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SENATE BILL 6437

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State of Washington

60th Legislature

2008 Regular Session

By Senators Carrell, Hargrove, and Kline; by request of Department of Licensing

Read first time 01/16/08. Referred to Committee on Judiciary.

1 AN ACT Relating to bail bond agents and bail bond recovery agents;  
2 and amending RCW 18.185.030, 18.185.060, 18.185.090, 18.185.110,  
3 18.185.250, 18.185.260, 18.185.280, and 18.185.300.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 18.185.030 and 1993 c 260 s 4 are each amended to read  
6 as follows:

7 (1) In addition to meeting the minimum requirements to obtain a  
8 license as a bail bond agent, a qualified agent must meet the following  
9 additional requirements to obtain a bail bond agency license:

10 (a) Pass an examination determined by the director to measure the  
11 person's knowledge and competence in the bail bond agency business; or

12 (b) Have had at least three years' experience as a manager,  
13 supervisor, or administrator in the bail bond business or a related  
14 field in Washington state as determined by the director. A year's  
15 experience means not less than two thousand hours of actual compensated  
16 work performed before the filing of an application. An applicant shall  
17 substantiate the experience by written certifications from previous  
18 employers. If the applicant is unable to supply written certifications

1 from previous employers, applicants may offer written certifications  
2 from persons other than employers who, based on personal knowledge, can  
3 substantiate the employment; and

4 (c) Pay any additional fees as established by the director.

5 (2) An agency license issued under this section may not be assigned  
6 or transferred without prior written approval of the director.

7 **Sec. 2.** RCW 18.185.060 and 1993 c 260 s 7 are each amended to read  
8 as follows:

9 (1) The director shall adopt rules establishing prelicense training  
10 and testing requirements for bail bond agents, which shall include ((a  
11 ~~minimum of~~)) no less than four hours of classes. The director may  
12 establish, by rule, continuing education requirements for bail bond  
13 agents.

14 (2) The director ((shall)) or the director's designee, with the  
15 advice of law enforcement agencies and associations, the criminal  
16 justice training commission, prosecutors' associations, or such other  
17 entities as may be appropriate, may consult with representatives of the  
18 bail bond industry and associations before adopting or amending the  
19 prelicensing training or continuing education requirements of this  
20 section.

21 (3) The director may appoint an advisory committee consisting of  
22 representatives from the bail bond industry and a consumer to assist in  
23 the development of rules to implement and administer this chapter.

24 ((~~(4) A bail bond agent need not fulfill the prelicensing training~~  
25 ~~requirements of this chapter if he or she, within sixty days prior to~~  
26 ~~July 1, 1994, provides proof to the director that he or she previously~~  
27 ~~has met the training requirements of this chapter or has been employed~~  
28 ~~as a bail bond agent for at least eighteen consecutive months~~  
29 ~~immediately prior to the date of application.))~~

30 **Sec. 3.** RCW 18.185.090 and 2004 c 186 s 7 are each amended to read  
31 as follows:

32 (1) A bail bond agency shall notify the director within thirty days  
33 after the death or termination of employment of any employee who is a  
34 licensed bail bond agent.

35 (2) A bail bond agency shall notify the director within seventy-two

1 hours upon receipt of information affecting a licensed bail bond  
2 agent's continuing eligibility to hold a license under the provisions  
3 of this chapter.

4 (3) A bail bond agent or bail bond recovery agent shall notify the  
5 director within seventy-two hours upon receipt of information affecting  
6 the bail bond recovery agent's continuing eligibility to hold a bail  
7 bond recovery agent's license under the provisions of this chapter.

8 (4) A bail bond agent or bail bond recovery agent shall notify the  
9 director within ten business days following a forced entry for the  
10 purpose of apprehending a fugitive criminal defendant, whether planned  
11 or unplanned. The notification under this subsection must include  
12 information required by rule of the director.

