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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DPSST 11-2023

CHAPTER 259

DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

FILED

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SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: TEMPORARY RULES for the DPSST Private Security Entity Licensing Program

EFFECTIVE DATE: 12/01/2023 THROUGH 05/28/2024

AGENCY APPROVED DATE: 10/26/2023

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NEED FOR THE RULE(S):

House Bill 2527 (2021) establishes a licensing requirement for entities that employ private security providers and provide private security services. Beginning January 1, 2024, private security entities must obtain a license from the Department of Public Safety Standards and Training (DPSST) to operate as a private security entity. These rules are needed for the implementation of the Private Security Entity Licensing Program.

JUSTIFICATION OF TEMPORARY FILING:

Effective January 1, 2024, it becomes unlawful for a private security entity to provide private security services unless the entity has obtained a license under ORS 181A.900 from the Department of Public Safety Standards and Training (DPSST), see ORS 181A.850. These temporary rules are necessary to implement the DPSST Private Security Entity Licensing Program while DPSST completes rulemaking for the permanent rules.

Failure to adopt these temporary rules may result in interruptions of private security services and business operations for the entities that provide private security services, inadvertently affect businesses that utilize private security services, and adversely impact public and private safety for Oregonians.

These temporary rules will allow DPSST to begin accepting applications for licensure and issuing private security entity licenses or temporary authorization forms beginning December 1, 2023. DPSST has been engaged in rulemaking with constituents and members of the public. Comments submitted for the proposed rules resulted in amendments that will need to have additional opportunity for review and public comment. These temporary rules include the amendments. After adoption of the temporary rules, DPSST will re-file the amended proposed rules. Permanent rules will be adopted in 2024.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

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

request to DPSST.

The DPSST Private Security Entity Workgroup meeting materials and minutes are available by submitting a records request to DPSST.

House Bill 2527 (2021) is available through the Oregon State Legislature website at <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/HB2527>.

RULES:

259-059-0010, 259-059-0020, 259-059-0030, 259-059-0040, 259-059-0050, 259-059-0060, 259-059-0070, 259-059-0080, 259-059-0090, 259-059-0095, 259-059-0100, 259-059-0110, 259-059-0120, 259-059-0130, 259-059-0140, 259-059-0150, 259-059-0160, 259-059-0170, 259-059-0180, 259-059-0190, 259-059-0200, 259-059-0300, 259-059-0310, 259-059-0400, 259-059-0410, 259-059-0420, 259-059-0430, 259-059-0440

ADOPT: 259-059-0010

RULE TITLE: Definitions

RULE SUMMARY: OAR 259-059-0010 provides definitions for the interpretation of OAR Chapter 259 Division 59, the DPSST Private Security Entity Licensing Program.

Changes After First Proposed Rule Filing:

Addition of section (16). Section (16) adds a definition for work location or locations. This is to support interpretation of the application requirements found in ORS 181A.900 (2)(h)(E) and (F) and OAR 259-059-0060, and the record keeping requirements found in OAR 259-059-0200.

RULE TEXT:

- (1) "Applicant" means a private security entity, through an entity representative, applying for or renewing licensure to operate as a private security entity.
- (2) "Board" means the Board on Public Safety Standards and Training.
- (3) "Department" or "DPSST" means the Department of Public Safety Standards and Training.
- (4) "Entity representative" means the individual who represents the private security entity in matters of licensure as a private security entity.
- (5) "Engaged in the business of providing private security" means recruiting, soliciting, supplying, or employing private security professionals, supervisory managers, or executive managers for an agreed remuneration or rate of pay to perform private security services.
- (6) "Executive manager" has the meaning given that term in ORS 181A.840 and OAR 259-060-0010.
- (7) "Financially interested" means any ownership interest in the private security entity that is greater than or equal to 5% of the entity.
- (8) "License" means a private security entity license issued by the Department.
- (9) "Licensee" means a licensed private security entity.
- (10) "Person" means any individual, sole proprietorship, partnership, business, company, corporation, association, governmental entity, or other business or legal entity.
- (11)(a) "Private security entity" means a person engaged in the business of providing private security that:
 - (A) Employs private security providers; or
 - (B) Contracts or subcontracts with an existing licensed private security entity to provide private security services.
- (b) "Private security entity" does not include a special campus security provider commissioned under ORS 352.118 or a private security provider on a campus of an institution of higher education regulated under ORS 181A.972.
- (12) "Private security provider" means any individual who performs the functions of a private security professional, executive manager, supervisory manager or instructor, as those terms are defined in ORS 181A.840 and OAR 259-060-

0010.

(13) "Private security services" means the performance of at least one of the following activities:

- (a) Observing and reporting unlawful activity.
- (b) Preventing or detecting theft or misappropriation of goods, money or other items of value.
- (c) Protecting individuals or property, including but not limited to proprietary information, from harm or misappropriation.
- (d) Controlling access to premises being protected or, with respect to a licensee of the Oregon Liquor and Cannabis Commission, controlling access to premises at an entry to the premises or any portion of the premises where minors are prohibited.
- (e) Securely moving prisoners.
- (f) Taking enforcement action by detaining persons or placing persons under arrest under ORS 133.225.
- (g) Providing canine services for guarding premises or for detecting unlawful devices or substances.

(14) "Qualified designee" means an individual who is:

- (a) Employed by a private security entity that is a non-profit or governmental entity, a private security entity principally located in another state, or a private security entity with more than 100 employees; and
- (b) Authorized by the principal owner or principal partner of the private security entity to represent the entity in matters of entity licensure.

(15) "Temporary Authorization Form" means a written, temporary permit to operate as a private security entity that is issued by the Department to an applicant while their application for a license is being processed.

(16) (a) "Work location or locations" means the specific place or places where a private security provider regularly reports to work or is assigned to work. "Work location or locations" include the location of the private security entity and locations such as a site, complex, park, campus, or territory where the private security entity provides private security services. Examples: an industrial complex, a hospital campus, or a territory with fixed parameters like the five-block radius surrounding a shopping district.

(b) "Work location or locations" does not include:

- (A) Incidental response locations outside of regularly performed duties;
- (B) Routes between work locations that are not included under the security services provided by the private security entity;
- (C) Confidential public utility infrastructure locations;
- (D) A private security entity's armored car routes and stop locations; or
- (E) Personal residential addresses and auxiliary locations where private security services are performed in the course and scope of personal protection services.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.840, ORS 181A.870, ORS 181A.900

ADOPT: 259-059-0020

RULE TITLE: Private Security Entity License Required

RULE SUMMARY: OAR 259-059-0020 defines the applicability of the private security entity licensing requirements established by ORS 181A.850 (1) and (2), effective January 1, 2024. This rule also identifies persons not required to obtain a private security entity license. The effective date, January 1, 2024, was established by HB 2527 and can't be changed.

