

HOUSE BILL REPORT

HB 2759

As Reported by House Committee On:
Commerce & Labor

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: Representatives Conway and Wood; by request of Department of Licensing.

Brief History:

Committee Activity:

Commerce & Labor: 1/24/08, 2/1/08 [DPS].

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

HOUSE COMMITTEE ON COMMERCE & LABOR

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill 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.

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

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.

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 Substitute Bill:

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

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.)

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.

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.

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

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

Substitute Bill Compared to Original Bill:

The substitute bill deletes bail bond agents from the notification requirements for forced entries and firearm discharges with the effect that only bail bond recovery agents are responsible for the notification. The substitute bill also restores current law requiring bail bond recovery agents to have a concealed pistol license only if carrying a firearm in the performance of his or her duties. Finally, the substitute bill restores current law requiring, rather than authorizing, the Department to consult with representatives of the industry and associations before adopting certain requirements and clarifies that the advice to be sought from entities is about the requirements.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The Department needs more regulatory authority. There have been recent complaints of recovery agents entering the wrong homes and apprehending innocent people. In one case, a gun-toting recovery agent burst into the wrong home of a couple with a young child. This bill provides more oversight, and helps protect the public and agents. The bill will raise the training requirements, add continuing education, and require reasonable knowledge before forced entries occur.

(In support with amendment) This bill is a huge step forward that has been developed with the Department. The additional training will raise professionalism. Two minor concerns are that the Department should be required to consult with those being regulated and recovery agents should be required to notify bail bond agents, in addition to the Department, when a forced entry occurs, as the bail bond agent may not know a forced entry has occurred.

(Opposed) None.

Persons Testifying: (In support) Representative Wood; and Liz Luce and Ralph Osgood, Department of Licensing.

(In support with amendment) Gordon Walgren, Washington State Bail Agents; Jerry Gillentine; and Joshua Haarbrink.

Persons Signed In To Testify But Not Testifying: None.