

OFFICE OF THE SECRETARY OF STATE

SHEMIA FAGAN  
SECRETARY OF STATE

CHERYL MYERS  
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION

STEPHANIE CLARK  
DIRECTOR

800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

## PERMANENT ADMINISTRATIVE ORDER

### DPSST 7-2022

CHAPTER 259

DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

**FILED**

05/11/2022 8:58 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Adopting Rules for Senate Bill 116: Private Security Equipment, Vehicles, Uniforms and Titles.

EFFECTIVE DATE: 06/01/2022

AGENCY APPROVED DATE: 04/28/2022

CONTACT: Jennifer Howald

503-551-3258

jennifer.howald@dpsst.oregon.gov

DPSST

4190 Aumsville HWY SE

Salem, OR 97317

Filed By:

Jennifer Howald

Rules Coordinator

#### RULES:

259-060-0012, 259-060-0450

ADOPT: 259-060-0012

NOTICE FILED DATE: 12/16/2021

RULE SUMMARY: Senate Bill 116 makes it unlawful for a private security provider or an entity that employs private security providers to possess or use in the scope of employment equipment, vehicles, uniforms or titles that imply that the provider or entity is affiliated with a public or private safety agency as defined in ORS 181A.355.

The law was intended to address situations where the appearance of private security uniforms and vehicles make it difficult to differentiate between members of law enforcement and providers of private security services.

OAR 259-060-0012 is adopted to communicate legislative intent and DPSST interpretation and application of the law.

Section (1) provides the statutory language for unlawful use or possession of equipment, vehicles, uniforms or titles that imply that the provider or entity is affiliated with a public or private safety agency and provides interpretation of the statute through the listed prohibited acts.

The interpretation of what is considered an unlawful act is listed in (1) (a) through (f). It is important to note that this is not an all-inclusive or limited list. There is still broad authority under the language of the law if there is an egregious act that needs to be addressed and it does not fall under (a) through (f).

Section (2) identifies the separate regulation of special campus security providers commissioned under ORS 352.118 or private security providers on campuses of institutions of higher education regulated under ORS 181A.972.

Section (3) helps mitigate the fiscal impact for providers or businesses that need to make changes so that they are not in violation of a prohibited act. Recognizing it will take time to arrange services or supplies needed, the rule establishes a phase-in period before DPSST engages in regulatory enforcement such as civil penalty or denial, suspension, or

revocation. This provision only applies to providers or businesses operating before June 1, 2022, which is the effective date of the rule.

Sections (4), (5), and (6) provide language used regularly in the private security rules to link violations to DPSST enforcement authority and actions.

CHANGES TO RULE:

#### 259-060-0012

##### Private Security Equipment, Vehicles, Uniforms and Titles

(1) It is unlawful for a private security provider or an entity that employs private security providers to possess or use in the scope of employment equipment, vehicles, uniforms or titles that imply that the provider or entity is affiliated with a public or private safety agency as defined in ORS 181A.355. This includes, but may not be limited to, the following prohibited acts:¶

(a) Titles used to identify a private security provider may not be a title commonly used by public or private safety agencies to identify a law enforcement officer, including, but not limited to, "officer," "police officer," "peace officer," "law enforcement officer," "agent," "deputy," "trooper," or "detective." This does not apply to the use of "security officer" or the use of rank structure titles such as "sergeant," "lieutenant," or "chief."¶

(b) Vehicles, uniforms, and the badges, patches, name tags, or other identifying labels permanently or temporarily affixed to a uniform or used for identification may not display a prohibited title as defined in subsection (a) above.¶

(c) Uniforms may not resemble a law enforcement uniform in style or color unless the uniform prominently displays the word "security." "Security" may be used in combination with other private security terms such as, but not limited to, "private security," "security officer," or "security guard."¶

(d) Vehicles may not resemble a law enforcement vehicle in style or color unless the vehicle prominently displays the word "security" on the front, rear, and sides of the vehicle. "Security" may be used in combination with other private security terms such as, but not limited to, "private security," "security officer," or "security guard."¶