13 (5) A bail bond agent or bail bond recovery agent shall notify the  
14 local law enforcement agency whenever the bail bond recovery agent  
15 discharges his or her firearm while on duty, other than on a supervised  
16 firearms range. The notification must be made within ten business days  
17 of the date the firearm is discharged.

18 **Sec. 4.** RCW 18.185.110 and 2007 c 256 s 2 are each amended to read  
19 as follows:

20 In addition to the unprofessional conduct described in RCW  
21 18.235.130, the following conduct, acts, or conditions constitute  
22 unprofessional conduct:

23 (1) Violating any of the provisions of this chapter or the rules  
24 adopted under this chapter;

25 (2) Failing to meet the qualifications set forth in RCW 18.185.020,  
26 18.185.030, and 18.185.250;

27 (3) Knowingly committing, or being a party to, any material fraud,  
28 misrepresentation, concealment, conspiracy, collusion, trick, scheme,  
29 or device whereby any other person lawfully relies upon the word,  
30 representation, or conduct of the licensee. However, this subsection

31 (3) does not prevent a bail bond recovery agent from using any pretext  
32 to locate or apprehend a fugitive criminal defendant or gain any  
33 information regarding the fugitive;

34 (4) Assigning or transferring any license issued pursuant to the  
35 provisions of this chapter, except as provided in RCW 18.185.030 or  
36 18.185.250;

1 (5) Conversion of any money or contract, deed, note, mortgage, or  
2 other evidence of title, to his or her own use or to the use of his or  
3 her principal or of any other person, when delivered to him or her in  
4 trust or on condition, in violation of the trust or before the  
5 happening of the condition; and failure to return any money or  
6 contract, deed, note, mortgage, or other evidence of title within  
7 thirty days after the owner is entitled to possession, and makes demand  
8 for possession, shall be prima facie evidence of conversion;

9 (6) Failing to keep records, maintain a trust account, or return  
10 collateral or security, as required by RCW 18.185.100;

11 (7) Any conduct in a bail bond transaction which demonstrates bad  
12 faith, dishonesty, or untrustworthiness;

13 (8) Violation of an order to cease and desist that is issued by the  
14 director under chapter 18.235 RCW;

15 (9) Wearing, displaying, holding, or using badges not approved by  
16 the department;

17 (10) Making any statement that would reasonably cause another  
18 person to believe that the bail bond recovery agent is a sworn peace  
19 officer;

20 (11) Failing to carry a copy of the contract or to present a copy  
21 of the contract as required under RCW 18.185.270(1);

22 (12) Using the services of an unlicensed bail bond recovery agent  
23 or using the services of a bail bond recovery agent without issuing the  
24 proper contract;

25 (13) Misrepresenting or knowingly making a material misstatement or  
26 omission in the application for a license;

27 (14) Using the services of a person performing the functions of a  
28 bail bond recovery agent who has not been licensed by the department as  
29 required by this chapter; ~~((or))~~

30 (15) Performing the functions of a bail bond recovery agent without  
31 being both (a) licensed under this chapter or supervised by a licensed  
32 bail bond recovery agent under RCW 18.185.290; and (b) under contract  
33 with a bail bond agent;

34 (16) Performing the functions of a bail bond recovery agent without  
35 exercising due care to protect the safety of persons other than the  
36 defendant and the property of persons other than the defendant; or

37 (17) Using a dog in the apprehension of a fugitive criminal  
38 defendant.