RULE TEXT:

- (1) Any person proposing to operate as a private security entity after January 1, 2024, must obtain a license or be issued a Temporary Authorization Form to provide private security services.
- (2) Private security entities must provide the Department's Internet address for license verification to a person before providing private security services to the person.
- (3) Private security entity licensing requirements apply to any private security entity that provides private security services within this state, regardless of whether the private security entity is principally located in another state.
- (4) The following persons do not meet the definition of a private security entity and are not required to obtain a license:
 - (a) Public universities employing special campus security providers commissioned under ORS 352.118 or institutions of higher education employing private security providers and regulated under ORS 181A.972.
 - (b) A person whose employees are exempt from the private security provider certification and licensure requirements under ORS 181A.845.
 - (c) An executive manager who contracts with a private security entity to provide services as an executive manager. This includes the executive manager providing private security services when the executive manager is also certified as a private security professional.
 - (d) A person who is the sole owner and operator of a business that provides private security services and does not employ any other private security providers.
 - (e) A person who is not engaged in the business of providing private security, but hires or utilizes the services of a licensed private security entity.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.840, ORS 181A.850, ORS 181A.870, ORS 181A.900

ADOPT: 259-059-0030

RULE TITLE: Entity Representative Required / Entity Representative Responsibilities

RULE SUMMARY: OAR 259-059-0030 requires each private security entity to designate an entity representative. The term "entity representative" is defined in OAR 259-059-0010. Private security entity licenses will be issued to the entity and in the name of the entity. The entity representative will be the individual who acts on behalf of the private security entity in the licensing application process. The entity representative will also be the individual responsible for ensuring the private security entity complies with all of the private security entity licensing requirements. DPSST will direct all correspondence to the entity representative.

RULE TEXT:

- (1) Private security entities must designate an entity representative.
- (2) The entity representative must be the principal owner or principal partner who exercises operational control over the entity or a qualified designee of the principal owner or principal partner.
- (3) The entity representative is responsible for:
 - (a) Completing the examination for licensure;
 - (b) Signing for and submitting the application for licensure;
 - (c) Providing notice to the Department of changes of information per OAR 259-059-0190;
 - (d) Receiving and responding to Notices and any other communication from the Department relating to the private security entity's license; and
 - (e) Maintaining the private security entity's compliance with ORS 181A.840 to 181A.918 and OAR Chapter 259 Division 59.
- (4) To change the entity representative after the license has been issued, the new entity representative must:
 - (a) Notify the Department in writing within 10 business days of the change;
 - (b) Submit proof of a passing score on the private security entity examination for licensure administered by the Department; and
 - (c) Submit a new application for licensure if there have been any changes in the financially interested parties since the last application was submitted.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900

ADOPT: 259-059-0040

RULE TITLE: Period of Licensure / Temporary Authorization Form

RULE SUMMARY: OAR 259-059-0040 defines the private security entity licensing period. A license is valid for one year. All licenses expire on June 30. Licenses will need to be renewed by June 30 each year. New private security entities will still be able to apply at any time during the year. DPSST will prorate the license fee for a new applicant based on the month the application is received. When an application for a new license is received within six months of the required renewal date (June 30), DPSST may issue the new license and process the renewal of the license at the same time. Under this option, the applicant would be required to submit the fee for the new license and the fee to renew the license.

Changes After First Proposed Rule Filing:

For this temporary rule, section (3) allows the Department to issue a Temporary Authorization Form after receipt of an application and the license fee from a private security entity. This adjustment for the temporary rule recognizes that the timeline to implement the new private security entity licensing program provides a narrow window for entities to be in compliance so that they will not be operating unlawfully after January 1, 2024. If an application is incomplete, DPSST will work with the entity to resolve the issue through the processes outlined in OAR 259-059-0060, Application for Licensure.

The permanent rule version for section (3) will retain the proposed provisions for a Temporary Authorization Form requiring a completed application packet including fees and that the applicant, entity representative or any other person who is financially interested in the operations of the private security entity must not, within the past three years, have had a license denied, refused renewal, revoked, or suspended, or have otherwise violated ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59.

RULE TEXT:

- (1) A private security entity license is valid for one year unless the license is suspended or revoked. The licensing period is July 1 through June 30 of each year. Any license not renewed by June 30 will expire.
- (2) The Department may combine the issuance of an initial license with the renewal of the license when there are six months or less left in the initial licensing period.
- (3) The Department may issue a Temporary Authorization Form to an applicant after receipt of an application for licensure and the license fee.
- (4) A Temporary Authorization Form expires when:
 - (a) The license is issued;
 - (b) The application process is administratively terminated; or
 - (c) The license is denied or refused renewal.
- (5) When a private security entity is sold, the license or Temporary Authorization Form for the former private security entity is considered expired, effective on the final date of sale.
- (6) A person may not operate as a private security entity with an expired license or expired Temporary Authorization Form.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900

ADOPT: 259-059-0050

RULE TITLE: Examination for Licensure

RULE SUMMARY: OAR 259-059-0050 provides the requirements for the qualifying examination that is required for the private security entity license application process. Based on ORS 181A.904, the qualifying exam is designed to test the applicant's knowledge of the private security entity's responsibility to prevent sexual assault, sexual harassment and discrimination in the workplace. The exam is required for all new applications and applications for renewal. The exam will be accessible online. There will not be a fee to take the exam. Since the applicant is the private security entity, the entity representative for the applicant will complete the exam.

Changes After First Proposed Rule Filing:

Section (1) was amended to include the purpose of the exam. This amendment helps clarify and distinguish the private security entity examination for licensure from any examination completed to obtain a certification or license as a private security provider.

RULE TEXT:

(1) The applicant, through the entity representative, must successfully pass a qualifying examination (exam) for licensure. The purpose of the exam is to test the applicant's knowledge of the private security entity's responsibility to prevent sexual assault, sexual harassment and discrimination in the workplace.

(2) The exam must be completed for issuance and renewal of a license.

(3) The exam may be completed anytime within the 60 days before the submission of an application for licensure.

(4) The exam is administered by the Department and delivered online.

(5) The minimum passing score for the exam is 80%.

(6) Any individual who takes the exam is prohibited from disclosing the contents of the exam, including the exam questions and answers, to anyone or any entity.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900, ORS 181A.904

ADOPT: 259-059-0060

RULE TITLE: Application for Licensure

RULE SUMMARY: OAR 259-059-0060 provides the processes for the application for licensure as a private security entity. Since the applicant is the private security entity, the entity representative is responsible for signing and submitting the application. The application form and instructions identify the documentation that must be included with the application as attachments. The application will not be considered a complete application without the proper attachments and the submission of the license fee.

All licenses will expire on June 30. To renew the license the completed application and fee must be submitted by June 30 each year. Applicants may apply for renewal as early as May 1. If DPSST does not receive the renewal application by June 30, the private security entity's renewal application is subject to a late fee.

Changes After First Proposed Rule Filing:

Section (2) was amended to include the information that must be provided with the application for licensure as required by ORS 181A.900. These additions provide more detail about the application requirements.

RULE TEXT:

- (1) Applications for licensure must be signed and submitted by the entity representative on behalf of the applicant.
- (2) To apply for a license or renew a license, the applicant must submit a completed application, including all required attachments, and the non-refundable license fee per OAR 259-059-0070. The following information must be included with the application:
 - (a) Proof of general liability insurance as defined in OAR 259-059-0120;
 - (b) Proof of the ability to pay wages as defined in OAR 259-059-0130;
 - (c) An Oregon Department of Revenue Tax Compliance Certification or a statement from applicant that, as a new entity, the entity has not been required to file taxes to date;
 - (d) The examination for licensure certificate of completion;
 - (e) A copy of the documentation for any claims for unpaid wages that have been made against the applicant within the preceding two years;
 - (f) The names and addresses of all persons financially interested, whether as partners, shareholders, associates or profit-sharers, in the applicant's proposed operations as a private security entity, together with the amount of their respective interests, and whether or not, to the best of the applicant's knowledge, any of these persons was ever denied a certificate or a license under ORS 181A.870 within the preceding three years, or had a certificate or license suspended or revoked within the preceding three years;
 - (g) The physical address of the work location or locations at which private security services are provided by private security professionals employed by or pursuant to a contract or subcontract with the applicant; and
 - (h) For each work location at which private security services are provided by private security professionals pursuant to a contract or subcontract with the applicant, the names of the private security entity or entities contracted or subcontracted with the applicant.
- (3) The application and license fee to renew a license must be received by the Department no later than June 30 of each year.
 - (a) Applicants may submit an application and license fee for renewal beginning May 1 of each year.
 - (b) Failure to renew on time will result in a late fee.
 - (c) To continue operating as a private security entity, the license must be renewed even if the private security entity does not receive notification from the Department.
- (4) The Department may administratively terminate the application process, after written notification and opportunity for correction, if the application or any required documentation is incomplete and the Department cannot satisfactorily verify application information due to non-response or non-compliance by the applicant.

