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**SUBSTITUTE HOUSE BILL 2313**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

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

READ FIRST TIME 02/05/04.

1       AN ACT Relating to bail bond recovery agents; amending RCW  
2 18.185.010, 18.185.040, 18.185.090, 18.185.100, 18.185.110, and  
3 18.185.170; adding new sections to chapter 18.185 RCW; creating a new  
4 section; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6       NEW SECTION. **Sec. 1.** The legislature recognizes that bail bond  
7 agents and bail bond recovery agents serve a necessary and important  
8 purpose in the criminal justice system by locating, apprehending, and  
9 surrendering fugitive criminal defendants. The legislature also  
10 recognizes that locating, apprehending, and surrendering fugitives  
11 requires special skills and expertise; that bail bond agents and bail  
12 bond recovery agents are often required to perform their duties under  
13 stressful and demanding conditions; and that it serves the public  
14 interest to have qualified people performing such essential functions.  
15 Therefore, bail bond agencies that use the services of bail bond  
16 recovery agents must, in the interest of public safety, use bail bond  
17 recovery agents who possess the knowledge and competence necessary for  
18 the job.

1       **Sec. 2.** RCW 18.185.010 and 2000 c 171 s 40 are each amended to  
2 read as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

5       (1) "Department" means the department of licensing.

6       (2) "Director" means the director of licensing.

7       (3) "Commission" means the criminal justice training commission.

8       (4) "Collateral or security" means property of any kind given as  
9 security to obtain a bail bond.

10       ~~((+4))~~ (5) "Bail bond agency" means a business that sells and  
11 issues corporate surety bail bonds or that provides security in the  
12 form of personal or real property to ~~((insure))~~ ensure the appearance  
13 of a criminal defendant before the courts of this state or the United  
14 States.

15       ~~((+5))~~ (6) "Qualified agent" means an owner, sole proprietor,  
16 partner, manager, officer, or chief operating officer of a corporation  
17 who meets the requirements set forth in this chapter for obtaining a  
18 bail bond agency license.

19       ~~((+6))~~ (7) "Bail bond agent" means a person who is employed by a  
20 bail bond agency and engages in the sale or issuance of bail bonds, but  
21 does not mean a clerical, secretarial, or other support person who does  
22 not participate in the sale or issuance of bail bonds.

23       ~~((+7))~~ (8) "Licensee" means a bail bond agency ~~((or))~~, a bail bond  
24 agent ~~((or both))~~, a qualified agent, or a bail bond recovery agent.

25       ~~((+8))~~ (9) "Branch office" means any office physically separated  
26 from the principal place of business of the licensee from which the  
27 licensee or an employee or ~~((agents conduct))~~ agent of the licensee  
28 conducts any activity meeting the criteria of a bail bond agency.

29       (10) "Bail bond recovery agent" means a person who is under  
30 contract with a bail bond agent to receive compensation, reward, or any  
31 other form of lawful consideration for locating, apprehending, and  
32 surrendering a fugitive criminal defendant for whom a bail bond has  
33 been posted. "Bail bond recovery agent" does not include a general  
34 authority Washington peace officer or a limited authority Washington  
35 peace officer.

36       (11) "Contract" means a written agreement between a bail bond agent  
37 or qualified agent and a bail bond recovery agent for the purpose of

1 locating, apprehending, and surrendering a fugitive criminal defendant  
2 in exchange for lawful consideration.

3 (12) "Planned forced entry" means a premeditated forcible entry  
4 into a dwelling, building, or other structure without the occupant's  
5 knowledge or consent for the purpose of apprehending a fugitive  
6 criminal defendant subject to a bail bond. "Planned forced entry" does  
7 not include situations where, during an imminent or actual chase or  
8 pursuit of a fleeing fugitive criminal defendant, or during a casual or  
9 unintended encounter with the fugitive, the bail bond recovery agent  
10 forcibly enters into a dwelling, building, or other structure without  
11 advanced planning.

