

HOUSE BILL REPORT

ESSB 6437

As Passed House:

March 5, 2008

Title: An act relating to bail bond agents and bail bond recovery agents.

Brief Description: Modifying provisions relating to bail bond and bail bond recovery agents.

Sponsors: By Senate Committee on Judiciary (originally sponsored by Senators Carrell, Hargrove and Kline; by request of Department of Licensing).

Brief History:

Committee Activity:

Commerce & Labor: 2/26/08, 2/28/08 [DP].

Floor Activity:

Passed House: 3/5/08, 96-0.

Brief Summary of Engrossed Substitute Bill

- Requires bail bond recovery agents who make a forced entry, whether planned or unplanned, to notify the Department of Licensing.
- Requires recovery agents to use due care to protect persons and property of persons other than the defendant, and prohibits the use of dogs.
- Requires a recovery agent to have reasonable cause to believe a defendant is inside a structure for a planned forced entry.
- Increases recovery agent training from a minimum of four to a minimum of 32 hours.
- Provides immunity for law enforcement officers who are in attendance at or assist with a planned forced entry.
- Requires the Department of Licensing to study requiring financial responsibility for bail bond agents and recovery agents.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Makes other changes in the bail bond agency, agent, and recovery agent provisions.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse, Green, Moeller and Williams.

Staff: Joan Elgee (786-7106).

Background:

Bail bond agencies, bail bond agents, and bail bond recovery agents must be licensed by the Department of Licensing (Department). A bail bond agency is a business that sells and issues bonds, or provides security in the form of property, to ensure the appearance of a criminal defendant. A bail bond agent is an employee of a bail bond agency and a bail bond recovery agent works under contract with a bail bond agent to apprehend fugitive criminal defendants. A bail bond agent may receive a recovery agent endorsement.

Bail Bond Agencies

To be licensed as a bail bond agency, a person must meet the bail bond agent requirements and must also pass an exam or demonstrate at least three years experience as a manager, supervisor, or administrator in the bail bond business or a related field.

Bail bond agencies that receive collateral or security to ensure the appearance of a defendant must keep records and must deposit all moneys received in a trust account. When a bail bond is exonerated by the court, the agency must return all collateral or security within five business days. A bail bond agency must obtain a \$10,000 surety bond and persons injured by the agency's failure to return collateral or security may bring suit against the bond.

Bail Bond Agents and Recovery Agents

A bail bond agent must meet training and testing requirements established by the Director of the Department (Director), which include a minimum of four hours of classes, and must not have a related criminal conviction.

To be licensed as a bail bond recovery agent, a person must:

- pass an exam;
- have no related criminal convictions;
- have a current firearms certificate issued by the Criminal Justice Training Commission (CJTC) and a concealed pistol license, if the recovery agent carries a firearm; and
- meet training requirements established by the Director, which must include a minimum of four hours of classes.

The Director must set the exam standards, which are limited to minimum levels of education or experience appropriate for performing the recovery agent duties, knowledge in relevant

areas of criminal and civil law, knowledge regarding the appropriate use of force, and adequate training in the use of firearms.

Before a recovery agent may apprehend a person in a planned forced entry, the agent must notify law enforcement. During a planned forced entry, an agent must have "BAIL BOND RECOVERY AGENT" displayed on his or her clothing and may display a badge approved by the Department stating, "BAIL BOND RECOVERY AGENT."

A bail bond agent or recovery agent must notify local law enforcement within 10 days of discharging a firearm while on duty.

Other

The Director may appoint an advisory committee made up of representatives of the industry and a consumer to assist in developing rules to implement the law. The Director must consult with the industry before adopting certain requirements.

The licensing law does not address the liability of a law enforcement officer who assists with or is present during a planned forced entry.

Summary of Bill:

A number of changes are made to bail bond licensing provisions.

Bail Bond Agencies

The experience a person must have to obtain a bail bond agency license must be in Washington. (If the experience is not in Washington, the person must take the exam.)

Bail Bond Recovery Agents

The training requirements for recovery agents are increased. The minimum number of hours of classes is increased to 32 hours and the classes must specifically be in field operations. The standards for the exam are no longer limited to the standards stated in statute.

All bail bond recovery agents must have a concealed pistol license. A permit equivalent to a concealed pistol license satisfies the concealed pistol license requirement. The training in the use of firearms may be from another entity approved by the Director, in addition to the CJTC. The Director may establish recertification requirements.

A person who has had his or her certification as a peace officer revoked or denied is not eligible for a recovery agent license unless the certification has been reinstated.

Several additional requirements are placed on forced entries:

- A recovery agent must notify the Director within 10 days following a forced entry, whether planned or unplanned. The notification must include information the Director establishes by rule.
- In a planned forced entry, a recovery agent must have reasonable cause to believe that the defendant is inside the dwelling, building, or other structure where the planned forced entry is expected to occur.

- Unprofessional conduct includes failure to exercise due care to protect the safety of persons and the property of persons other than the defendant, and using a dog in the apprehension of a defendant.

The wording on clothing or a badge may read "BAIL ENFORCEMENT" or "BAIL ENFORCEMENT AGENT," in addition to "BAIL BOND RECOVERY AGENT."

The responsibility to notify local law enforcement if a firearm is discharged is limited to the recovery agent, not the bail bond agent.

Other

The role of the advisory committee is expanded to include assisting with rules to administer the chapter. The Director or the Director's designee, with the advice of law enforcement, the CJTC, prosecutors, or others as appropriate must consult with representatives of the industry and associations before adopting certain requirements.

Immunity is provided for law enforcement officers who assist in or are in attendance during a planned forced entry.

The Department of Licensing (Department) is directed to convene a work group to evaluate whether bail bond agents and bail recovery agents should provide proof of financial responsibility to protect persons who suffer damages. The members of the work group must include the bail bond industry and associations, local law enforcement, prosecuting attorneys, and criminal defense attorneys. By December 1, 2009, the Department must report to the Legislature on its findings and recommendations.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) There have been problems and they need to be addressed. The meeting at the Department of Licensing resulted in nearly a consensus bill. When the Legislature first addressed this issue, it was just weighing gently to make sure no harm was done to the industry. This bill goes a little further. It provides more training and more education.

The work group on liability and insurance, which is not in the House bill, is a compromise and good idea.

Requiring the concealed pistol license means the person undergoes a comprehensive Federal Bureau of Investigation background check.

The House bill is a little bit preferred because it does not require persons to have a concealed pistol license if the person is not carrying a gun. Requiring the license could mean people would leave the business.

The immunity will help the relationship between the industry and law enforcement.

(Opposed) None.

Persons Testifying: Senator Carrell, prime sponsor; Gordon Walgren, Washington State Bail Agents Association; Joshua Haarbrink; and Liz Luce and Ralph Osgood, Department of Licensing.

Persons Signed In To Testify But Not Testifying: None.