also a consultant for Securitas Security Services USA, Inc. I am testifying in support of SB 2165 with amendments, which are contained in the proposed draft attached to my testimony.

I support the intent of SB 2165. Security guards are a critical source of protection for Hawaii citizens in many facets of their lives. Security guards monitor, patrol, and inspect property to protect against fire, theft, vandalism and illegal activity. Security guards enforce laws, conduct witness interviews, prepare incident reports, and provide legal testimony. SB 2165, by creating a uniform security guard registration system, will better enable Hawaii to monitor and manage its growing security guard industry. Initiating mandatory training, as many states have already done, will improve the quality of security guard services through the State.

I also strongly support SB 2165's requirement of federal background checks for all security guards. Depending on their position, security guards may be armed consistent with Hawaii and federal laws governing private ownership and use of firearms. Increased screening of these individuals for criminal history will help prevent crime and increase employee reliability.

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I am proposing certain necessary amendments to S.D.1, as follows.

First, my proposed draft reduces the number of post-employment classroom instruction hours. While I strongly support the training requirement, reducing the number of hours from S.D.1 will make compliance more economically feasible. Particularly in our current economy, most employers simply cannot afford the additional thirty-two hours of instruction proposed by S.D.1.

Second, the proposed draft allows qualified employers to perform their own in-house training, instead of being forced to pay an outside third party. Third party training may be appropriate for small security guard employers or other entities (like a condo association) that do not have the requisite training expertise. However, for a medium-to-large security company, in-house training will be more affordable and, in many instances, better than what an outside third party instructor can provide. For example, local security companies hire former police officers at all ranks, including Chiefs, Lieutenants, Captains and Majors. They hire former members of the Board of Private Detectives and Guards, former TSA employees, and former firearms trainers, just to give a few examples. Companies with that sort of internal expertise should be encouraged to use it rather than forced to retain an outside vendor.

Lastly, the proposed draft removes the qualification requirements for carrying firearms or other weapons. Those matters are currently governed by the County Police Chiefs in existing laws, and the Chiefs remain in the best position to administer firearms or weapons permitting for security guards and others.

With these suggested amendments, the public safety considerations in the Bill are maintained intact while the administration of the training program is changed (1) to ensure fairness and economy and (2) to provide for a practical administrative protocol which will not overtax the resources of the Board.

I support the passage of SB 2165 as amended in my proposed draft. Thank you for the opportunity to testify.

A BILL FOR AN ACT

RELATING TO PRIVATE GUARDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 463, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§463- Guards; registration, instruction, training, testing, and continuing education required; renewal of registration. (a) Effective July 1, 2013, all guards, and all agents, operatives, and assistants employed by a guard agency, private business entity, or government agency who act in a guard capacity shall apply to register with the board, and meet the following registration, instruction, and training requirements prior to acting as a guard:

- (1) Be not less than eighteen years of age;
- (2) Possess a high school education or its equivalent; and
- (3) Not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the individual to act as a guard, unless the conviction has been annulled or expunged by court order; provided

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that the individual shall submit to a national criminal history record check as authorized by federal law, including but not limited to the Private Security Officer Employment Authorization Act of 2004, and specified in the rules of the board.

The board shall determine whether an individual qualifies for registration pursuant to this subsection.

(b) All classroom instruction provided under this section shall be provided by an employee, manager, owner of a guard agency or other qualified third party in this State if their course of study meets Board-approved curricula. Course curricula shall meet the specific standards of this section and all other applicable requirements of this chapter, and shall be established by the Board no later than January 1, 2013.

(c) Guards and individuals acting in a guard capacity shall successfully complete the classroom instruction specified by this section, pass a written test, and undergo four hours of on-the-job training supervised by an individual who has successfully completed all of the requirements of this section or who has otherwise been approved by the Board for on-the-job training. Guards and individuals acting in a guard capacity shall successfully complete:

- (1) Eight hours of classroom instruction before the first day of employment; and

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(2) Four hours of classroom instruction annually thereafter.

(d) The content of classroom instruction required under this section shall include, but not be limited to:

(1) State and federal law regarding the legal limitations on the actions of guards, including instruction in the law concerning arrest, search and seizure, and the use of force as these issues relate to guard work;

(2) Access control, safety, fire detection and reporting, and emergency response;

(3) Homeland security issues and procedures;

(4) When and how to notify public authorities;

(5) Techniques of observation and reporting of incidents, including how to prepare an incident report;

(6) The fundamentals of patrolling;

(7) Professional ethics; and

(8) Professional image and aloha training.

(e) The board may adopt rules pursuant to chapter 91 that mandate additional training, instruction, testing and continuing education for guards and agents, operatives, and assistants employed in a guard capacity.

(f) Prior to the June 30, 2014 renewal of the guard registration and every registration renewal thereafter, the applicant shall pay all required fees, and have had at least

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four hours of continuing education as specified in the rules of the board.

The board may conduct a random audit, pursuant to rules adopted pursuant to chapter 91, of registrants applying for renewal of a registration to determine whether the continuing education requirements of this subsection have been met.

The failure, neglect, or refusal of any registered guard to pay the renewal fee or meet the continuing education requirements shall constitute a forfeiture of the guard's registration. A forfeited registration may be restored upon written application within one year from the date of forfeiture, payment of the required renewal fee plus penalty fees, and meeting the continuing education requirements in effect at the time of restoration."

SECTION 2. Section 463-13, Hawaii Revised Statutes, is amended to read as follows:

"§463-13 Exemptions. This chapter does not apply to any person, firm, company, partnership, or corporation or any bureau or agency whose business is exclusively the furnishing of information as to the business and financial standing and credit responsibility of persons, firms, or corporations, or as to personal habits and financial responsibility, of applicants for insurance, indemnity bonds, or commercial credit, [~~or a person employed exclusively and regularly by one employer in connection~~]

~~with the affairs of such employer only and where there exists an employer-employee relationship,]~~ or an attorney at law in performing the attorney's duties as such attorney at law."

SECTION 3. The Board, pursuant to the authority granted to it by section 463-2, Hawaii Revised Statutes, and in accordance with chapter 91, Hawaii Revised Statutes, shall adopt rules to effectuate the provisions of this Act.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

Report Title:

Guards and Guard Agencies; Training, Instruction, and Continuing Education

Description:

Establishes licensure requirements, including training, instruction, and continuing education for guards and individuals acting in a guard capacity. Directs the board of private detectives and guards to make rules. (HD1)