

JAN 20 2010

A BILL FOR AN ACT

RELATING TO PRIVATE GUARDS.

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

1 SECTION 1. Chapter 463, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§463- Guards; instruction, training, testing, and
5 continuing education required. (a) Effective July 1, 2010, all
6 guards and all agents, operatives, and assistants employed by a
7 guard agency in a guard capacity shall meet the instruction,
8 training, testing, and continuing education requirements
9 specified in this section; provided that the requirements
10 specified under subsection (e) shall apply only to guards and
11 individuals acting in a guard capacity who carry a firearm or
12 other weapon while on-duty in a guard capacity.

13 (b) All classroom instruction required under this section
14 shall be provided by an instructor who is approved as an
15 instructor by the board and who is not an employee, manager, or
16 owner of a guard agency in this State. All classroom
17 instructors shall hold a bachelor's degree or higher in an



1 appropriate field and possess at least three years of work
2 experience in a relevant position as determined by the board.

3 (c) Guards and individuals acting in a guard capacity
4 shall successfully complete the classroom instruction specified
5 by this section, pass a written test, and undergo four hours of
6 on-the-job training supervised by an individual who has
7 successfully completed all of the requirements of this section.
8 Guards and individuals acting in a guard capacity shall
9 successfully complete:

10 (1) Eight hours of classroom instruction before the first
11 day of employment;

12 (2) Eight hours of classroom instruction within the first
13 six months of employment; and

14 (3) Eight hours of classroom instruction annually
15 thereafter.

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

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



- 1 (2) Access control, safety, fire detection and reporting,
2 and emergency response;
- 3 (3) Homeland security issues and procedures;
- 4 (4) When and how to notify public authorities;
- 5 (5) Techniques of observation and reporting of incidents,
6 including how to prepare an incident report;
- 7 (6) The fundamentals of patrolling;
- 8 (7) Professional ethics; and
- 9 (8) Professional image and aloha training.
- 10 (e) Before beginning employment as a guard or in a guard
11 capacity, in addition to the classroom instruction required by
12 this section, guards and individuals acting in a guard capacity
13 who carry a firearm or other weapon, including but not limited
14 to an electric gun as defined in section 134-1, while on-duty in
15 a guard capacity shall:
- 16 (1) Successfully complete fifteen hours of board-approved
17 weapons instruction;
- 18 (2) Successfully complete a board-approved written test on
19 the legal limitations of weapons use, proper handling
20 of weapons, and weapons safety and maintenance; and
- 21 (3) Attain a minimum score of seventy per cent on a target
22 course approved by the board.



1 (f) The board may enact rules pursuant to chapter 91 that
2 require additional training, instruction, testing and continuing
3 education for guards and agents, operatives, and assistants
4 employed in a guard capacity."

5 SECTION 2. Section 463-8, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§463-8 Guards and guard agencies; qualifications for**

8 **license.** (a) The board may grant a guard license to any
9 suitable individual, or a guard agency license to any suitable
10 firm making written application therefor. The applicant, if an
11 individual [7] or the principal guard of a firm, shall:

- 12 (1) Be not less than eighteen years of age;
- 13 (2) [~~Have had~~] Possess a high school education or its
14 equivalent;
- 15 (3) Have [~~had~~] experience reasonably equivalent to at
16 least four years of full-time guard work;
- 17 (4) Not be presently suffering from any psychiatric or
18 psychological disorder [~~which~~] that is directly
19 related and detrimental to a person's performance in
20 the profession;
- 21 (5) Not have been convicted in any jurisdiction of a crime
22 [~~which~~] that reflects unfavorably on the fitness of



1 the applicant to engage in the profession, unless the
2 conviction has been annulled or expunged by court
3 order; [and]

4 (6) Possess a history of honesty, truthfulness, financial
5 integrity, and fair dealing[-]; and

6 (7) Meet all training, instruction, and continuing
7 education requirements established by this chapter and
8 by the board.

9 A firm applying for a guard agency license shall have in its
10 employ an individual who is licensed as a guard and who shall be
11 designated as the principal guard for the firm, and shall
12 provide a bond as required under section 463-12.

13 (b) A guard agency may employ as many agents, operatives,
14 and assistants in a guard capacity [and] as may be necessary for
15 the conduct of business; provided that the principal guard shall
16 be held responsible for, and have direct management and control
17 of, the agency and the agency's employees while they are acting
18 within the scope and purpose of the guard agency's business.
19 These employees shall not be required to have guard licenses,
20 and shall:

21 (1) [~~Have had~~] Possess an eighth grade education or its
22 equivalent;



- 1 (2) Not be presently suffering from any psychiatric or
2 psychological disorder [~~which~~] that is directly
3 related and detrimental to a person's performance in
4 the profession;
- 5 (3) Not have been convicted in any jurisdiction of a crime
6 [~~which~~] that reflects unfavorably on the fitness of
7 the employee to engage in the profession, unless the
8 conviction has been annulled or expunged by court
9 order; [~~and~~]
- 10 (4) Be registered with the board upon employment with the
11 agency[-]; and
- 12 (5) Meet all training, instruction, testing, and
13 continuing education requirements established by this
14 chapter and by the board.