- (a) The Department will issue a Notice of Deficiency when the application packet is incomplete or insufficient.
- (b) If the deficiency is not corrected within 30 business days of the date of the Notice of Deficiency, the application process will be administratively terminated. The Department may extend the time for compliance upon good cause shown by the applicant.
- (c) Administrative termination of an application process also results in the immediate expiration of the Temporary Authorization Form.
- (d) To re-apply after an administrative termination of the application process, the applicant will be required to submit a new application packet with all deficiencies corrected and new fees.
- (5) Any exception to the application process found in this rule must be approved by the Department.
- (6) An application for licensure may be withdrawn at any time. Applicants who choose to withdraw an application forfeit any fees.
- (7) Falsification of any information in connection with an application for licensure, including supporting documentation and attachments, may result in issuance of a civil penalty under OAR 259-059-0400 or the denial, refusal to renew, revocation, or suspension of a license under OAR 259-059-0410.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900

ADOPT: 259-059-0070

RULE TITLE: Fees and Payments

RULE SUMMARY: OAR 259-059-0070 adopts the fees for the Private Security Entity Licensing Program. The proposed license fee for a one-year license is \$624. All licenses will expire on June 30. DPSST will prorate the license fee for a new private security entity that will only be licensed for a portion of the year. When renewing the license each year, a private security entity that does not submit an application for renewal with the license fee by June 30 will also be charged a \$50 late fee. The fees have been approved by the Department of Administrative Services (DAS). The fees must also be ratified by the Legislature in the 2024 Legislative Session.

During the implementation of the new licensing requirement, applicants will be able to choose to apply for the initial license only or for the initial license and the renewal license at the same time.

- \$312 for the Initial License, January 1, 2024 through June 30, 2024 (6 months)

Or

- \$312 and \$624 (\$936 total) for the Initial License and the Renewal, January 1, 2024 through June 30, 2025 (18 months, which includes the first six months and the 12 month renewal)

RULE TEXT:

(1) The Department charges the following fees:

(a) Private Security Entity License Fee - \$624.

(b) Late Renewal Fee - \$50. A late fee is required when the Department receives an application for renewal after June 30.

(c) Duplicate or Replacement License Fee - \$24.

(d) Non-sufficient Funds (NSF) Penalty Fee - \$25.

(2) When issuing an initial license, the Department may prorate the Private Security Entity License Fee in accordance with the remaining portion of the licensing period.

(3) Payments.

(a) The Department accepts 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 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 fees.

(4) If the Department receives payment of any fees or penalty 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 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) The Department may accept payments that include an overpayment of the amount due when the overpaid amount is \$10.00 or less.

(c) Overpayment amounts that are \$10.00 or less will only be refunded upon receipt of a written request from the applicant or entity representative who made the overpayment, or the private security entity's legal representative. The written request must be received by the Department within three years of the overpayment.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900

ADOPT: 259-059-0080

RULE TITLE: Character, Competence, and Reliability

RULE SUMMARY: OAR 259-059-0080 defines the Department's investigation of an applicant's character, competence, and reliability as required by ORS 181A.902. This rule defines evidence of unsatisfactory character, competence, or reliability. The rule is not all-inclusive and the Department retains the ability to identify additional evidence of unsatisfactory character, competence, or reliability. This rule also addresses when the Department conducts an investigation of character, competence, and reliability.

Changes After First Proposed Rule Filing:

Section (2) was amended with an addition, see (2)(e), and a wording clarification, see (2)(g).

RULE TEXT:

- (1) The Department may not issue or renew a license to operate as a private security entity until the Department is satisfied as to the applicant's character, competence, and reliability. To determine if a license will be issued or renewed, the Department must conduct an investigation of each applicant's character, competence, and reliability, and any other matter related to the manner and method by which the applicant proposes to conduct and conducted operations as a private security entity.
- (2) Evidence of unsatisfactory character, competence, or reliability includes, but is not limited to, any one or more of the following:
- (a) Having an entity representative or any other person who is financially interested in the operations of the private security entity who, within the past three years, has had a private security provider certification or license denied, refused renewal, revoked, or suspended under ORS 181A.870;
 - (b) Having an entity representative or any other person who is financially interested in the operations of the private security entity who, within the past three years, has had a private security entity license denied, refused renewal, revoked, or suspended, or has otherwise violated ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59;
 - (c) Failing to file or furnish all forms and other information required by ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59;
 - (d) Failing to comply with business tax requirements;
 - (e) Failing to comply with any of the federal, state, or local laws identified in ORS 181A.913 and OAR 259-059-0160, as evidenced by receipt of a final order or judgement;
 - (f) Failing to maintain general liability insurance as required by ORS 181A.900 and OAR 259-059-0120;
 - (g) Failing to maintain proof of ability to pay wages as required by ORS 181A.900 and OAR 259-059-0130;
 - (h) Failing to provide professional workplace training as required by ORS 181A.908 and OAR 259-059-0150;
 - (i) Failing to promptly satisfy any judgments levied against the applicant or licensee;
 - (j) Failing to notify the Department of a change of information as required by OAR 259-059-0190;
 - (k) Falsifying any information submitted on the application for licensure or on any documents submitted to the Board or the Department; or
 - (l) Any other violation of ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59.
- (3) The Department may conduct an investigation of an applicant or licensee when the Department receives a protest, a complaint or any other information that demonstrates lack of character, competence, or reliability to operate as a private security entity.
- (4) A change in the entity representative may constitute a change in the Department's determination to issue or renew a license. The Department may conduct an investigation of the applicant or licensee when there is change of the entity representative.
- (5) Any Department action to deny, refuse to renew, revoke, or suspend a license based on the findings of the Department's investigation of the applicant's or licensee's character, competence, and reliability will be administered in

accordance with OAR 259-059-0410 through 259-059-0440 and the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900, ORS 181A.902

ADOPT: 259-059-0090

RULE TITLE: Private Security Equipment, Vehicles, Uniforms, and Titles

RULE SUMMARY: OAR 259-059-0090 prescribes the prohibited acts relating to a private security entity's possession or use in the scope of employment of 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. Section (1) of this rule is duplicated from OAR 259-060-0012, which is found in the administrative rules for the Private Security Provider Certification and Licensing Program. These prohibited acts will continue to be found in both sets of rules.

RULE TEXT:

(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) A violation of a prohibited act outlined in section (1) of this rule may result in issuance of a civil penalty under OAR 259-059-0400 or the denial, refusal to renew, revocation, or suspension of a license under OAR 259-059-0410.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.893

STATUTES/OTHER IMPLEMENTED: ORS 181A.870, ORS 181A.893

ADOPT: 259-059-0095

RULE TITLE: Prohibited Entity Names

RULE SUMMARY: OAR 259-059-0095 identifies the unlawful use of a name as prescribed by ORS 181A.893. This rule also captures the applicability of the law to entities that were operating under a name prior to the effective date of the law. After OAR 259-059-0095 is adopted, OAR 259-060-0200, which is in the rules for the Private Security Provider Certification and Licensure Program, will be repealed.