12 NEW SECTION. Sec. 3. A new section is added to chapter 18.185 RCW  
13 to read as follows:

14 An applicant must meet the following requirements to obtain a bail  
15 bond recovery agent license:

16 (1) Submit a fully completed application that includes proper  
17 identification on a form prescribed by the director;

18 (2) Pass an examination determined by the director to measure his  
19 or her knowledge and competence in the bail recovery business;

20 (3) Be at least twenty-one years old;

21 (4) Be a citizen or legal resident alien of the United States;

22 (5) Not have been convicted of a crime in any jurisdiction, if the  
23 director determines that the applicant's particular crime directly  
24 relates to a capacity to perform the duties of a bail bond recovery  
25 agent, and that the license should be withheld to protect the citizens  
26 of Washington state. The director shall make the director's  
27 determination to withhold a license because of previous convictions  
28 notwithstanding the restoration of employment rights act, chapter 9.96A  
29 RCW;

30 (6) Submit a receipt showing payment for a background check through  
31 the Washington state patrol and the federal bureau of investigation;

32 (7) Have a current firearms certificate issued by the commission if  
33 carrying a firearm in the performance of his or her duties as a bail  
34 bond recovery agent;

35 (8)(a) Have a current license to carry a concealed pistol if  
36 carrying a firearm in the performance of his or her duties as a bail  
37 bond recovery agent;

1 (b) A resident alien must provide a copy of his or her alien  
2 firearm license if carrying a firearm in the performance of his or her  
3 duties as a bail bond recovery agent; and

4 (9)(a) Pay the required nonrefundable fee for each application for  
5 a bail bond recovery agent license;

6 (b) A bail bond agent or qualified agent who wishes to perform the  
7 duties of a bail bond recovery agent must first obtain a bail bond  
8 recovery agent endorsement to his or her bail bond agent or agency  
9 license in order to act as a bail bond recovery agent, and pay the  
10 required nonrefundable fee for each application for a bail bond  
11 recovery agent endorsement.

12 **Sec. 4.** RCW 18.185.040 and 1993 c 260 s 5 are each amended to read  
13 as follows:

14 (1) Applications for licenses required under this chapter shall be  
15 filed with the director on a form provided by the director. The  
16 director may require any information and documentation that reasonably  
17 relates to the need to determine whether the applicant meets the  
18 criteria, (~~which may include~~) including fingerprints.

19 (~~(After receipt of an application for a license, the director~~  
20 ~~may conduct an investigation to determine whether the facts set forth~~  
21 ~~in the application are true.)~~) Applicants for licensure or endorsement  
22 as a bail bond recovery agent must complete a records check through the  
23 Washington state patrol criminal identification system and through the  
24 federal bureau of investigation at the applicant's expense. Such  
25 record check shall include a fingerprint check using a Washington state  
26 patrol approved fingerprint card. The Washington state patrol shall  
27 forward the fingerprints of applicants to the federal bureau of  
28 investigation for a national criminal history records check. The  
29 director may accept proof of a recent national crime information  
30 center/III criminal background report or any national or interstate  
31 criminal background report in addition to fingerprints to accelerate  
32 the licensing and endorsement process. The director is authorized to  
33 periodically perform a background investigation of licensees to  
34 identify criminal convictions subsequent to the renewal of a license or  
35 endorsement.

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 18.185 RCW  
2 to read as follows:

3        (1) The director shall adopt rules establishing prelicense training  
4 and testing requirements, which shall include a minimum of four hours  
5 of classes. The director may establish, by rule, continuing education  
6 requirements for bail bond recovery agents.

7        (2) The director shall consult with representatives of the bail  
8 bond industry and associations before adopting or amending the  
9 prelicensing training or continuing education requirements of this  
10 section.

11        (3) A bail bond recovery agent need not fulfill the prelicensing  
12 training requirements of this chapter if he or she, within sixty days  
13 prior to July 1, 2005, provides proof to the director that he or she  
14 previously has met the training requirements of this chapter.

15        (4) The director, or the director's designee, with the advice of  
16 representatives of the bail bond industry and associations, law  
17 enforcement agencies and associations, and prosecutors' associations,  
18 shall adopt rules establishing prelicense training and testing  
19 requirements and shall establish minimum exam standards necessary for  
20 a bail bond recovery agent to qualify for licensure or endorsement.

