

# SB 2486

Measure Title: RELATING TO PRIVATE GUARDS.

Report Title: Private Guards; Continuing Education; Registration; Licensure

Description: Amends various provisions relating to private guards and individuals acting in a guard capacity by: reducing the continuing education requirement to four hours every two years; delaying the continuing education requirement to prior to the June 30, 2016, renewal cycle; and making permanent the registration and licensure requirements for private guards and individuals acting in a guard capacity by repealing the sunset date of Act 208, Session Laws of Hawaii 2010.

Companion: HB2020

Package: None

Current Referral: CPN

Introducer(s): BAKER, KEITH-AGARAN, KOUCHI, English, Gabbard, Nishihara, Ruderman, Solomon

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

**TO THE SENATE COMMITTEE ON  
COMMERCE AND CONSUMER PROTECTION**

**TWENTY-SEVENTH LEGISLATURE  
Regular Session of 2014**

**Wednesday, February 12, 2014  
9:00 a.m.**

**TESTIMONY ON SENATE BILL 2486, RELATING TO PRIVATE GUARDS.**

**TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND MEMBERS OF THE COMMITTEE:**

My name is Kenneth Chang, member of the Board of Private Detectives and Guards ("Board"). Thank you for the opportunity to testify in strong support of Senate Bill No. 2486, which proposes to: 1) revise the continuing education requirement to four hours every two years instead of four hours every year; 2) delay the continuing education requirement from the June 30, 2014 renewal cycle to the June 30, 2016 renewal cycle; and 3) repeal the sunset date of Act 208, SLH 2010 to make permanent the registration requirements for guards or any other employee acting in a guard capacity.

The Board just completed the initial registration of approximately 9,000 guard employees in 2013. Since initial registration already includes an educational component, all 9,000 newly registered guard employees have recently completed mandatory training. As such, the Board, industry, and registrants are in need of relief from the continuing education requirement scheduled for the June 30, 2014 renewal. While the Board has established the mandatory continuing education curriculum and

has posted it on its website, curriculum providers and employers intending to do in-house training of the continuing education need time to develop their course offerings, receive Board approval, and deliver the training. The Board concurs with the requirement on page 3, lines 15-16 of this measure that a refresher component on professional image and aloha training is necessary and is happy to report that this topic is included in the Board's four-hour continuing education curriculum posted on its website. Delaying the continuing education requirement to June 30, 2016 still preserves the importance of continued training to the registrant, industry, and the public, but provides the necessary time for development, administration, and implementation.

The Board and industry concur that the four-hour requirement should be changed from an annual requirement to a biennial requirement, and believes that four hours every two years is sufficient to ensure that guard employees are kept abreast of current trends in the guard industry and to refresh employees on important training concepts included in their initial eight-hour training curriculum.

Further, the Board and industry thoroughly support making the registration requirements for employees acting in a guard capacity permanent. While the Board completed what seemed a daunting task, the registration of approximately 9,000 guards, there is still work to be done to continue the Legislature's vision.

For these reasons, the Board strongly supports the passage of Senate Bill No. 2486.

Thank you for the opportunity to testify on Senate Bill No. 2486.



**TESTIMONY IN OPPOSITION TO SB-2486**

My name is Jeffrey Owens. I am a State of Hawaii Licensed Principle Guard (GD-794) and owner of Transcend Inc., a licensed Guard Agency (GDA-795) and security guard training provider. I am the developer of a Board approved Initial Security Guard Training program to meet the requirements of Act 208, and a Board approved instructor of the 8-hour Initial Security Guard Training. To date my company has trained over 2000 guard employees to meet Act 208 compliance requirements.

Act 208 has been effective in increasing the competency and professionalism of private security guards through required training; and filtering out persons who are unable to meet minimum requirements. The training mandate of Act 208 has been well received by guard employees even though it is they who bear the burden and cost of the training.

SB-2486 seeks to postpone until 2016 the four hours continuing education required for guards to renew their license; and to reduce the continuing education requirement from four hours annually to four hours biannually. We believe these changes are detrimental to the purpose of Act 208 and will set back progress made in legitimizing security guards.

Additionally, SB-2486 does not address an omission that became apparent after the enactment of Act 208 in that it placed no obligation or liability to the State on employers for hiring and using unregistered guards, allowing employers to assign unlicensed employees to act in a guard capacity without fear of accountability to the State. This needs to be corrected.

Act 208 impacts both guard agencies and non-agency employers such as commercial and residential properties, retail establishments, bars, and others. Many of these non-agency employers do not have personnel to comply with the requirement that the on-the-job training be provided by a qualified person. If the employer fails to provide the on-the-job training it is the employee registrant who suffers the consequence of being non-compliant; accordingly, the registrants and their employers need relief from the requirement.

SB-2486 seeks, in part, to provide relief to the Board and the "industry" from the requirement that guard employees comply with the mandate of four hours of continuing education prior to renewal.

