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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 259
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

FILED
09/10/2020 8:14 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Establishes process for handling overpayments of private security fees for certification and licensure.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/21/2020 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S):

The Department collects fees for the private security provider certification and licensure program. It is not uncommon to receive a fee amount greater than the amount due (overpayment). Current DPSST policy requires returning any form of payment, unprocessed, if the amount received is greater than the amount due. The current policy causes delays in the certification or licensure process. This rule change establishes a new process that will allow DPSST to accept some overpayments. The rule includes provisions for an applicant to request refund of an overpaid amount. There were no changes made to any of the existing fees.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

The Private Security and Investigators Policy Committee and the Board on Public Safety Standards and Training meeting minutes are available on the Department of Public Safety Standards and Training website, www.oregon.gov/dpsst. The DPSST staff memos prepared for each entity are available by submitting a records request to DPSST.

FISCAL AND ECONOMIC IMPACT:

It is not uncommon to receive a fee amount greater than the amount due (overpayment). Currently, the Department rejects and returns unprocessed any payment that includes an overpayment. This causes delays in the certification or licensure process. Returning the payment unprocessed requires applicants who are paying by business check, cashier's check or money order to re-complete the payment process. Obtaining a new business check may impact the business's accounting processes. Obtaining a new cashier's check or money order may impact the applicant by requiring additional time and transportation costs to access the service, fees for the service, and postage or transportation costs for resubmitting the payment to the Department.

These rule changes support Department process changes relating to overpayments allowing for more efficient processing of applications for certifications and licenses. Overpayments will be handled in accordance with the rule. If the overpayment amount is \$10.01 or more, the payment will be rejected and returned unprocessed to the payee for re-submission of the correct amount. If the overpayment amount is \$10.00 or less, the payment will be accepted and processed. The payee may request a refund of the overpaid amount by submitting a written request.

The Department estimates that while the refund for a sum that is \$10.00 or less would require the applicant to submit a written request, the written request process would be less costly to the applicant than the time and costs associated with obtaining a new form of payment and resubmitting the payment to the Department.

The rule change for OAR 259-060-0500 (Private Security Fees) does not change any existing fee amounts. The rule change for OAR 259-060-0500 now includes the administrative fees for the training accreditation process, the range fee for the Private Security Firearms Instructor Course at DPSST, and the course fee for instructor applicants who choose to complete the DPSST Handgun Instructor Development Course. These administrative fees were in place prior to the rule change, but have not been listed in the rule before.

There are administrative business costs to DPSST to prepare and issue a refund. Each refund costs DPSST approximately \$40 to process. The true costs to DPSST for issuing the overpayment refunds won't be known until there has been time to measure how many requests are received.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

There are no other state agencies or units of local government identified as likely to be economically affected by the rules.

The majority of individual private security providers or employers, businesses or entities that employ or utilize private security providers may be considered small businesses.

There are no changes to the costs for compliance if the payee submits an overpayment greater than \$10.01. This overpayment will be rejected and the payee will be required to resubmit the correct amount.

For overpayments that are \$10.00 or less, the costs for compliance are expected to be equal to or less than past costs for compliance. The Department estimates that the process change to accept the overpayment will cost the applicant or payee less than the delayed issuance of the certification or license and the time, effort, and costs associated with re-submission of the correct payment amount.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Potentially affected entities were involved through their representation on the Private Security and Investigators Policy Committee and the Board on Public Safety Standards and Training. Small businesses, as well as state agencies, units of local government and the public are invited to submit written comments to the agency rules coordinator during the public comment period on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact on business.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 259-060-0500

RULE SUMMARY: The Department collects fees for the private security provider certification and licensure program. The forms of payment that are accepted are business checks, cashier's checks, money orders and credit cards. It is not uncommon to receive a fee amount greater than the amount due (overpayment). Currently, the Department rejects and returns unprocessed any payment that includes an overpayment. This causes delays in the certification or licensure process. This proposed rule change establishes a Department process change relating to overpayments to allow for more efficient processing of applications for certifications and licenses.

Overpayments will be handled in accordance with the rule. If the overpayment amount is \$10.01 or more, the payment will be rejected and returned unprocessed to the payee for re-submission of the correct amount. If the overpayment amount is \$10.00 or less, the payment will be accepted and processed. The payee may request a refund of the overpaid amount by submitting a written request.