(e) Vehicles may not be equipped with red and blue light bars.¶

(f) Vehicles may not be equipped with bumpers capable of ramming another vehicle to cause a stall or cages unless there is a demonstrated business need and the private security entity has a written policy or procedure addressing the use of the equipment.¶

(2) This rule does not apply to special campus security providers commissioned under ORS 352.118 or private security providers on campuses of institutions of higher education regulated under ORS 181A.972.¶

(3) Private security providers and entities that employ private security providers operating prior to June 1, 2022, must be in compliance with section (1) of this rule before July 1, 2023.¶

(4) These provisions apply to any business, employer or entity that provides private security services within this state, regardless of whether the business, employer or entity is located in or out of this state.¶

(5) A violation of a prohibited act outlined in section (1) of this rule may result in issuance of a civil penalty under OAR 259-060-0450. ¶

(6) A violation of a prohibited act outlined in section (1) of this rule may result in denial, suspension, refusal to renew or revocation of private security provider certification or licensure under OAR 259-060-0300, OAR 259-060-0310 and OAR 259-060-0320.

Statutory/Other Authority: ORS 181A.870, ORS 181A.893

Statutes/Other Implemented: ORS 181A.870, ORS 181A.893

RULE SUMMARY: This rule change amends OAR 259-060-0450 to include possessing or using prohibited equipment, vehicles, uniforms, or titles as a specifically identified violation of the Act and the private security rules that may result in a civil penalty. Prohibited equipment, vehicles, uniforms, or titles are defined by the adoption of OAR 259-060-0012.

CHANGES TO RULE:

259-060-0450

Compliance ¶¶

- (1) The Department may cause administrative proceedings or court action to be initiated to enforce compliance with the Act and these rules.¶¶
- (2) Violations. The Department may find violation and recommend assessment of civil penalties upon finding that a private security provider, individual, or employer has previously engaged in or is currently engaging in any of the following acts:¶¶
- (a) Providing private security services without a valid certification, license or temporary work permit;¶¶
  - (b) Failure to submit properly completed forms or documentation in a time frame as designated by the Department;¶¶
  - (c) The falsification of any documents submitted to the Department;¶¶
  - (d) Failure to cease providing private security services upon expiration of certification or licensure, notice of termination, suspension, denial or revocation;¶¶
  - (e) Failure to complete required training as prescribed in OAR 259-060-0060;¶¶
  - (f) Failure to report criminal charges as required in ORS 181A.885;¶¶
  - (g) Failure of a private security instructor to perform the duties of a certified instructor as defined in OAR 259-060-0136;¶¶
  - (h) Failure to terminate employment as a private security provider of an individual whose application has been terminated, or whose certification or licensure has been suspended, denied or revoked, upon notice from the Department to do so;¶¶
  - (i) Employing private security providers who have not completed the training and application process required under the Act and these rules;¶¶
  - (j) Failure to employ a licensed executive manager;¶¶
  - (k) Failure to provide technological communication or visibility of a certified security professional to crowd management or guest services staff;¶¶
  - (l) Failure to provide documentation of one certified security professional to ten crowd management or guest services staff;¶¶
  - (m) Expecting crowd management or guest services staff to perform security services duties other than the duties incidental to crowd management or guest services;¶¶
  - (n) Using a name that implies that the employer's business or entity is, or is affiliated with, an existing law enforcement unit or public safety agency as defined in ORS 181A.355, the organized militia as described in ORS 396.105, the Armed Forces of the United States, a federal law enforcement agency or a federal intelligence agency. Employers operating under a name prior to July 1, 2016 are exempt from this restriction for as long as the business or entity is owned by the same person;¶¶
  - (o) Possessing or using in the scope of employment prohibited equipment, vehicles, uniforms or titles as defined in OAR 259-060-0012; or¶¶
  - ~~(op)~~ Any other violation of requirements of the Act or these rules.¶¶
- (3) The Department may issue a Demand to Examine Books and Records (DEBR) to obtain any record or document related to compliance.¶¶
- (a) The Department may cause inspection or audits of the records of any private security provider or employer. Records inspected may include any document relating to the requirements of the Act and these rules.¶¶
  - (b) Failure to cooperate or respond to any investigative inquiries or DEBR may result in issuance of a civil penalty as described in this rule and the revocation or denial of certification or licensure as described in OAR 259-060-0300, OAR 259-060-0310 and OAR 259-060-0320.¶¶
- (4) Complaints and Allegations of Violations.¶¶
- (a) All complaints or allegations of violations must be submitted on a Department-approved complaint form before an investigation can be initiated, unless the Department grants an exception. The Department may consider additional credible sources of information to determine non-compliance.¶¶
  - (b) A preliminary administrative review of the complaint or allegation will be conducted by the Department to