21        (5) The standards shall be limited to the following:

22        (a) A minimum level of education or experience appropriate for  
23 performing the duties of a bail bond recovery agent;

24        (b) A minimum level of knowledge in relevant areas of criminal and  
25 civil law;

26        (c) A minimum level of knowledge regarding the appropriate use of  
27 force and different degrees of the use of force; and

28        (d) Adequate training of the use of firearms from the criminal  
29 justice training commission or from an instructor who has been trained  
30 or certified by the criminal justice training center.

31        (6) The legislature does not intend, and nothing in this chapter  
32 shall be construed to restrict or limit in any way the powers of bail  
33 bond agents as recognized in and derived from the United States Supreme  
34 Court case of *Taylor v. Taintor*, 16 Wall. 366 (1872).

35        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 18.185 RCW  
36 to read as follows:

37        (1) Each fugitive criminal defendant to be recovered will be

1 treated as an individual contract between the bail bond agent and the  
2 bail bond recovery agent. A bail bond agent shall provide a bail bond  
3 recovery agent a copy of each individual contract. A bail bond  
4 recovery agent must carry, in addition to the license issued by the  
5 department, a copy of the contract and, if requested, must present a  
6 copy of the contract and the license to the fugitive criminal  
7 defendant, the owner or manager of the property in which the agent  
8 entered in order to locate or apprehend the fugitive, other residents,  
9 if any, of the residence in which the agent entered in order to locate  
10 or apprehend the fugitive, and to the local law enforcement agency or  
11 officer. If presenting a copy of the contract or the license at the  
12 time of the request would unduly interfere with the location or  
13 apprehension of the fugitive, the agent shall present the copy of the  
14 contract or the license within a reasonable period of time after the  
15 exigent circumstances expire.

16 (2) The director, or the director's designee, with the advice of  
17 the bail bond industry and associations, law enforcement agencies and  
18 associations, and prosecutors' associations shall develop a format for  
19 the contract. At a minimum, the contract must include the following:

20 (a) The name, address, phone number, and license number of the bail  
21 bond agency or bail bond agent contracting with the bail bond recovery  
22 agent;

23 (b) The name, address, phone number, and license number of the bail  
24 bond recovery agent; and

25 (c) The name, last known address, and phone number of the fugitive.

26 **Sec. 7.** RCW 18.185.090 and 1993 c 260 s 10 are each amended to  
27 read as follows:

28 (1) A bail bond agency shall notify the director within thirty days  
29 after the death or termination of employment of any employee who is a  
30 licensed bail bond agent.

31 (2) A bail bond agency shall notify the director within seventy-two  
32 hours upon receipt of information affecting a licensed bail bond  
33 agent's continuing eligibility to hold a license under the provisions  
34 of this chapter.

35 (3) A bail bond agent or bail bond recovery agent shall notify the  
36 director within seventy-two hours upon receipt of information affecting

1 the bail bond recovery agent's continuing eligibility to hold a bail  
2 bond recovery agent's license under the provisions of this chapter.

3 (4) A bail bond agent or bail bond recovery agent shall notify the  
4 local law enforcement agency whenever the bail bond recovery agent  
5 discharges his or her firearm while on duty, other than on a supervised  
6 firearms range. The notification must be made within ten business days  
7 of the date the firearm is discharged.

8 **Sec. 8.** RCW 18.185.100 and 1996 c 242 s 3 are each amended to read  
9 as follows:

10 (1) Every qualified agent shall keep adequate records for three  
11 years of all collateral and security received, all trust accounts  
12 required by this section, and all bail bond transactions handled by the  
13 bail bond agency, as specified by rule. The records shall be open to  
14 inspection without notice by the director or authorized representatives  
15 of the director.

16 (2) Every qualified agent who receives collateral or security is a  
17 fiduciary of the property and shall keep adequate records for three  
18 years of the receipt, safekeeping, and disposition of the collateral or  
19 security. Every qualified agent shall maintain a trust account in a  
20 federally insured financial institution located in this state. All  
21 moneys, including cash, checks, money orders, wire transfers, and  
22 credit card sales drafts, received as collateral or security or  
23 otherwise held for a bail bond agency's client shall be deposited in  
24 the trust account not later than the third banking day following  
25 receipt of the funds or money. A qualified agent shall not in any way  
26 encumber the corpus of the trust account or commingle any other moneys  
27 with moneys properly maintained in the trust account. Each qualified  
28 agent required to maintain a trust account shall report annually under  
29 oath to the director the account number and balance of the trust  
30 account, and the name and address of the institution that holds the  
31 trust account, and shall report to the director within ten business  
32 days whenever the trust account is changed or relocated or a new trust  
33 account is opened.

