

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 515 Licensure of Unarmed Security Guards

SPONSOR(S): Commerce Committee, Willhite

TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	12 Y, 0 N	Thompson	Anstead
2) Criminal Justice Subcommittee	12 Y, 0 N	Deatherage	Hall
3) Commerce Committee	19 Y, 0 N, As CS	Thompson	Hamon

SUMMARY ANALYSIS

The Department of Agriculture and Consumer Services, Division of Licensing, is responsible for the licensure and regulation of private investigation, recovery, and security services, including unarmed security officers. To act as an unarmed security officer, a person must obtain a Class "D" private security license, which includes the completion of an in-person 40 hour training course at a Class "DS" licensed school or training facility.

HB 515 allows applicants for a Class "D" unarmed security officer license to take the required 40 hour training online, and will also allow Class "DS" school and training facility licensees to offer such training courses online.

The bill does not appear to have a significant fiscal impact on state or local government.

The bill has an effective date of July 1, 2019.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The mission of the Department of Agriculture and Consumer Services (DACCS) is to safeguard the public and support Florida's agricultural economy.¹ The Division of Licensing (Division) within DACCS is responsible for protecting the public from unethical business practices on the part of persons providing private investigation, recovery, and security services to the public through licensure and regulation of those industries under ch. 493, F.S.

Security Officers

Section 493.6101, F.S., defines the following:

- "Security officer" means any individual who, for consideration, advertises as providing or performs bodyguard services or otherwise guards persons or property; attempts to prevent theft or unlawful taking of goods, wares, and merchandise; or attempts to prevent the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes, or other documents, papers, and articles of value or procurement of the return thereof. The term also includes armored car personnel and those personnel engaged in the transportation of prisoners.²
- "Security agency" means any person who, for consideration, advertises as providing or is engaged in the business of furnishing security services, armored car services, or transporting prisoners.

Class "D" License

To become an unarmed security officer in Florida, a Class "D" private security license is required.³ "Unarmed" means that no firearm shall be carried while providing security officer services regulated by ch. 493, F.S.⁴ In order to carry a firearm in the course of performing such duties, the licensee must also obtain a Class "G" license in addition to the Class "D" license.⁵

To qualify for a Class "D" license, an applicant must:

- Be at least 18 years old;
- Be one of the following:
 - A United States citizen,
 - A permanent legal resident, or
 - A holder of a work visa from the United States Citizenship and Immigration Service;
- Have no disqualifying criminal history;
- Be of good moral character;
- Have no history of:
 - Mental illness,
 - Alcohol abuse, or
 - Substance abuse;
- Submit an application with certain identifying information;⁶ and
- Complete 40 hours of required training and submit proof thereof to DACCS.⁷

¹ Department of Agriculture and Consumer Services, *About*, <http://www.freshfromflorida.com/About/> (last visited Mar. 7, 2019).

² S. 493.6101(19), F.S.

³ S. 493.6301(5), F.S. Exceptions to the licensure requirement are listed in s. 493.6102, F.S.

⁴ S. 493.6101(9), F.S.

⁵ S. 493.6115(2), F.S.

⁶ S. 493.6105, F.S. and r. 5N-1.100(6), F.A.C.

Currently, the required training must take place in-person at a licensed school or training facility that has a physical location.⁸ Many states, including California and Georgia, do not prohibit online training for unarmed security officers.⁹

According to the National Conference of State Legislatures (NCSL),¹⁰ eleven states do not require a license for unarmed security guards.¹¹ Of the states that do require a license, 13 do not have any training requirements in order to qualify for a license.¹² Of the states that do require licensure, only nine states explicitly require that training be provided in a classroom setting.¹³

Class “DS” Schools and Training Facilities

Schools and training facilities that provide required training services for Class “D” license applicants must submit an application for a Class “DS” license with the following information:

- The name and address of the school or training facility,
- The street address of the place where training will be conducted, and
- A copy of the curriculum and final exam to be administered,¹⁴ in accordance with the requirements set forth by DACS.¹⁵