RULE TEXT:

(1) Private security entities are prohibited from using a name that implies that the private security 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.

(2) Private security entities operating under a name prior to July 1, 2016, are exempt from this restriction for as long as the private security entity is owned by the person that owned it on July 1, 2016.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.893

STATUTES/OTHER IMPLEMENTED: ORS 181A.870, ORS 181A.893

ADOPT: 259-059-0100

RULE TITLE: Designation of an Executive Manager

RULE SUMMARY: OAR 259-059-0100 provides guidance for the requirement found in ORS 181A.900 that an applicant for a private security entity license must designate an executive manager licensed by the Department.

RULE TEXT:

- (1) Private security entities must have a designated executive manager who is licensed by the Department under ORS 181A.870 and OAR Chapter 259 Division 60.
- (2) Private security entities may employ or contract with more than one executive manager.
- (3) Private security entities must notify the Department in writing within 10 business days when the private security entity changes its designated executive manager.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900

ADOPT: 259-059-0110

RULE TITLE: Required Policies

RULE SUMMARY: OAR 259-059-0110 provides guidance for the requirement found in ORS 181A.900 that an applicant for a private security entity license must demonstrate the existence of use of force and citizen arrest policies. This requirement does not apply to a private security entity that exclusively monitors alarm systems. A private security entity must provide its policies to the Department if the Department requests the policies.

These policies are not required to be submitted to DPSST with the application for licensure. DPSST will not review or approve these policies. Private security entities need to have and maintain these policies. If there are complaints or compliance issues, DPSST will request a copy of the policies if applicable.

RULE TEXT:

Private security entities must demonstrate the existence of use of force and citizen arrest policies unless the private security entity exclusively monitors alarm systems. For the purposes of this rule, demonstration of the existence of these policies means the policies must be provided to the Department upon request.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900

ADOPT: 259-059-0120

RULE TITLE: General Liability Insurance

RULE SUMMARY: OAR 259-059-0120 provides guidance for the requirement found in ORS 181A.900 that an applicant for a private security entity license must be covered by a general liability insurance policy and provide proof of the existence of adequate insurance. Adequate insurance is a policy that provides, at a minimum, liability limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

RULE TEXT:

- (1) Private security entities must be covered by a general liability insurance policy that includes public liability, personal injury, and property damage insurance covering all aspects of the private security services being provided.
- (2) The general liability insurance policy must name the private security entity as the primary insured with minimum liability limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- (3) The proof of the existence of adequate insurance required for the application for licensure must include the name of the private security entity, the insured amounts, the policy number, the policy expiration date, and the name, business address, and phone number of the insurance company.
- (4) Private security entities must maintain general liability insurance at all times.
- (5) If the general liability insurance is cancelled or the private security entity changes insurance companies, the private security entity must:
 - (a) Notify the Department in writing within 10 business days of the cancellation or change; and
 - (b) Submit proof of insurance to the Department within 10 business days of the effective date of the new policy.
- (6) If the private security entity is a public body as defined in ORS 30.260, upon approval by the Department, the private security entity may meet its obligation to maintain general liability insurance through:
 - (a) The purchase of insurance as described in this rule;
 - (b) The use of self-insurance or assessments paid under ORS 30.282 that is substantially similar to the types and amounts of insurance coverage indicated this rule; or
 - (c) A combination of any or all of the foregoing.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900

ADOPT: 259-059-0130

RULE TITLE: Proof of Ability to Pay Wages

RULE SUMMARY: OAR 259-059-0130 specifies the proof needed for the requirement found in ORS 181A.900 that an applicant for a private security entity license must provide proof of the entity's financial ability to promptly pay the wages of their executive managers, private security professionals and supervisory managers.

Changes After First Proposed Rule Filing:

Section (1) was amended to add an option to use an irrevocable letter of credit to provide proof of the ability to pay wages.

Section (2) was amended to set the amount required based on the number of private security professionals and private security executive and supervisory managers that are employed or contracted by the private security entity.

Section (6) was added to provide an additional option for public bodies that need a private security entity license.

RULE TEXT:

(1) Private security entities must provide proof of financial ability to promptly pay the wages of executive managers, private security professionals, and supervisory managers employed by or who contract with the private security entity. Except as provided in section (6) of this rule, the form of proof must be one of the following:

- (a) A corporate surety bond;
- (b) An irrevocable letter of credit;
- (c) A cash deposit; or
- (d) A deposit the equivalent of cash.

(2) Private security entities must maintain a surety bond, irrevocable letter of credit, or deposit at all times. The amount required for proof of ability to pay wages is based on the number of executive managers, private security professionals, and supervisory managers employed by or who contract with the private security entity. The bond, letter of credit, or deposit must be:

- (a) \$5,000 when a private security entity has 10 or fewer executive managers, private security professionals, and supervisory managers;
- (b) \$10,000 when a private security entity has 11 to 20 executive managers, private security professionals, and supervisory managers;
- (c) \$20,000 when a private security entity has 21 to 50 executive managers, private security professionals, and supervisory managers; or
- (d) \$30,000 when a private security entity has more than 50 executive managers, private security professionals, and supervisory managers.

(3) Private security entities using a surety bond or irrevocable letter of credit as proof of ability to pay wages must:

- (a) Notify the Department in writing within 10 business days of a cancellation or change of guarantor; and
 - (b) Submit new proof of ability to pay wages to the Department within 10 business days of the notice required above.
- (4) An irrevocable letter of credit submitted to the Department is subject to approval by the Department prior to the issuance of a license.

(5) Private security entities using a cash deposit or a deposit the equivalent of cash must complete a trust agreement with the Department. The deposit must be in a form approved by and payable to the Department of Public Safety Standards and Training.

(6) If the private security entity is a public body as defined in ORS 30.260, upon approval by the Department, the private security entity may provide proof of the ability to pay wages in the form of a financial officer statement attesting to the private security entity's ability to promptly pay the wages. This private security entity may also submit additional evidence such as profit and loss statements, bank account records, personnel records, or payroll records demonstrating that, during the licensing period, the private security entity has been paying the wages to their executive managers, private security professionals, and supervisory managers. The Department may request such additional evidence if not

provided by the private security entity.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900

ADOPT: 259-059-0140

RULE TITLE: Firearms Qualifications, Qualification Records, and Notice Requirements

RULE SUMMARY: OAR 259-059-0140 provides guidance for the requirement found in ORS 181A.906. Private security entities employing armed private security professionals must ensure that each armed private security professional successfully completes a firearms qualification for each firearm make, model, and caliber that the armed private security professional will possess or have access to while performing private security services.

The private security entity will be responsible for tracking what make, model, and caliber the armed private security professional used to obtain their certification. If it is different from the make, model, and caliber that the armed private security professional will use or have access to while performing private security services for the private security entity, then the private security entity will be responsible for ensuring that the armed private security professional completes additional firearms qualifications. The private security entity will be required to maintain these records for three years and to provide the records to the Department if requested by the Department.

Section (5) of this rule adopts a reporting requirement from OAR 259-060-0015(8). If an armed private security professional or a private security firearms instructor who is employed by the private security entity becomes ineligible to purchase, own, or possess a firearm, the private security entity must notify the Department within 48 hours of such knowledge.