15 (c) The employer, with the written authorization of the
16 employee, shall conduct a criminal history records check of all
17 new employees employed in a guard capacity directly through the
18 Hawaii criminal justice data center and shall conduct a federal
19 criminal check pursuant to subtitle E of public law 108-458, 42
20 U.S.C. 5119(a), et seq., upon certification to the board that
21 the signature on the authorization is authentic.



1 (d) As required by the board, every individual and guard
2 agency licensed pursuant to this chapter shall submit to the
3 board proof of compliance with the training, instruction,
4 testing, and continuing education requirements established by
5 this chapter and by the board."

6 SECTION 3. Section 463-9, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§463-9 Form of application for license.** Application for
9 a license shall be made on a form prescribed by the board which
10 [~~may~~] shall require a statement of the applicant's full name,
11 age, date and place of birth, residence and business address,
12 the business or occupation the applicant has engaged in for ten
13 years immediately preceding the date of the filing of the
14 application with names and addresses of employers, the date and
15 place of any arrest or conviction of a crime where there has not
16 been any order annulling or expunging the sentence or of any
17 offense involving moral turpitude, whether the applicant has
18 received treatment for any psychiatric or psychological
19 disorder, or whether the treatment has ever been recommended,
20 proof of compliance with the training, instruction, testing, and
21 continuing education requirements established by this chapter
22 and by the board, and [~~sueh~~] any other information, including



1 fingerprints of the applicant, ~~[and such other information as]~~
2 that the board may require to investigate the character,
3 competency, and integrity of the applicant. The board shall
4 conduct ~~[such]~~ an investigation of the applicant's background,
5 character, competency, and integrity as it deems appropriate,
6 and shall request, in accordance with section 846-2.7, criminal
7 history records of the applicant from each jurisdiction in which
8 the application form indicates the applicant lived for any
9 substantial period of time. The Hawaii criminal justice data
10 center shall provide such information on request to the director
11 of commerce and consumer affairs."

12 SECTION 4. Section 463-10, Hawaii Revised Statutes, is
13 amended by amending subsections (b), (c), and (d) to read as
14 follows:

15 "(b) The biennial renewal fee and compliance resolution
16 fund fees, or the inactive license fee, shall be paid to the
17 board on or before June 30 of each even-numbered year. These
18 fees shall be as provided in rules adopted by the director
19 pursuant to chapter 91. The failure, neglect, or refusal of any
20 licensee to pay these fees ~~[and]~~, to submit all documents
21 required by the board, or to provide proof of compliance with
22 the training, instruction, testing, and continuing education



1 requirements established by this chapter and by the board on or
2 before June 30 of each even-numbered year shall result in the
3 automatic forfeiture of the licensee's license.

4 (c) A forfeited license may be restored upon written
5 application within one year of the date of expiration and upon
6 submittal of all required documents, fees, delinquent fees, and
7 a penalty fee[-]; provided that no license shall be renewed
8 after June 30, 2010 if the holder has not submitted proof of
9 compliance with the training, instruction, testing, and
10 continuing education requirements established by this chapter
11 and by the board.

12 (d) Upon written request by a licensee, the board may
13 place that licensee's active license on an inactive status. The
14 licensee, upon payment of the inactive license fee, may continue
15 on inactive status for the biennial period. A licensee may
16 renew an inactive license upon notification to the board. The
17 failure, neglect, or refusal of any licensee on inactive status
18 to pay the inactive license fee shall result in the automatic
19 forfeiture of the licensee's license. While on inactive status,
20 a licensee shall not be engaged in the practice of a private
21 detective, guard, or agency. Any person who violates this
22 prohibition shall be subject to discipline under this chapter



1 and the board's rules. The license may be reactivated at any
2 time by filing an application for reactivation with the board
3 and:

- 4 (1) Fulfilling all requirements established by the board,
5 including the payment of the appropriate fees the
6 licensee would have paid had the licensee continued to
7 maintain the license on an active status; [and]
8 (2) Providing any information regarding any arrest or
9 conviction of any crime that reflects unfavorably on
10 the fitness of the licensee to engage in the
11 profession, and information that the licensee, while
12 on inactive status, has suffered a psychiatric or
13 psychological disorder that is directly related and
14 detrimental to the licensee's performance in the
15 profession[-]; and
16 (3) Providing proof of compliance with the training,
17 instruction, testing, and continuing education
18 requirements established by this chapter and by the
19 board.

20 The board may deny an application for reactivation as
21 provided in its rules."



1 SECTION 5. The board of private detectives and guards,
2 pursuant to the authority granted to it by section 463-2, Hawaii
3 Revised Statutes, and in accordance with chapter 91, Hawaii
4 Revised Statutes, shall adopt rules to effectuate the provisions
5 of this Act.

6 SECTION 6. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect on July 1, 2010.
9

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Report Title:

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

Description:

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

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SB 2165