34 (3) Whenever a bail bond is exonerated by the court, the qualified  
35 agent shall, within five business days after written notification of  
36 exoneration (~~and upon written demand~~), return all collateral or  
37 security to the person entitled thereto.

1       (4) Records of contracts for fugitive apprehension must be retained  
2 by the bail bond agent and by the bail bond recovery agent for a period  
3 of three years.

4       **Sec. 9.** RCW 18.185.110 and 2002 c 86 s 251 are each amended to  
5 read as follows:

6       In addition to the unprofessional conduct described in RCW  
7 18.235.130, the following conduct, acts, or conditions constitute  
8 unprofessional conduct:

9       (1) Violating any of the provisions of this chapter or the rules  
10 adopted under this chapter;

11       (2) Failing to meet the qualifications set forth in RCW 18.185.020  
12 and 18.185.030;

13       (3) Knowingly committing, or being a party to, any material fraud,  
14 misrepresentation, concealment, conspiracy, collusion, trick, scheme,  
15 or device whereby any other person lawfully relies upon the word,  
16 representation, or conduct of the licensee. However, this subsection  
17 (3) does not prevent a bail bond recovery agent from using any pretext  
18 to locate or apprehend a fugitive criminal defendant or gain any  
19 information regarding the fugitive;

20       (4) Assigning or transferring any license issued pursuant to the  
21 provisions of this chapter, except as provided in RCW 18.185.030;

22       (5) Conversion of any money or contract, deed, note, mortgage, or  
23 other evidence of title, to his or her own use or to the use of his or  
24 her principal or of any other person, when delivered to him or her in  
25 trust or on condition, in violation of the trust or before the  
26 happening of the condition; and failure to return any money or  
27 contract, deed, note, mortgage, or other evidence of title within  
28 thirty days after the owner is entitled to possession, and makes demand  
29 for possession, shall be prima facie evidence of conversion;

30       (6) Failing to keep records, maintain a trust account, or return  
31 collateral or security, as required by RCW 18.185.100;

32       (7) Any conduct in a bail bond transaction which demonstrates bad  
33 faith, dishonesty, or untrustworthiness; ((~~or~~))

34       (8) Violation of an order to cease and desist that is issued by the  
35 director under this chapter;

36       (9) Wearing, displaying, holding, or using law enforcement-style  
37 badges;



1       (10) Making any statement that would reasonably cause another  
2 person to believe that the bail bond recovery agent is a sworn peace  
3 officer;

4       (11) Failing to carry a copy of the contract or to present a copy  
5 of the contract as required under section 6(1) of this act;

6       (12) Using a dog in the apprehension of a fugitive criminal  
7 defendant;

8       (13) Using the services of an unlicensed bail bond recovery agent  
9 or using the services of a bail bond recovery agent without issuing the  
10 proper contract;

11       (14) Misrepresenting or knowingly making a material misstatement or  
12 omission in the application for a license;

13       (15) Using the services of a person performing the functions of a  
14 bail bond recovery agent who has not been licensed by the department as  
15 required by this chapter; or

16       (16) Performing the functions of a bail bond recovery agent without  
17 being both (a) licensed under this chapter or supervised by a licensed  
18 bail bond recovery agent under section 11 of this act; and (b) under  
19 contract with a bail bond agent.

20       NEW SECTION. Sec. 10. A new section is added to chapter 18.185  
21 RCW to read as follows:

22       (1) A person may not perform the functions of a bail bond recovery  
23 agent unless the person is licensed by the department under this  
24 chapter.

25       (2) A bail bond agent may contract with a person to perform the  
26 functions of a bail bond recovery agent. Before contracting with the  
27 bail bond recovery agent, the bail bond agent must check the license  
28 issued by the department under this chapter. The requirements  
29 established by the department under this chapter do not prevent the  
30 bail bond agent from imposing additional requirements that the bail  
31 bond agent considers appropriate.