*The Information You Need*



The “industry”, insofar as guard employers, receives no relief by postponing the continuing education requirement as the cost of compliance and investment of time is the responsibility of the registrants, and the registrants have not made any request for relief.

The current registrants, as part of their initial training were made aware of, and thus prepared, to meet the 4-hour annual continuing education requirement; which is beneficial to the guards themselves, their employers, and those to whom they provide service.

Since at least mid-2012 the DCCA authorized the hire of two clerical staff to assist in processing of guard employee applications and has still not filled those positions. The Board, by hiring the authorized staff, is able to provide for its own relief.

Because training is the foundation of Act 208’s success; it is essential that advancing competency through annual training be continued. Four hours on an annual basis is a minimal investment of time that will have a positive effect of keeping guard employees current with industry standards and refreshed in the areas of professionalism and aloha training. Four hours over two years is simply inadequate.

Additionally, changing the four hours continuing education from annual to biannual would allow a registrant to effectively go four years without relevant training. For example:

A person could renew their registration on June 30, 2014, and complete their continuing education requirement on July 1, 2014, allowing them to renew their registration June 30, 2016; then complete their next continuing education requirement on June 29, 2018 and renew again on June 30, 2018; effectively going four years without any competency, professionalism, or aloha training. Clearly this would not meet the legislature’s intent for guards to continually advance their knowledge and competency to the benefit of all.

For these reasons we oppose SB-2486 as written and seek introduction of legislation, as per the proposed Bill for an Act that accompanies this testimony, that seeks to ensure that employers are obligated to hire only registered guard personnel, that employees and employers are provided relief from on-the-job training, that standards of training and competency are maintained; and to make permanent the registration and licensure requirements of Act 208 by repealing the sunset date.

Mahalo

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A BILL FOR AN ACT

Relating to Private Guards

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

1           SECTION 1. The purpose of Act 208, Session Laws of  
2 Hawaii, 2010, was to ensure the competency and professionalism  
3 of private security guards and persons acting in a guard  
4 capacity by requiring them to meet new registration,  
5 instruction and training requirements and register as a guard  
6 employee with the board of private detectives and guards  
7 ("board") prior to acting as a guard.

8           Act 208 places the full burden and cost of compliance on  
9 the individual guard employee. While some do, employers are  
10 not obligated to provide the mandated training or pay for the  
11 cost of their employee's compliance. Guard employees commonly  
12 attend training and pay the cost of compliance on their own;  
13 relieving the employer, whether regulated security guard  
14 agencies or non-regulated proprietary guard employers, from  
15 the cost and burden of compliance.

16           Act 208 placed no obligation or liability to the State on  
17 employers for hiring and using unregistered guards and persons  
18 who act in a guard capacity.

1           In addition to regulated employers, Act 208 impacts non-  
2 regulated employers of security guards such as retail  
3 establishments, property managers, bars, restaurants, parking  
4 attendants and others. These non-regulated employers may not  
5 have personnel qualified to comply with the requirement that  
6 the four hours on-the-job training be provided by a person who  
7 has already met the requirements of the section. If the  
8 employer fails to provide the on-the-job training it is the  
9 employee registrant who suffers the consequence of being non-  
10 compliant; accordingly the registrants and their employers  
11 need relief from this requirement.

12           Higher levels of guard employee competency through  
13 training, and disqualifying persons from the industry who are  
14 unable to meet the minimum training requirements has a  
15 resulting benefit to the guard employees, their employers and  
16 the general public.

17           Because of this it is important that all guards and those  
18 who act in a guard capacity continue to advance their  
19 knowledge and capabilities through annual continuing  
20 education.

21           A requirement of four-hour continuing education on an  
22 annual basis is a minimal investment of time that will have a  
23 positive effect of keeping guard employees current with

1 industry standards and refreshed in the areas of  
2 professionalism and aloha training. Annual training will  
3 promote guard competency in both regulated and non-regulated  
4 employment to the benefit of the guard employees, guard  
5 employers, and the public.

6 The purpose of this Act is to accomplish the following:

- 7 1. Include a requirement that employers of guards  
8 and those who act in a guard capacity hire only  
9 those persons who have registered with the board.
- 10 2. Eliminate the requirement of four hours on-the-  
11 job training.
- 12 3. Ensure the requirement of four hours continuing  
13 education on an annual basis.
- 14 4. Making permanent the registration and licensure  
15 requirements for private guards and individuals  
16 acting in a guard capacity by repealing the sunset  
17 date of Act 208, Session Laws of Hawaii 2010.

18 SECTION 2. Section 463-10.5, Hawaii Revised Statutes,  
19 is amended as follows:

20 1. By amending subsection (a) to read:

21 "(a) No guard agency, private business entity,  
22 association, or government agency shall employ any person as a  
23 guard or to act in a guard capacity who has not completed the



1 requirements of this section and has been registered by the  
2 board.

