

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6437

60th Legislature
2008 Regular Session

Passed by the Senate February 15, 2008
YEAS 48 NAYS 0

President of the Senate

Passed by the House March 5, 2008
YEAS 96 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6437** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6437

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By Senate Judiciary (originally sponsored by Senators Carrell, Hargrove, and Kline; by request of Department of Licensing)

READ FIRST TIME 01/28/08.

1 AN ACT Relating to bail bond agents and bail bond recovery agents;
2 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; and creating a new
4 section.

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

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

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

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

13 (b) Have had at least three years' experience as a manager,
14 supervisor, or administrator in the bail bond business or a related
15 field in Washington state as determined by the director. A year's
16 experience means not less than two thousand hours of actual compensated
17 work performed before the filing of an application. An applicant shall
18 substantiate the experience by written certifications from previous
19 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, shall consult with representatives of
18 the 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 recovery agent shall notify the director within ten
9 business days following a forced entry for the purpose of apprehending
10 a fugitive criminal defendant, whether planned or unplanned. The
11 notification under this subsection must include information required by
12 rule of the director.

13 (5) A (~~bail bond agent or~~) bail bond recovery agent shall notify
14 the 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, shall consult with representatives of
16 the 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 ~~((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 AGENT"
26 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.

1 NEW SECTION. **Sec. 9.** The department of licensing is directed to
2 convene a work group to evaluate the availability of the requisite
3 surety bonds on the current market and the issue of requiring bail bond
4 agents and bail recovery agents to provide proof of financial
5 responsibility in order to obtain a license from the department.
6 Members shall include representatives of the following: The bail bond
7 industry and associations, local law enforcement, prosecuting
8 attorneys, and criminal defense attorneys. The work group shall
9 evaluate and make recommendations regarding whether, in order to be
10 licensed in this state, bail bond agents and bail recovery agents
11 should be required to provide proof of liability insurance, a surety
12 bond, or other similar types of financial responsibility protecting
13 persons who may suffer legal damages as a result of the operations of
14 bail bond agents and bail recovery agents. The department of licensing
15 shall report back to the legislature on its findings and
16 recommendations of the work group on or before January 1, 2009.

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