

FINAL BILL REPORT

SHB 2313

C 186 L 04

Synopsis as Enacted

Brief Description: Regulating bail bond recovery agents.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Carrell, Boldt and Mielke).

House Committee on Commerce & Labor

House Committee on Appropriations

Senate Committee on Commerce & Trade

Senate Committee on Judiciary

Background:

Bail bond agencies post a bond to guarantee that a criminal defendant will appear for a court date. A friend or relative of the defendant pays a premium, generally 10 percent of the bond amount, for this service, as well as providing collateral such as a lien on a home. If the defendant does not show up as scheduled for a court date, he or she is considered a fugitive, and the bail bond agency is liable to pay the entire amount of the bond. There is generally a grace period, the length of which varies by court, in which the bail bond agent may produce the defendant and avoid having to pay the bond amount.

In Washington, bail bond agencies and agents are licensed by the Department of Licensing (Department). Requirements for licensure as an agent include:

- being at least 18 years old and a citizen or resident alien of the United States;
- not having been convicted of any crime in the prior 10 years that, in the judgment of the Department, directly relates to their capacity to do the work of a bail bond agent; and
- submitting an application and completing four hours of pre-licensing training.

Bail bond recovery agents, sometimes known as "bounty hunters," search for and may arrest a fugitive for whom a bail bond has been posted. Bail bond recovery agents are not regulated in Washington. Bail bond recovery agents work under a variety of arrangements in Washington, including contracting with one or more bail bond agencies and operating independently. Also, some bail bond agents act as their own bail bond recovery agents.

An 1872 Supreme Court case, *Taylor v. Taintor*, 16 Wall. 366 (1872), established that "the sureties" (those who provide bail bonds) do not have to follow due process in seeking a fugitive for whom a bail bond has been posted. They may search and arrest without a warrant.

Summary:

A system of mandatory licensing for bail bond recovery agents is established. "Bail bond recovery agents" do not include law enforcement officers. It is stated that the Legislature does not intend by this act to restrict or limit the powers of bail bond agents under *Taylor v. Taintor*.

Licensing and Contracting Requirements

Beginning January 1, 2006, no one may perform the function of a bail bond recovery agent unless the person is licensed and also has entered into a contract with a licensed bail bond agent. Bail bond agents acting as bail bond recovery agents must have an endorsement to their license.

The Department is directed to adopt rules, in consultation with the industry, law enforcement, and prosecutors, for the bail bond recovery agent license, including pre-license training and examination. Minimum requirements for licensure include:

- education or experience appropriate for the work;
- knowledge of relevant areas of criminal and civil law;
- knowledge of appropriate use of force;
- training in the use of firearms;
- minimum age of 21 years; and
- possession of both a firearms certificate and a concealed pistol license, if carrying a firearm in the course of work as a bail bond recovery agent.

Minimum requirements also include a criminal history background check. Criminal convictions may disqualify a person from becoming licensed as a bail bond recovery agent.

Beginning January 1, 2006, it is a gross misdemeanor and unprofessional conduct to function as a bail bond recovery agent without being both licensed and contracted. There must be a separate contract for each fugitive being sought. The bail bond recovery agent must carry a copy of the license and contract while working. If requested, the bail bond recovery agent must show the contract to the fugitive and to the owner or manager of any property that the agent enters, but need not do this immediately during an effort to apprehend a fugitive.

Bail bond recovery agents from other states who are not licensed may operate in Washington only under the supervision of a licensed bail bond recovery agent.

Bail bond recovery agents must operate under both the law and the specific authority given to them in their contract with a bail bond agency. The contract may require more than the minimum required for licensure.

It is unprofessional conduct for a bail bond recovery agent to wear or display a badge not approved by the Department, make statements that would reasonably cause another person to believe the bail bond recovery agent is a law enforcement officer, or be untruthful in applying for a license.

It is unprofessional conduct for a bail bond agent to use the services of a bail bond recovery agent who is not both licensed and under contract.

Bail bond recovery agents must notify local law enforcement whenever they discharge a firearm in the course of their work.

Planned Forced Entry Notice and Identification Requirements

"Planned forced entry" is defined to mean going into a home or other structure without the permission or knowledge of the occupant in an effort to pick up a fugitive, if this action was planned in advance. It does not include situations, such as during a chase or a casual encounter, where the forced entry happens without advance planning.

Notice

Before a planned forced entry, the bail bond recovery agent must notify an appropriate local law enforcement agency. The notice must include at least the following information:

- the name of the defendant being sought;
- the address or approximate address where the entry is anticipated;
- the name of the bail bond recovery agent;
- the name of the bail bond agency for whom the recovery agent is working; and
- the alleged offense or conduct that led to a bail bond being issued on the defendant.

Identification

During a planned forced entry, the bail bond recovery agent is required to wear a shirt or vest with the words "BAIL BOND RECOVERY AGENT" written on the front and back in letters at least two inches high. The words must be reflective and in a color that contrasts with the color of the garment. The bail bond recovery agent may display a badge approved by the Department with the words "BAIL BOND RECOVERY AGENT" prominently displayed.

Beginning January 1, 2006, it is a gross misdemeanor for a bail bond recovery agent to make a planned forced entry without complying with both the notice and the identification requirements.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 10, 2004