3 ~~—(a)~~ Effective July 1, 2013, all guards, and all agents,  
4 operatives, and assistants employed by a guard agency, private  
5 business entity, or government agency who act in a guard  
6 capacity shall apply to register with the board, and meet the  
7 following registration, instruction, and training requirements  
8 prior to acting as a guard:

- 9 (1) Be not less than eighteen years of age;
- 10 (2) Posses a high school education or its equivalent;
- 11 (3) Not be presently suffering from any psychiatric or  
12 psychological disorder which is directly relate and  
13 detrimental to a person's performance in the profession; and
- 14 (4) Not have been convicted in any jurisdiction of a crime  
15 which reflects unfavorably on the fitness of the individual to  
16 act as a guard, unless the conviction has been annulled or  
17 expunged by court order; provided that the individual shall  
18 submit to a national criminal history record check as  
19 authorized by federal law, including but not limited to the  
20 Private Security Officer Employment Authorization Act of 2004,  
21 and specified in the rules of the board. The board shall  
22 determine whether an individual qualifies for registration  
23 pursuant to this subsection."

1           2. By amending subsection (c) to read:

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

11           (1) Eight hours of classroom instruction before the  
12 first day of service; and

13           (2) Four hours of classroom instruction annually  
14 thereafter [~~-~~]; provided that in addition to relevant guard  
15 industry material, the required classroom instruction shall  
16 include a refresher component on professionalism and aloha  
17 training."

18           3. By amending subsection (g) to read:

19           "(g) Prior to the June 30, 2014 renewal of the guard  
20 registration and every registration renewal hereafter, the  
21 applicant shall pay all required fees, and have had at least  
22 four hours annually of continuing education as specified in  
23 the rules of the board.

1 The board may conduct a random audit, pursuant to rules  
2 adopted pursuant to chapter 91, of registrants applying for  
3 renewal of a registration to determine whether the continuing  
4 education requirements of this subsection have been met.  
5 The failure, neglect, or refusal of any registered guard to  
6 pay the renewal fee or meet the continuing education  
7 requirements shall constitute a forfeiture of the guard's  
8 registration. A forfeited registration may be restored upon  
9 written application within one year from the date of  
10 forfeiture, payment of the required renewal fee plus penalty  
11 fees, and meeting the continuing education requirements in  
12 effect at the time of restoration."

13 SECTION 3. Act 208, Session Laws of Hawaii, 2010, is  
14 amended by amending section 8 to read as follows:

15 "SECTION 8. This Act shall take effect upon its  
16 approval [~~; provided that this Act shall be repealed on July~~  
17 ~~1, 2016, and provided further that sections 463-1, 463-8, 463-~~  
18 ~~9, and 463-13, Hawaii Revised Statutes, shall be reenacted in~~  
19 ~~the form in which they existed on the day before the effective~~  
20 ~~date of this Act]."~~

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

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Senators, committee members

I am here in strong opposition to SB2486

I have worked in the security industry for over 25 years and held many senior positions over those years and in those years I have met some wonderful people and some not so wonderful. Security has always been a way for our younger folks to enter into the work force to start their careers. Most security officers don't get paid a lot of money and don't have a lot of disposable income and don't have the time to sit here in front of this committee and testify. But a lot are afraid of what's going to happen with this job killer bill, and yes some may not have a high school diploma, but does that matter? As long as they can read and write and can comprehend, they should be entitled to a job of their choice so that they can become proper tax paying citizens.

Now let's look at this Job killer bill since it began a year ago it was designed to ensure competency and professionalism, that has not happen. Training or education as you call it, the class I attend I knew everything that they wanted to teach us that comes with on the job training. Aloha training is an everyday act of kindness that all of us have learned while living in this Aina. Have you been to a mall lately and seen what this has done to moral of the officers? It's the same as before this act was introduced, how much is this training worth to the registrant. This training is taught when you have orientation to a new security company. Do they need relief? We need relief from this act! Yes we do! The registration fee is \$175.00 paid before a new security officer can be hired and put into the field. Really? Using the 9000 applicants in this bill that translate into over 1.5 million dollars into the general fund and that's money the registrant did not spend on food, cloths for their kids, gas for the cars and other disposable income. That would have otherwise created more GET taxes.

One more thing I don't like the title, I am not a Guard, I am a Security Officer and this bill should reflect that. Also this bill does not include loss prevention officer like Ross stores and Macy's and many other company's is that not discrimination within this industry. That is just the tip of the iceberg as they say, of things that is wrong with this act and I strongly suggest that you stop this now in its tracks and let this bill die in this committee and let Act 208 die on June 30 2016.

Thank you for your time and Malaho

**SB2486**

Submitted on: 2/8/2014

Testimony for CPN on Feb 12, 2014 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

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