Changes After First Proposed Rule Filing:

Section (3) is amended to provide additional clarification regarding the standards for firearms qualifications. The changes for section (3) recognize that DPSST's Basic Firearms Course curriculum, which is required to meet the certification standard for armed private security professionals, is designed and delivered using a handgun. There are some private security entities that use rifles or shotguns, which are often referred to as long guns. Since the DPSST curriculum does not currently address qualification courses for long guns, section (3) directs the private security entity to use an applicable qualification course, corresponding with the make, model, and caliber of the long gun, conducted by a qualified firearms instructor as determined by the private security entity. The private security entity is given the discretion to determine if the firearms instructor is qualified to conduct the long gun qualification course and can work with the firearms instructor to determine the applicable qualification course to use based on the specific make, model, and caliber of the long gun.

RULE TEXT:

- (1) Private security entities employing armed private security professionals must ensure that each armed private security professional successfully completes a firearms qualification for each firearm make, model, and caliber that the armed private security professional will possess or have access to while performing private security services.
- (2) The firearms qualifications required to comply with this rule must be completed before the armed private security professional can provide armed private security services where they would possess or have access to the corresponding make, model, and caliber of firearm.
- (3) Firearms Qualifications Courses.
 - (a) Handgun qualifications for the make, model, and caliber of the handgun that the armed private security professional will possess or have access to while performing private security services must be conducted by a Department-certified private security firearms instructor using the qualification standards and targets found in the Department's Basic Firearms Course for armed private security professionals.
 - (b) Rifle, shotgun, or other long gun qualifications must be conducted using an applicable qualification course for the make, model, and caliber of the rifle, shotgun, or long gun that the armed private security professional will possess or have access to while performing private security services and must be conducted by a qualified firearms instructor, as determined by the private security entity.

(4) Private security entities must maintain records, for at least three years, that demonstrate compliance with this rule such as the name of the armed private security professional, the make, model, and caliber of each firearm that the armed private security professional possesses or has access to while performing private security services, and the dates and records of the firearms qualifications. The records must be provided to the Department upon request.

(5) Private security entities must notify the Department in writing within 48 hours of knowledge that a certified armed private security professional or private security firearms instructor employed by the private security entity becomes ineligible to purchase, own, or possess a firearm. The notification must list all facts known of the circumstances causing the ineligibility and must identify a person whom the Department may contact for additional information.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900, ORS 181A.906

ADOPT: 259-059-0150

RULE TITLE: Professional Workplace Training Requirements

RULE SUMMARY: OAR 259-059-0150 provides guidance for the requirement found in ORS 181A.908 that licensed private security entities must provide professional training through the Bureau of Labor and Industries to private security providers employed or contracted by the private security entity. The ORS specifies what topics are required for the training and the timelines for completing the training. OAR 259-059-0150 includes the statutory requirements and identifies the approved training course. The rule prescribes conditions the private security entity must meet when providing the training and prescribes record keeping requirements.

Changes After First Proposed Rule Filing:

This rule was amended to remove language about in-person delivery of this training. As written, the statute does not allow for delivery of training other than the training provided by BOLI. All private security entities will be required to use the Professional Workplace Training Course as provided to DPSST from BOLI. The training course will be available online. A private security entity would be able to provide the online course to a group of private security providers.

RULE TEXT:

(1) Private security entities must provide approved professional training to private security providers on:

- (a) Preventing sexual assault and sexual harassment in the workplace;
- (b) Preventing discrimination in the workplace and promoting cultural competency; and
- (c) Educating the workforce regarding protection for employees who report a violation of a state or federal law, rule or regulation.

(2) Licensees must provide the approved professional training as follows:

- (a) If the private security provider is employed by the private security entity at the time of licensure, at least once during the first year in which the license is issued;
- (b) If the private security provider is hired after the issuance or renewal date of the license, within 90 days of the private security provider's initial date of hire; and
- (c) At least once every two years after the renewal of a license.

(3) The approved professional training is the Professional Workplace Training Course. The Professional Workplace Training Course is the training course obtained by the Department, through the Bureau of Labor and Industries, for licensees to utilize for this professional training requirement. The Department will provide the Professional Workplace Training Course online, as self-paced training.

(4) Private security providers must be provided with paid time to complete the Professional Workplace Training Course and may not be required or permitted to perform their regular work duties during the time they are taking the training.

(5) Licensees must provide private security providers with access to the appropriate resources to complete the Professional Workplace Training Course such as, but not limited to, a computer, a printer, and internet access.

(6) Private security entities must maintain records, for at least three years, that demonstrate compliance with this rule such as the name of the private security provider, the private security provider's date of hire, the date the private security provider completed the training, and the full name and contact information of the trainer when the training is not completed using the Department's online training program. The records must be provided to the Department upon request.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900, ORS 181A.908

ADOPT: 259-059-0160

RULE TITLE: Statement of Employee Rights and Remedies

RULE SUMMARY: OAR 259-059-0160 provides the requirement found in ORS 181A.913 that a licensed private security entity must provide a written statement of the employee's rights and remedies. The rule lists the laws that must be included in the statement. The rule applies this requirement to all private security providers who are employed by the private security entity, including executive managers who are contracted with the private security entity. The ORS and the rule require the information to be provided in plain and simple language.

Changes After First Proposed Rule Filing:

Section (2) was amended to include additional employee rights and remedies. The additions are based on Oregon BOLI rules and forms for similar licensing requirements of labor contractors.

Section (3) was amended to indicate that DPSST will provide a form that includes all of the required content. DPSST will provide a form for private security entities to use. The contents of the form are required, but private security entities will be able to copy the information from the DPSST form and provide it in another format if they choose.

RULE TEXT:

(1) Private security entities must provide a written statement of employee rights and remedies to each private security provider at the time of hiring.

(2) The statement of employee rights and remedies must provide a plain language description of the employee's rights and remedies under the following laws:

(a) ORS 181A.840 to 181A.918 – Private Security Entity Licensing;

(b) ORS Chapter 652 - Hours; Wages; Wage Claims; Records;

(c) ORS Chapter 653 - Minimum Wages; Employment Conditions; Minors;

(d) ORS Chapter 654 - Occupational Safety and Health;

(e) ORS Chapter 656 - Workers' Compensation;

(f) ORS Chapter 657 – Unemployment Insurance;

(g) ORS Chapter 657B – Family and Medical Leave Insurance;

(h) ORS Chapter 659A - Unlawful Discrimination in Employment, Public Accommodations and Real Property Transactions; Administrative and Civil Enforcement;

(i) ORS 659A.150 - 659A.186 – Oregon Family Leave Act;

(j) The Service Contract Act (41 U.S.C. 351-401); and

(k) The National Labor Relations Act (29 U.S.C. 151-169).

(3) The Department provides a form for licensees to use to comply with this rule. Licensees may use any form for providing this information to private security providers so long as it contains all the elements in the form provided by the Department.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900, ORS 181A.913

ADOPT: 259-059-0170

RULE TITLE: Statement of Terms and Conditions of Employment

RULE SUMMARY: OAR 259-059-0170 provides the requirement found in ORS 181A.913 that a licensed private security entity must provide a written statement of the terms and conditions of employment, including the method of computing the rate of compensation. The rule applies this requirement to all private security providers who are employed by the private security entity, including executive managers who are contracted with the private security entity. The rule provides a list of terms and conditions that must be included in the form provided by the private security entity. DPSST created a sample form that the private entity may use. However, the private security entity may provide the statement in any form it chooses, as long as it is in a written format and at a minimum contains the topics listed in the rule.