1       **Sec. 5.** RCW 18.185.250 and 2004 c 186 s 3 are each amended to read  
2 as follows:

3       An applicant must meet the following requirements to obtain a bail  
4 bond recovery agent license:

5       (1) Submit a fully completed application that includes proper  
6 identification on a form prescribed by the director;

7       (2) Pass an examination determined by the director to measure his  
8 or her knowledge and competence in the bail recovery business;

9       (3) Be at least twenty-one years old;

10       (4) Be a citizen or legal resident alien of the United States;

11       (5) Not have been convicted of a crime in any jurisdiction, if the  
12 director determines that the applicant's particular crime directly  
13 relates to a capacity to perform the duties of a bail bond recovery  
14 agent, and that the license should be withheld to protect the citizens  
15 of Washington state. The director shall make the director's  
16 determination to withhold a license because of previous convictions  
17 notwithstanding the restoration of employment rights act, chapter 9.96A  
18 RCW;

19       (6) Not have had certification as a peace officer revoked or denied  
20 under chapter 43.101 RCW, unless certification has subsequently been  
21 reinstated under RCW 43.101.115;

22       (7) Submit a receipt showing payment for a background check through  
23 the Washington state patrol and the federal bureau of investigation;

24       ~~((7))~~ (8) Have a current firearms certificate issued by the  
25 commission if carrying a firearm in the performance of his or her  
26 duties as a bail bond recovery agent;

27       ~~((8))~~ (9)(a) Have a current license or equivalent permit to carry  
28 a concealed pistol ~~((if carrying a firearm in the performance of his or~~  
29 ~~her duties as a bail bond recovery agent))~~);

30       (b) A resident alien must provide a copy of his or her alien  
31 firearm license ~~((if carrying a firearm in the performance of his or~~  
32 ~~her duties as a bail bond recovery agent))~~); and

33       ~~((9))~~ (10)(a) Pay the required nonrefundable fee for each  
34 application for a bail bond recovery agent license;

35       (b) A bail bond agent or qualified agent who wishes to perform the  
36 duties of a bail bond recovery agent must first obtain a bail bond  
37 recovery agent endorsement to his or her bail bond agent or agency

1 license in order to act as a bail bond recovery agent, and pay the  
2 required nonrefundable fee for each application for a bail bond  
3 recovery agent endorsement.

4 **Sec. 6.** RCW 18.185.260 and 2004 c 186 s 5 are each amended to read  
5 as follows:

6 (1) The director shall adopt rules establishing prelicense training  
7 and testing requirements for bail bond recovery agents, which shall  
8 include ~~((a minimum of four))~~ no less than thirty-two hours of field  
9 operations classes. The director may establish, by rule, continuing  
10 education and recertification requirements for bail bond recovery  
11 agents.

12 (2) The director ~~((shall))~~ or the director's designee, with the  
13 advice of law enforcement agencies and associations, the criminal  
14 justice training commission, prosecutors' associations, or such other  
15 entities as may be appropriate, may consult with representatives of the  
16 bail bond industry and associations before adopting or amending the  
17 prelicensing training ~~((or continuing education requirements of this~~  
18 ~~section.~~

19 ~~(3) A bail bond recovery agent need not fulfill the prelicensing~~  
20 ~~training requirements of this chapter if he or she, within sixty days~~  
21 ~~prior to July 1, 2005, provides proof to the director that he or she~~  
22 ~~previously has met the training requirements of this chapter.~~

23 ~~(4) The director, or the director's designee, with the advice of~~  
24 ~~representatives of the bail bond industry and associations, law~~  
25 ~~enforcement agencies and associations, and prosecutors' associations,~~  
26 ~~shall adopt rules establishing prelicense training and), testing, and~~  
27 continuing education and recertification requirements of this section  
28 and shall establish minimum exam standards necessary for a bail bond  
29 recovery agent to qualify for licensure or endorsement.

30 ~~((+5))~~ (3) The standards ~~((shall be))~~ must include, but are not  
31 limited to, the following:

32 (a) A minimum level of education or experience appropriate for  
33 performing the duties of a bail bond recovery agent;

34 (b) A minimum level of knowledge in relevant areas of criminal and  
35 civil law;

36 (c) A minimum level of knowledge regarding the appropriate use of  
37 force and different degrees of the use of force; and

1 (d) Adequate training of the use of firearms from the criminal  
2 justice training commission ((~~or~~)), from an instructor who has been  
3 trained or certified by the criminal justice training ((~~center~~))  
4 commission, or from another entity approved by the director.