The general content and number of hours of each subject area to be taught in a school or training facility is established by DACS rule.¹⁶ Currently, such schools and training facilities may only provide in-person classes at a physical location.¹⁷

Effect of the Bill

HB 515 allows applicants for a Class “D” unarmed security officer license to take the required training online. Such training is valid only if DACS receives verification of the applicant’s identity, attendance, and successful completion. DACS is required to establish by rule, and in accordance with s. 493.6103, F.S., the following:

- verification reporting requirements;
- general content;
- number of hours of each subject area;
- method of delivery;
- security protocols; and
- any other rules necessary for the regulation of schools providing in-person or online training.

The bill also allows applicants for a Class “DS” school and training facility license to list a website address on their application in lieu of a physical or street address.

⁷ S. 493.6303(4)(a), F.S.

⁸ Ss. 493.6303(4)(a) and 493.6304, F.S.; and Department of Agriculture and Consumer Services, *Class "D" Security Officer License Requirements*, <https://www.freshfromflorida.com/Business-Services/Private-Security-Licenses/Class-D-Security-Officer-License-Requirements> (last visited Mar. 7, 2019).

⁹ Cal. Bus. & Prof. § 7583.6 (2017); Ga. Comp. R. & Regs. r. 509-3-.02; and O.C.G.A. § 43-38-7.1(a).

¹⁰ Email from Zach Hermann, MSW, Research Analyst II, Employment, Labor & Retirement Program, National Conference of State Legislatures, NCSL REPLY: classroom vs online education for unarmed security guard licensure, (Mar. 11, 2019).

¹¹ Colorado, Idaho, Kansas, Kentucky, Massachusetts, Mississippi, Missouri, Nebraska, Rhode Island, South Dakota, and Wyoming.

¹² Indiana, Iowa, Maine, Maryland, Michigan, Montana, Nevada, New Hampshire, Ohio, Pennsylvania, Texas, West Virginia, and Wisconsin.

¹³ Alabama, Georgia, Illinois, North Carolina, North Dakota, Oregon, Utah, Vermont, and Virginia.

¹⁴ S. 493.6304, F.S.

¹⁵ R. 5N-1.140, F.A.C.

¹⁶ S. 493.6303(4)(a), F.S.

¹⁷ Department of Agriculture and Consumer Services, *supra* note 8.

B. SECTION DIRECTORY:

Section 1: Amends s. 493.6303, F.S., relating to license requirements.

Section 2: Amends s. 493.6304, F.S., relating to security officer school or training facility.

Section 3: Provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to DACS Agency Analysis:

“DACS would develop administrative rules to implement an online training regulatory component and estimates one (1) forensic investigator position will be needed to administer the provisions of the bill as currently written given that there are 413 security officer schools licensed as of January 31, 2019, that could opt to offer online coursework.”¹⁸

“The estimated fiscal impact would be \$63,688 in year one and \$59,933 annually, thereafter, attributable to the cost of the (1) Investigation Specialist I. These costs would be incurred in the Division of Licensing Trust Fund.”¹⁹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Online training may make the profession more accessible based on increased ease in obtaining the required training. Schools and training facilities may also offer training at a lower cost due to reduced costs from running physical facilities.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

¹⁸ Department of Agriculture and Consumer Services, Agency Analysis of 2019 HB 515, p. 1 (Mar. 7, 2019).

¹⁹ *Id.*

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DACS to develop rules in accordance with s. 493.6103, F.S., to implement this bill. This is the general grant of rulemaking authority for ch. 493, F.S., relating to Private Investigative, Private Security, and Repossession Services. Specific authority to do so is found in ss. 493.6303(4)(a) and 493.6304(3), F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2019, the Commerce Committee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute clarifies the Department of Agriculture & Consumer Services' rulemaking authority, and makes conforming changes.

This analysis is drafted to the committee substitute as passed by the Commerce Committee.