Changes After First Proposed Rule Filing:

Section (2) was amended to include (h) Disclosure of the existence of a labor dispute at a worksite.

The requirement to provide a written notification of changes to the terms and conditions of employment was deleted, as it was not a requirement under ORS 181A.913.

RULE TEXT:

(1) Private security entities must provide a written statement of terms and conditions of employment to each private security provider at the time of hiring.

(2) The statement of terms and conditions of employment must provide, at a minimum, a description of the following elements:

(a) Rate of pay, including the method of computing the rate of compensation;

(b) Eligibility for overtime;

(c) Scheduling information;

(d) Worksite locations;

(e) Equipment and uniforms;

(f) Vehicle use in the scope of employment;

(g) Use of firearms in the scope of employment; and

(h) Disclosure of the existence of a labor dispute at a worksite.

(3) Licensees may use any form for providing this information to private security providers so long as it contains all the elements listed in section (2) above. The Department provides a sample form that licensees may use to comply with this rule.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900, ORS 181A.913

ADOPT: 259-059-0180

RULE TITLE: Statement of Earnings

RULE SUMMARY: OAR 259-059-0180 provides the requirement found in ORS 181A.913 that a licensed private security entity must provide a written statement itemizing the total payment and amount and purpose of each deduction from the total payment, hours worked, and rate of pay, each time the provider receives a compensation payment from the entity. The rule provides a list of itemizations and information that must be included in the form provided by the private security entity. DPSST created a sample form that the private entity may use. However, the private security entity may provide the statement in any form it chooses, as long as it is in a written format and at a minimum contains what is listed in the rule.

RULE TEXT:

(1) Private security entities must provide each private security provider with a written itemized statement of earnings each time the private security provider receives a compensation payment from the private security entity.

(2) The statement of earnings must include at a minimum the following elements:

(a) The total gross payment being made;

(b) The amount and purpose of each deduction from the gross payment;

(c) The total number of hours worked during the time covered by the gross payment;

(d) The rate of pay;

(e) The net amount paid after any deductions;

(f) The employer's name, address and telephone number; and

(g) The pay period for which the payment is made.

(3) Licensees may use any form for providing this information to private security providers so long as it contains all the elements listed in section (2) above. The Department provides a sample form that licensees may use to comply with this rule.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900, ORS 181A.913

ADOPT: 259-059-0190

RULE TITLE: Change of Information

RULE SUMMARY: OAR 259-059-0190 requires private security entities to notify the Department of changes to specific information relating to the private security entity.

Changes After First Proposed Rule Filing:

Section (4) was amended to focus the change of notification requirement to notification when a private security entity either adds armed private security services or no longer provides armed private security services. Notification related to changes of armed private security services facilitates education and compliance with firearms qualification requirements under ORS 181A.906 and OAR 259-059-0140.

RULE TEXT:

Private security entities must notify the Department in writing within 10 business days if there are changes to:

- (1) The private security entity's physical address, mailing address, phone number, or e-mail address.
- (2) The entity representative's physical business address, business mailing address, business phone number, or business e-mail address.
- (3) The private security entity's business name, including doing business as or operating as names.
- (4) The private security services the private security entity provides by adding or ceasing to provide armed private security services.
- (5) The entity representative as required by OAR 259-059-0030.
- (6) The designated executive manager as required by OAR 259-059-0100.
- (7) The general liability insurance as required by OAR 259-059-0120.
- (8) The proof of ability to pay wages as required by OAR 259-059-0130.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900

ADOPT: 259-059-0200

RULE TITLE: Records Retention

RULE SUMMARY: OAR 259-059-0200 requires records retention for information that is not already required under a separate rule but is related to the application for licensure, investigation of character, competence, and reliability, and determining compliance with ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59. Private security entities will be required to provide the records to the Department when requested by the Department.

RULE TEXT:

- (1) In addition to any records required under a separate rule, private security entities must maintain the following records for at least three years from the date a record reflecting or including such information is created:
- (a) The names and addresses of all persons financially interested, whether as partners, shareholders, associates or profit-sharers, in the private security entity's operation as a private security entity, together with the amount of their respective interests;
 - (b) The physical address of the work location or locations at which private security services are provided by private security professionals employed by or pursuant to a contract or subcontract with the private security entity; and
 - (c) For each work location at which private security services are provided by private security professionals pursuant to a contract or subcontract with the private security entity, the names of the private security entity or entities contracted or subcontracted with the entity.
- (2) The Department requires private security entities to retain these records for purposes relating to the application for licensure, investigation of character, competence, and reliability, and determining compliance with ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59. The records must be provided to the Department upon request.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900

ADOPT: 259-059-0300

RULE TITLE: Complaints

RULE SUMMARY: OAR 259-059-0300 provides processes for complaints against a private security entity.

RULE TEXT:

- (1) Any complaint or allegation made to the Department against an applicant or licensee must be submitted on a Department-approved complaint form before an investigation can be initiated unless the Department grants an exception.
- (2) A complainant must file the complaint or allegation with the Department within one year of knowledge of the incident's occurrence.
- (3) When the Department receives a complaint or allegation, the Department will conduct a preliminary administrative review of the complaint or allegation to ensure there is sufficient information to proceed. The Department may conduct a fact-finding preliminary investigation. The Department may consider additional credible sources of information to determine non-compliance.
- (4) If the Department determines that there is sufficient information to support the complaint or allegation, the Department may open a case and conduct an investigation to gather relevant information.
- (5) Applicants, licensees, entity representatives, or other involved parties must respond to any questions or requests within 20 business days after a request is mailed by the Department unless an extension is requested and approved by the Department.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900

ADOPT: 259-059-0310

RULE TITLE: Protesting Issuance of a License

RULE SUMMARY: OAR 259-059-0310 provides processes for protesting the issuance or renewal of a private security entity's license.

RULE TEXT:

- (1) Any person may protest the issuance, including renewal, of a license to any applicant. The protest may be made at any time after the license is issued as well as at any time prior to the issuance of the license.
- (2) Any person protesting the issuance of a license must file the protest in writing with the Department.
- (3) The written protest must contain the following information:
 - (a) Name, address, and phone number of the person filing the protest;
 - (b) Date of the protest;
 - (c) Name of the applicant or licensee against whom the protest is being made;
 - (d) A complete statement of the facts, circumstances, and other reasons for the protest. The statement should include alleged violations, approximate dates of alleged violations, names of witnesses, if any, and any documents which support the allegations; and
 - (e) The signature of the individual making the protest.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900, ORS 181A.902

ADOPT: 259-059-0400

RULE TITLE: Compliance

RULE SUMMARY: OAR 259-059-0400 prescribes civil penalty compliance actions by the Department against a private security entity that violates ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59. The rule lists specific violations that may result in a civil penalty. The list is not all-inclusive and the Department may seek compliance for any violation of the private security entity statutes and rules. The civil penalty processes include the opportunity for a private security entity to resolve the issue, provide mitigation, or enter a stipulated agreement.