32       (3) A contract entered into under this chapter is authority for the  
33 person to perform the functions of a bail bond recovery agent as  
34 specifically authorized by the contract and in accordance with  
35 applicable law. A contract entered into by a bail bond agent with a  
36 bail bond recovery agent is not transferable by the bail bond recovery  
37 agent to another bail bond recovery agent.

1 (4) Whenever a person licensed by the department as a bail bond  
2 recovery agent is engaged in the performance of the person's duties as  
3 a bail bond recovery agent, the person must carry a copy of the  
4 license.

5 (5) A license or endorsement issued by the department under this  
6 chapter is valid from the date the license or endorsement is issued  
7 until its expiration date unless it is suspended or revoked by the  
8 department prior to its expiration date.

9 (6) No person may perform the functions of a bail bond recovery  
10 agent after December 31, 2005, unless the person has first complied  
11 with the provisions of this chapter.

12 (7) Nothing in this chapter is meant to prevent a bail bond agent  
13 from contacting a fugitive criminal defendant for the purpose of  
14 requesting the surrender of the fugitive, or from accepting the  
15 voluntary surrender of the fugitive.

16 NEW SECTION. **Sec. 11.** A new section is added to chapter 18.185  
17 RCW to read as follows:

18 A bail bond recovery agent from another state who is not licensed  
19 under this chapter may not perform the functions of a bail bond  
20 recovery agent in this state unless the agent is working under the  
21 direct supervision of a licensed bail bond recovery agent.

22 NEW SECTION. **Sec. 12.** A new section is added to chapter 18.185  
23 RCW to read as follows:

24 (1) Before a bail bond recovery agent may apprehend a person  
25 subject to a bail bond in a planned forced entry, the bail bond  
26 recovery agent must notify an appropriate law enforcement agency in the  
27 local jurisdiction in which the apprehension is expected to occur.  
28 Notification must include, at a minimum: The name of the defendant;  
29 the address, or the approximate location if the address is  
30 undeterminable, of the dwelling, building, or other structure where the  
31 planned forced entry is expected to occur; the name of the bail bond  
32 recovery agent; the name of the contracting bail bond agent; and the  
33 alleged offense or conduct the defendant committed that resulted in the  
34 issuance of a bail bond.

35 (2) During the actual planned forced entry, a bail bond recovery  
36 agent shall wear a shirt, vest, or other garment with the words "BAIL

1 BOND RECOVERY AGENT" displayed in at least two-inch-high reflective  
2 print letters across the front and back of the garment and in a  
3 contrasting color to that of the garment.

4 **Sec. 13.** RCW 18.185.170 and 2002 c 86 s 254 are each amended to  
5 read as follows:

6 (1) (~~After June 30, 1994,~~) Any person who performs the functions  
7 and duties of a bail bond agent in this state without being licensed in  
8 accordance with the provisions of this chapter, or any person  
9 presenting or attempting to use as his or her own the license of  
10 another, or any person who gives false or forged evidence of any kind  
11 to the director in obtaining a license, or any person who falsely  
12 impersonates any other licensee, or any person who attempts to use an  
13 expired or revoked license, or any person who violates any of the  
14 provisions of this chapter is guilty of a gross misdemeanor.

15 (2) (~~After January 1, 1994,~~) A person is guilty of a gross  
16 misdemeanor if ((he or she)) the person owns or operates a bail bond  
17 agency in this state without first obtaining a bail bond agency  
18 license.

19 (3) (~~After June 30, 1994,~~) The owner or qualified agent of a bail  
20 bond agency is guilty of a gross misdemeanor if ((he or she)) the owner  
21 or qualified agent employs any person to perform the duties of a bail  
22 bond agent without the employee having in ((his or her)) the employee's  
23 possession a permanent bail bond agent license issued by the  
24 department.

25 (4) After December 31, 2005, a person is guilty of a gross  
26 misdemeanor if the person:

27 (a) Performs the functions of a bail bond recovery agent without  
28 first obtaining a license from the department and entering into a  
29 contract with a bail bond agent as required by this chapter; or, in the  
30 case of a bail bond recovery agent from another state, the person  
31 performs the functions of a bail bond recovery agent without operating  
32 under the direct supervision of a licensed bail bond recovery agent as  
33 required by this chapter; or

34 (b) Conducts a planned forced entry without first complying with  
35 the requirements of this chapter.

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