
A BILL FOR AN ACT

RELATING TO GUARDS.

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

1 SECTION 1. The legislature finds that there is an
2 increased need for watchpersons at construction sites and new
3 developments. These positions, due to their relative low pay,
4 boredom, and uneven scheduling, have high employee turnover
5 rates.

6 The legislature further finds that the department of
7 commerce and consumer affairs licenses watchpersons under the
8 umbrella of security guards. The stringent security guard
9 licensing process is disproportional for these particular jobs
10 and has caused loss of jobs for prospective employees and loss
11 of workers for prospective employers because of incongruence
12 between the temporary nature of job placements and the lengthy
13 licensing process.

14 The purpose of this Act is to create a subcategory of
15 security guards called "watchpersons" whose limited duties shall
16 be to watch or patrol a specified piece of real property and to
17 sound an alarm or notify the proper authorities upon seeing a



1 crime being committed and who shall be allowed a temporary
2 window of employment before being required to meet the licensing
3 requirements of a security guard.

4 SECTION 2. Section 463-1, Hawaii Revised Statutes, is
5 amended by adding the definition of "watchperson" to be
6 appropriately inserted and to read as follows:

7 "Watchperson" means an unregistered and unarmed uniformed
8 or nonuniformed person responsible for the safekeeping of a
9 client's real property within contractually prescribed
10 boundaries and for observation and reporting relative to such
11 safekeeping."

12 SECTION 3. Section 463-7, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) ~~[No]~~ Except as provided in section 463-10.5(h), no
15 individual shall engage in the business of guard for the purpose
16 of protecting persons or property or to prevent theft or
17 unlawful taking of goods, wares, merchandise, money, bonds,
18 documents, or other articles of value for hire or reward or
19 represent oneself to be, or hold oneself out as such without
20 first obtaining a license or registration as guard from the
21 board and paying the ~~[application and license]~~ required fees."



SECTION 4. Section 463-10.5, Hawaii Revised Statutes, is amended to read as follows:

"§463-10.5 Guards; registration, instruction, training, testing, and continuing education required; renewal of registration. (a) ~~[All guards, and]~~ Except as provided in subsection (h), individuals who act in a guard capacity, including 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; provided that the applicant may satisfy the requirements of this paragraph by attesting that the applicant possesses a high school education or its equivalent;
- (3) Not be presently suffering from any psychiatric or psychological disorder which is directly related and detrimental to a person's performance in the profession; and



1 (4) Not have been convicted in any jurisdiction of a crime
2 which reflects unfavorably on the fitness of the
3 individual to act as a guard, unless the conviction
4 has been annulled or expunged by court order; provided
5 that the individual shall submit to a national
6 criminal history record check as authorized by federal
7 law, including but not limited to the Private Security
8 Officer Employment Authorization Act of 2004, and
9 specified in the rules of the board, and a criminal
10 history record check from the Hawaii criminal justice
11 data center under chapter 846.

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

14 (b) All classroom instruction required under this section
15 shall be provided by an instructor who is approved by the board
16 and who may be an employee, manager, or owner of a guard agency
17 in this State if the course of study meets board-approved
18 curricula. Course curricula shall meet the specific standards
19 of this section and all other applicable requirements of this
20 chapter, and shall be established by the board.



(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 service; and

(2) Four hours of classroom instruction during the triennial registration renewal period; provided that in addition to relevant guard industry material, the required classroom instruction shall include a refresher component on professional image and aloha training as approved by the board.

For purposes of this section, "classroom instruction" may include two-way teleconferencing and other interactive educational formats approved by the board.

(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) Before beginning employment as a guard or in a guard capacity, in addition to the classroom instruction required by this section, guards and individuals acting in a guard capacity who carry a firearm or other weapon, including but not limited to an electric gun as defined in section 134-1, while on-duty in a guard capacity shall possess a valid permit to acquire the ownership of a firearm issued by county police pursuant to



1 section 134-2 and shall satisfy the requirements of section 134-
2 2(g).

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

7 (g) Effective June 30, 2018, registrations issued under
8 this section shall be valid for the three-year triennial period,
9 and may be renewed upon payment of the triennial renewal fee and
10 compliance resolution fund fee to the board on or before June 30
11 of each triennial renewal term. Prior to the June 30, 2021,
12 triennial renewal of the guard registration and every
13 registration renewal thereafter, the applicant shall pay all
14 required fees, and have had at least four hours of continuing
15 education as specified in this section and in the rules of the
16 board. A guard who has registered with the board within one
17 year prior to the applicable renewal date shall not be required
18 to take the four hours of classroom instruction to renew the
19 guard registration.

20 The board may conduct a random audit, pursuant to rules
21 adopted pursuant to chapter 91, of registrants applying for



1 renewal of a registration to determine whether the continuing
2 education requirements of this subsection have been met.

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

11 (h) An individual who is not registered as a guard may be
12 hired to be and act as a watchperson; provided that:

13 (1) The individual's employer shall submit to the board:

14 (A) The individual's name;

15 (B) The individual's date of hire, which shall be
16 deemed the individual's activation date with the
17 board; and

18 (C) Any other information the board deems necessary;

19 (2) The individual satisfies the requirements of
20 subsections (a), (c), and (e) within sixty days from



1 the individual's activation date, notwithstanding any
2 subsequent change in employment status; and

3 (3) The hiring is not more than sixty days after the
4 individual's activation date with the board.

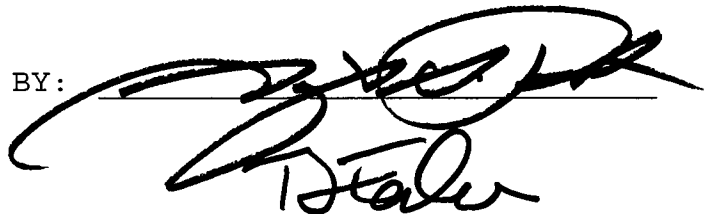
5 Activation dates shall be associated with an individual
6 independent of any employment relationship. An individual shall
7 not have more than one activation date.

8 Upon a determination by the board that the individual has
9 satisfied the requirements of subsections (a), (c), and (e), the
10 individual's classification shall be changed from watchperson to
11 guard."

12 SECTION 5. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 6. This Act shall take effect upon its approval.

15
INTRODUCED BY:



JAN 24 2018



Report Title:

Guards; Watchperson

Description:

Creates a narrowly defined subcategory of guards, called watchpersons, who are allowed to be unregistered for sixty days but must meet all the requirements of a guard to continue working in a guard capacity after the sixty day period.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