RULE TEXT:

- (1) The Department may cause administrative proceedings or court action to be initiated to enforce a private security entity's compliance with ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59.
- (2) Violations. The Department may find violation and recommend assessment of civil penalties upon finding that a private security entity has previously engaged in or is currently engaging in any of the following acts:
 - (a) Operating as a private security entity without a license in violation of ORS 181A.850;
 - (b) Using a name that implies that the private security 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 in violation of ORS 181A.893 and OAR 259-059-0095;
 - (c) Possessing or using in the scope of employment prohibited equipment, vehicles, uniforms, or titles as defined in OAR 259-059-0090;
 - (d) Discharging or in any other manner discriminating against private security providers in violation of ORS 181A.914;
 - (e) Failing to maintain a designated executive manager as required by ORS 181A.900 and OAR 259-059-0100;
 - (f) Failing to maintain general liability insurance as required by ORS 181A.900 and OAR 259-059-0120;
 - (g) Failing to maintain proof of ability to pay wages as required by ORS 181A.900 and OAR 259-059-0130;
 - (h) Failing to have a use of force policy and a citizen arrest policy as required by ORS 181A.900 and OAR 259-059-0110;
 - (i) Failing to ensure armed private security professionals successfully complete a firearms qualification for each firearm make, model, and caliber that the armed private security professional will possess or have access to while performing private security services as required by ORS 181A.906 and OAR 259-059-0140;
 - (j) Failing to provide professional workplace training as required by ORS 181A.908 and OAR 259-059-0150;
 - (k) Failing to provide private security providers employed by the entity with any of the statements as required by ORS 181A.913 and OAR 259-059-0160 through OAR 259-059-0180;
 - (l) Failing to maintain records as required by OAR Chapter 259 Division 59;
 - (m) Failing to notify the Department of a change of information as required by OAR 259-059-0190;
 - (n) Failing to file or furnish all forms and other information as required by ORS 181A.900 to 181A.918 or OAR Chapter 259 Division 59;
 - (o) Falsifying any information submitted on the application for licensure or on any documents submitted to the Board or the Department; or
 - (p) Any other violation of ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59.
- (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 entity. Records inspected may include any document relating to the requirements of ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59.
 - (b) Failure to cooperate or respond to any investigative inquiries or DEBR may result in issuance of a civil penalty under this rule or the denial, refusal to renew, revocation, or suspension of a license under OAR 259-059-0410.
- (4) Allegation of Non-Compliance. 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 for the private security entity to gain compliance, within a reasonable time agreed on by the Department and the private

security entity, without penalty.

(5) Notice of Violation. The Department may issue a Notice of Violation upon discovery of a violation.

(a) The Notice will include a statement of found violations and proposed sanctions, and an opportunity to provide mitigation to the Department.

(b) A private security entity served with a Notice of Violation has 10 business days from the date of mailing or personal service of the Notice to remedy the violation and pay a penalty or submit a written request for a time extension to remedy the violation and pay the penalty.

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

(d) Failure to remedy a violation or request an extension within 10 business days of the mailing of the Notice of Violation may result in the assessment of a civil penalty.

(6) Notice of Intent to Propose a Civil Penalty. When the Board assesses a civil penalty, the Department will issue a Notice of Intent to Propose a Civil Penalty pursuant to the applicable provisions of the Attorney General's Model Rules of Procedures adopted under OAR 259-005-0015.

(a) A private security entity who has been served with a Notice of Intent to Propose a Civil Penalty has 20 business days from the date of mailing or personal service of the Notice to file a written request for a hearing with the Department.

(b) If the Department receives a timely request for a hearing, it will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(7) Default Orders. If the Department does not receive a timely request for a hearing, 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 of a civil penalty by stipulation, subject to acceptance and approval by the Board or the Department's Director, if:

(a) The matter is resolved before entry of a Final Order Imposing Civil Penalty;

(b) The private security entity 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) Each 30-day period in violation of the same statute or rule is considered a separate violation by the Department.

(b) A flagrant violation occurs when a private security entity who, after being notified of a violation, continues or repeats the violation within a 36-month period after the initial violation.

(c) A private security entity will be charged a civil penalty of not less than \$1,000 for the first violation and \$1,500 for each flagrant violation.

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

(11) The Department will recommend the Board assess the full civil penalty amount when a private security entity fails to satisfy the terms as stipulated.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900, ORS 181A.995

ADOPT: 259-059-0410

RULE TITLE: Grounds to Deny, Refuse to Renew, Revoke, or Suspend a Private Security Entity License

RULE SUMMARY: OAR 259-059-0410 prescribes the grounds for denying, refusing to renew, suspending, or revoking a private security entity license. Section (1) identifies discretionary grounds that can be addressed without an investigation of the applicant's or licensee's character, competence, or reliability. Section (2) identifies the mandatory grounds related to an applicant's or licensee's character, competence, or reliability. The list in section (2) duplicates the list of violations that are defined as evidence of unsatisfactory character, competence, or reliability under OAR 259-059-0080. When a private security entity is in violation of any one or more of the listed violations in section (2), the Department must initiate action against the private security entity. See OAR 259-059-0420 and 259-059-0440 for the Department's processes for the administration of an action to deny, refuse to renew, revoke, or suspend a license.

Changes After First Proposed Rule Filing:

Section (2) was amended with an addition, see (2)(e), and a wording clarification, see (2)(g).

RULE TEXT:

(1) The Department may deny, refuse to renew, revoke, or suspend a license when the Department determines that an applicant or licensee:

- (a) Falsified any information submitted on the application for licensure or on any documents submitted to the Board or the Department;
- (b) Intentionally altered a license or Temporary Authorization Form, or used another private security entity's license or Temporary Authorization Form;
- (c) Knowingly permitted another private security entity to use the licensee's license or Temporary Authorization Form;
- (d) Failed to cooperate or respond to the Department's investigative inquiries or requests for records relating to compliance with ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59;
- (e) Failed to provide professional workplace training as required by ORS 181A.908 and OAR 259-059-0150;
- (f) Failed to ensure armed private security professionals have qualified using firearms of the make, model, and caliber the armed private security professional will possess or have access to while performing armed private security services as required by ORS 181A.906 and OAR 259-059-0140;
- (g) Discharged or discriminated in any way against a private security provider in violation of ORS 181A.914;
- (h) Operated as a private security entity without a license in violation of ORS 181A.850;
- (i) Failed to pay a civil penalty imposed by the Board when due;
- (j) Received three or more civil penalties under ORS 181A.995 and OAR 259-059-0400; or
- (k) Received an Emergency Suspension Order issued by the Department.

(2) When the Department determines that an applicant's or licensee's character, competence, or reliability are unsatisfactory, the Department must propose that the license be denied, refused renewal, revoked, or suspended. Investigation of character, competence, and reliability may occur when the Department receives an application for licensure, a protest, a complaint, or any other information. Evidence of unsatisfactory character, competence, or reliability includes, but is not limited to, any one or more of the following:

- (a) Having an entity representative or any other person who is financially interested in the operations of the private security entity who, within the past three years, has had a private security provider certification or license denied, refused renewal, revoked, or suspended under ORS 181A.870;
- (b) Having an entity representative or any other person who is financially interested in the operations of the private security entity who, within the past three years, has had a private security entity license denied, refused renewal, revoked, or suspended, or has otherwise violated ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59;
- (c) Failing to file or furnish all forms and other information required by ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59;
- (d) Failing to comply with business tax requirements;