5 ((~~6~~)) (4) The legislature does not intend, and nothing in this  
6 chapter shall be construed to restrict or limit in any way the powers  
7 of bail bond agents as recognized in and derived from the United States  
8 supreme court case of *Taylor v. Taintor*, 16 Wall. 366 (1872).

9 **Sec. 7.** RCW 18.185.280 and 2004 c 186 s 10 are each amended to  
10 read as follows:

11 (1) A person may not perform the functions of a bail bond recovery  
12 agent unless the person is licensed by the department under this  
13 chapter.

14 (2) A bail bond agent may contract with a person to perform the  
15 functions of a bail bond recovery agent. Before contracting with the  
16 bail bond recovery agent, the bail bond agent must check the license  
17 issued by the department under this chapter. The requirements  
18 established by the department under this chapter do not prevent the  
19 bail bond agent from imposing additional requirements that the bail  
20 bond agent considers appropriate.

21 (3) A contract entered into under this chapter is authority for the  
22 person to perform the functions of a bail bond recovery agent as  
23 specifically authorized by the contract and in accordance with  
24 applicable law. A contract entered into by a bail bond agent with a  
25 bail bond recovery agent is not transferable by the bail bond recovery  
26 agent to another bail bond recovery agent.

27 (4) Whenever a person licensed by the department as a bail bond  
28 recovery agent is engaged in the performance of the person's duties as  
29 a bail bond recovery agent, the person must carry a copy of the  
30 license.

31 (5) A license or endorsement issued by the department under this  
32 chapter is valid from the date the license or endorsement is issued  
33 until its expiration date unless it is suspended or revoked by the  
34 department prior to its expiration date.

35 (6) ~~((No person may perform the functions of a bail bond recovery  
36 agent after December 31, 2005, unless the person has first complied  
37 with the provisions of this chapter.~~

1       ~~(7)~~) Nothing in this chapter is meant to prevent a bail bond agent  
2 from contacting a fugitive criminal defendant for the purpose of  
3 requesting the surrender of the fugitive, or from accepting the  
4 voluntary surrender of the fugitive.

5       **Sec. 8.** RCW 18.185.300 and 2004 c 186 s 12 are each amended to  
6 read as follows:

7       (1) Before a bail bond recovery agent may apprehend a person  
8 subject to a bail bond in a planned forced entry, the bail bond  
9 recovery agent must:

10       (a) Have reasonable cause to believe that the defendant is inside  
11 the dwelling, building, or other structure where the planned forced  
12 entry is expected to occur; and

13       (b) Notify an appropriate law enforcement agency in the local  
14 jurisdiction in which the apprehension is expected to occur.  
15 Notification must include, at a minimum: The name of the defendant;  
16 the address, or the approximate location if the address is  
17 undeterminable, of the dwelling, building, or other structure where the  
18 planned forced entry is expected to occur; the name of the bail bond  
19 recovery agent; the name of the contracting bail bond agent; and the  
20 alleged offense or conduct the defendant committed that resulted in the  
21 issuance of a bail bond.

22       (2) During the actual planned forced entry, a bail bond recovery  
23 agent:

24       (a) Shall wear a shirt, vest, or other garment with the words "BAIL  
25 BOND RECOVERY AGENT," "BAIL ENFORCEMENT," or "BAIL ENFORCEMENT  
26 AGENT" displayed in at least two-inch-high reflective print letters across the  
27 front and back of the garment and in a contrasting color to that of the  
28 garment; and

29       (b) May display a badge approved by the department with the words  
30 "BAIL BOND RECOVERY AGENT," "BAIL ENFORCEMENT," or "BAIL ENFORCEMENT  
31 AGENT" prominently displayed.

32       (3) Any law enforcement officer who assists in or is in attendance  
33 during a planned forced entry is immune from civil action for damages  
34 arising out of actions taken by the bail bond recovery agent or agents  
35 conducting the forced entry.

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