ensure there is sufficient information to proceed. Staff may conduct a fact-finding preliminary investigation.¶

(A) If sufficient information is determined to support the complaint or allegation, the Department may open and conduct an investigation and gather relevant information.¶

(B) Private security providers, applicants, or other involved parties will respond to any questions or requests with 20 days after a request is mailed by the Department, unless an extension is requested and approved by the Department.¶

(5) Procedures for Proposing a Civil Penalty.¶

(a) The Department may issue an Allegation of Non-Compliance when there is a reason to believe a violation has occurred. The purpose of this document is to provide education and allow an opportunity to gain compliance within 30 days without penalty.¶

(b) The Department will issue a Notice of Violation upon discovery of violation as described in this rule. The Notice will include a statement of found violations and proposed sanctions. An individual or employer may be given the opportunity to remedy the violation and pay a penalty within 10 days of the mailing of the notice.¶

(A) The Department may extend the time to remedy a violation upon a showing of good cause.¶

(B) An individual or employer will be given the opportunity to provide mitigation to the Department.¶

(c) The Department, through the Policy Committee and Board, will issue a Notice of Intent to Propose a Civil Penalty upon the failure to remedy a violation or request an extension within 10 days of the mailing of the Notice of Violation.¶

(6) Hearing Request.¶

(a) If the Department issues a Notice of Intent to Propose Civil Penalty, an individual, business or entity is entitled to a contested case hearing in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.¶

(b) The Department must receive a request for hearing in writing within 20 days of the date the Notice of Intent to Propose Civil Penalty was served on the individual or employer.¶

(7) Default Order. If a timely request for a hearing is not received, the Notice of Intent to Impose a Civil Penalty will become a Final Order Imposing Civil Penalty.¶

(8) Resolution by Stipulation. The Department is authorized to seek resolution by stipulation, subject to acceptance and approval by the Board or Director, if:¶

(a) The matter is resolved before entry of a final order assessing penalty;¶

(b) The respondent satisfies all terms set forth by the Department within the time allowed; and¶

(c) Any stipulated penalty amount is received by the Department.¶

(9) Civil Penalty Amounts.¶

(a) Alarm monitor, unarmed and event and entertainment private security professionals will be charged a penalty of not less than \$250 for the first violation and a maximum of \$1,500 for each flagrant violation.¶

(b) Armed private security professionals will be charged a penalty of not less than \$500 for the first violation and a maximum of \$1,500 for each flagrant violation.¶

(c) Private security instructors will be charged a penalty of not less than \$750 for the first violation and a maximum of \$1,500 for each flagrant violation.¶

(d) Private security managers, contract executive managers and employers who employ individuals to provide private security services will be charged a penalty of not less than \$1,000 for the first violation and a maximum of \$1,500 for each flagrant violation.¶

(e) For the purposes of imposing civil penalties, each 30 day period in violation of the same statute or rule may be considered a separate violation by the Department.¶

(10) The Department may reduce or waive civil penalties from the amounts set in this rule in situations where further mitigation is warranted or the matter is resolved by stipulation at any time prior to the entry of a final order.¶

(11) Staff will recommend the full civil penalty amount for individuals, businesses or entities that fail to satisfy the terms as stipulated. The recommendation will be reviewed by the Policy Committee and Board.

Statutory/Other Authority: ORS 181A.870

Statutes/Other Implemented: ORS 181A.870, ORS 181A.995