- (e) Failing to comply with any of the federal, state, or local laws identified in ORS 181A.913 and OAR 259-059-0160, as evidenced by receipt of a final order or judgement;
 - (f) Failing to maintain general liability insurance as required by ORS 181A.900 and OAR 259-059-0120;
 - (g) Failing to maintain proof of ability to pay wages as required by ORS 181A.900 and OAR 259-059-0130;
 - (h) Failing to provide professional workplace training as required by ORS 181A.908 and OAR 259-059-0150;
 - (i) Failing to promptly satisfy any judgments levied against the applicant or licensee;
 - (j) Failing to notify the Department of a change of information as required by OAR 259-059-0190;
 - (k) Falsifying any information submitted on the application for licensure or on any documents submitted to the Board or the Department; or
 - (l) Any other violation of ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59.
- (3) Emergency Suspension. The Department must issue an Emergency Suspension Order immediately suspending a private security entity's license when the Department finds that there is a serious danger to public health and safety.
- (4) Any Board or Department action to deny, refuse to renew, revoke, or suspend a private security entity's license will be administered in accordance with OAR 259-059-0410 through 259-059-0440 and the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.
- (5) Nothing in this rule precludes the Department from recommending the Board impose a civil penalty in lieu of denying, refusing to renew, revoking, or suspending a license.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900, ORS 181A.902, ORS 181A.995

ADOPT: 259-059-0420

RULE TITLE: Department Review for Denial, Refusal to Renew, Revocation, or Suspension of a Private Security Entity License

RULE SUMMARY: OAR 259-059-0420 provides the processes for the Department's review of cases where there may be grounds to deny, refuse to renew, revoke, or suspend a private security entity's license. Grounds to deny, refuse to renew, revoke, or suspend a license are identified in OAR 259-059-0410. If the Department determines that there are grounds for action, the Department will notify the applicant or licensee and provide an opportunity to submit mitigation. After a review of the violation and any aggravating or mitigating factors, the Department will determine whether to issue the license or to take action (deny, refuse to renew, revoke, or suspend). Any Notice of Intent to deny, refuse to renew, revoke, or suspend a license follows the contested case processes per the Administrative Procedures Act and the Attorney General's Model Rules.

When a license is denied, refused renewal, revoked, or suspended, the Final Order will state the ineligibility period. An ineligibility period is how much time must pass before the applicant is eligible for a new private security entity license. Under ORS 181A.995, a private security entity license may be permanently revoked for a fifth or subsequent violation. Otherwise, the maximum ineligibility period is three years from the date of the Final Order.

RULE TEXT:

- (1) When the Department receives information from any source that an applicant or licensee may not meet the established standards for private security entity licensure, the Department will review the information to determine if substantial evidence exists to support denial, refusal to renew, revocation, or suspension of the license under ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59. Receipt of information may include, but is not limited to:
 - (a) Information obtained through an investigation of the applicant's or licensee's character, competence, and reliability for the issuance or renewal of a license;
 - (b) Notification from any governmental agency that the applicant or licensee has unsatisfied final judgments of the court or final orders issued which require the payment of unpaid wages to private security providers, non-compliance with business tax requirements, or a violation of ORS 181A.914;
 - (c) Any protest of the issuance or renewal of a license; or
 - (d) Any complaint submitted to the Department alleging that an applicant or licensee may have violated ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59.
- (2) If the Department determines that an applicant or licensee may have violated ORS 181A.840 to 181A.918 or OAR Chapter 259 Division 59, the Department will serve the applicant or licensee with a preliminary notification of denial, refusal to renew, revocation, or suspension. The preliminary notification provides the applicant or licensee an opportunity to respond in writing to the Department's preliminary notification to deny, refuse to renew, revoke, or suspend the license, and provides the opportunity for the applicant or licensee to surrender the license or withdraw the application for licensure.
 - (a) The applicant or licensee will have 10 business days from the date of the Department's preliminary notification to provide a written response.
 - (b) If the applicant or licensee does not provide a written response within 10 business days, the Department will proceed with reviewing the information available and making a determination.
- (3) After the opportunity to submit a written response, the Department must consider the totality of the case, which includes the violations and any aggravating or mitigating circumstances unique to the case.
 - (a) When the Department determines that the circumstances unique to the case mitigate the adverse impacts of the violation, the Department may issue the private security entity license or take no action to deny, refuse, revoke, or suspend the license.
 - (b) When the Department determines that the circumstances unique to the case do not mitigate the adverse impacts of the violation, the Department will prepare and serve a Notice of Intent on the applicant or licensee in accordance with

OAR 259-059-0410 through 259-059-0440.

(4) Ineligibility Periods. When a license is denied, refused renewal, or revoked, the Final Order issued by the Department will state the ineligibility period. Except when the license is permanently revoked, the maximum ineligibility period the Department may prescribe is three years from the date of the Final Order denying, refusing to renew, or revoking the license.

(5) The administrative rules in effect on the date the Department or the Board determines that the applicant or licensee violated the standards for licensure will continue to apply until the Final Order has been issued and all appeal rights have been exhausted regardless of whether the administrative rules have been subsequently amended or repealed.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900

ADOPT: 259-059-0430

RULE TITLE: Surrender of a Private Security Entity License

RULE SUMMARY: OAR 259-059-0430 provides processes for a private security entity to surrender its license. A request to surrender a license must be submitted in writing. If the circumstances of the surrender involve a protest, complaint, or investigation, the Department may accept the surrender through a stipulated order revoking the license. If a person wants to operate as a private security entity after the license has been surrendered, the person will be required to apply for a new license.

RULE TEXT:

- (1) A licensee may request the Department accept the surrender of the license. The request must be submitted in writing.
- (2) The license remains in effect until the Department accepts the surrender.
- (3) If the Department accepts the surrender, the Department will notify the licensee of the acceptance date. The person must stop operating as a private security entity as of the acceptance date.
- (4) If the person wants to operate as a private security entity after the acceptance date, the person must apply for a new license by meeting all the initial requirements for licensure under ORS 181A.900 to 181A.918 and OAR Chapter 259 Division 59.
- (5) If the licensee is the subject of a pending protest, complaint, or Department investigation, the Department may accept the surrender through a stipulated order revoking the license. The stipulated order may prohibit the person from being licensed for a specified ineligibility period.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900

ADOPT: 259-059-0440

RULE TITLE: Issuance of Notice of Intent / Request for Hearing / Contested Case Procedures

RULE SUMMARY: OAR 259-059-0440 provides the notification requirements that are set forth by the Administrative Procedures Act and the Attorney General's Model Rules.

RULE TEXT:

(1) Upon a determination to proceed with denial, refusal to renew, revocation, or suspension of a license, the Department will prepare and serve a Notice of Intent on the applicant or licensee.

(2) Response Time.

(a) A party who has been served with a Notice of Intent to Deny Licensure has 60 business days from the date of mailing or personal service of the Notice to file a written request for hearing or a written request withdrawing their application from consideration with the Department. Applicants who choose to withdraw their application forfeit their application fees.

(b) A party who has been served with a Notice of Intent to Refuse Renewal has 60 business days from the date of mailing or personal service of the Notice to file a written request for hearing with the Department.

(c) A party who has been served with a Notice of Intent to Revoke Licensure has 20 business days from the date of mailing or personal service of the Notice to file a written request for hearing with the Department.

(d) A party who has been served with a Notice of Intent to Suspend has 20 business days from the date of mailing or personal service of the Notice to file a written request for a hearing with the Department.

(e) A party who has been served with an Emergency Suspension Order has 90 business days from the date of mailing or personal service of the Order to file a written request for hearing with the Department.

(3) Default Orders. If the Department does not receive a timely request for a hearing, the Notice of Intent will become a Final Order denying, refusing to renew, revoking, or suspending the license pursuant to OAR 137-003-0672.

(4) Hearing Request. If the Department receives a timely request for a hearing, it will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(5) When a hearing is requested, Proposed Orders, Exceptions, and Final Orders will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

STATUTORY/OTHER AUTHORITY: ORS 181A.870, ORS 181A.900

STATUTES/OTHER IMPLEMENTED: ORS 181A.900