In addition to establishing criteria for processing overpayments, the proposed rules include revisions for clarity and consistency. These rule revisions do not make any changes to existing fee amounts. The rule change for OAR 259-060-0500 now includes the administrative fees for the training accreditation process, the range fee for the Private Security Firearms Instructor Course at DPSST, and the course fee for instructor applicants who choose to complete the DPSST Handgun Instructor Development Course. These administrative fees were in place prior to the rule change, but have not been listed in the rule before.

CHANGES TO RULE:

259-060-0500

~~License Fee~~Fees and Payments ¶

(1) ~~Payments to t.~~ ¶

~~(a) The Department are non-refundable and non-transferable and must be paid by business check, money order, cashier's check or credit card. No personal checks or cash will be accepted.~~ ¶

~~(2) The Department will charge the following fees:~~ ¶

~~(a) The fee of \$65 for the issuance of each two-year certification as a pcepts business checks, money orders, cashier's checks, and credit cards approved by the Department. Credit card payments may require submission of additional verification information as designated by the Department. The Department does not accept personal checks or cash.~~ ¶

~~(b) Fees for certification or licensure are due at the time of application.~~ ¶

~~(c) Amounts due to the Department for fees or penalties are non-refundable and non-transferable.~~ ¶

~~(d) Applicants who choose to withdraw their application or fail to complete the application process forfeit their application fees.~~ ¶

~~(2) The application fees charged by the Department for each 2-year private security provider certification and~~

license are:

(a) Alarm Monitor Private Security Professional Certification - \$65;

(b) Armed Private Security Professional Certification - \$65;

(c) Event and Entertainment Private Security Professional Certification - \$65;

(d) Unarmed Private Security Professional Certification - \$65;

(e) Alarm Monitor Private fees must be submitted with each application for Security Instructor Certification - \$90;

(f) Unarmed Private Security Instructor Certification - \$90;

(g) Private Security Firearms Instructor Certification - \$90;

(h) Supervisory Manager License - \$75;

(i) Executive Manager License - \$250; and

(j) Fingerprint Criminal History Check Fee - The current fee for processing a fingerprint criminal history check may be obtained from the Department. These fees are to recover the costs of administering the fingerprint check through the Oregon State Police and the Federal Bureau of Investigation. This fee is separate from and does not apply to any fees charged by a fingerprinting services vendor. An additional fee will be charged for the third submittal of fingerprint cards when rejected for filing by FBI. Current fee schedules for processing fingerprints may be obtained from the Department.

(c) The fee of \$75 for the issuance of a two-year license as a supervisory manager.

(d) The FBI.

(3) Other administrative fees charged by the Department include:

(a) Late Renewal Fee - \$25. A late fee is required when the Department receives an application for renewal after the expiration date;

(b) Non-sufficient Funds (NSF) Penalty Fee - \$25;

(c) Duplicate or Replacement Certification or License Fee - \$20;

(d) Armed Upgrade Fee of \$250 for the issuance of a two-year license as an executive manager.

(e) The fee of \$90 for the issuance of a two-year certification as a PO. An armed upgrade adds the armed private security professional certification to the applicant's existing two year certification period for the unarmed private security professional certification;

(e) DPSST Range Fee (Private Security instructor).

(f) The fee of \$20 for the issuance of each upgrade, duplicate or replacement card issued (Firearms Instructor Course). The current range fee may be obtained from the Department;

(f) DPSST Handgun Instructor Development Course Fee - The current course fee may be obtained from the Department; and

(g) Training Accreditation Fees. The accreditation process includes an application fee and an evaluation fee. The current accreditation process fees may be obtained from the Department.

(g4) The late submission penalty If the Department receives payment of any fees of \$25 will be added to the fees for recertification if the provider fails to complete certification by check and the check is returned to the Department as a non-sufficient funds (NSF) check, the payer of the fees or penalty will be assessed an NSF penalty fee in addition to the expiration date of the license or certification required payment of the fees or penalty.

(5) Overpayment of Amounts Due.

(a) The Department will reject payments that include an overpayment of the amount due that is \$10.01 or more.

(b) In the event a non-sufficient check is received for The Department may accept payments that include an overpayment of the amount due when the overpaid amount is \$10.00 or less.

(c) Overpayment; an additional \$25 administrative fee will be assessed amounts that are \$10.00 or less will only be refunded upon receipt of a written request from the person who made the overpayment, or the person's legal representative. The written request must be received by the Department within three years of the overpayment.

Statutory/Other Authority: ORS 181A.8780, ORS 293.445

Statutes/Other Implemented: ORS 181A.8780, ORS 293.445