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**SUBSTITUTE SENATE BILL 6437**

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**State of Washington                      60th Legislature                      2008 Regular Session**

**By** Senate Judiciary (originally sponsored by Senators Carrell, Hargrove, and Kline; by request of Department of Licensing)

READ FIRST TIME 01/28/08.

1            AN ACT Relating to bail bond agents and bail bond recovery agents;  
2 and amending RCW 18.185.030, 18.185.060, 18.185.070, 18.185.090,  
3 18.185.110, 18.185.250, 18.185.260, 18.185.280, and 18.185.300.

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

5            **Sec. 1.** RCW 18.185.030 and 1993 c 260 s 4 are each amended to read  
6 as follows:

7            (1) In addition to meeting the minimum requirements to obtain a  
8 license as a bail bond agent, a qualified agent must meet the following  
9 additional requirements to obtain a bail bond agency license:

10            (a) Pass an examination determined by the director to measure the  
11 person's knowledge and competence in the bail bond agency business; or

12            (b) Have had at least three years' experience as a manager,  
13 supervisor, or administrator in the bail bond business or a related  
14 field in Washington state as determined by the director. A year's  
15 experience means not less than two thousand hours of actual compensated  
16 work performed before the filing of an application. An applicant shall  
17 substantiate the experience by written certifications from previous  
18 employers. If the applicant is unable to supply written certifications

1 from previous employers, applicants may offer written certifications  
2 from persons other than employers who, based on personal knowledge, can  
3 substantiate the employment; and

4 (c) Pay any additional fees as established by the director.

5 (2) An agency license issued under this section may not be assigned  
6 or transferred without prior written approval of the director.

7 **Sec. 2.** RCW 18.185.060 and 1993 c 260 s 7 are each amended to read  
8 as follows:

9 (1) The director shall adopt rules establishing prelicense training  
10 and testing requirements for bail bond agents, which shall include ((a  
11 ~~minimum of~~)) no less than four hours of classes. The director may  
12 establish, by rule, continuing education requirements for bail bond  
13 agents.

14 (2) The director ((shall)) or the director's designee, with the  
15 advice of law enforcement agencies and associations, the criminal  
16 justice training commission, prosecutors' associations, or such other  
17 entities as may be appropriate, may consult with representatives of the  
18 bail bond industry and associations before adopting or amending the  
19 prelicensing training or continuing education requirements of this  
20 section.

21 (3) The director may appoint an advisory committee consisting of  
22 representatives from the bail bond industry and a consumer to assist in  
23 the development of rules to implement and administer this chapter.

24 ((~~(4) A bail bond agent need not fulfill the prelicensing training~~  
25 ~~requirements of this chapter if he or she, within sixty days prior to~~  
26 ~~July 1, 1994, provides proof to the director that he or she previously~~  
27 ~~has met the training requirements of this chapter or has been employed~~  
28 ~~as a bail bond agent for at least eighteen consecutive months~~  
29 ~~immediately prior to the date of application.~~))

30 **Sec. 3.** RCW 18.185.070 and 1993 c 260 s 8 are each amended to read  
31 as follows:

32 (1) No bail bond agency license may be issued under the provisions  
33 of this chapter unless the qualified agent files with the director a  
34 bond, executed by a surety company authorized to do business in this  
35 state, in the sum of ten thousand dollars conditioned to recover  
36 against the agency and its servants, officers, contractors, agents, and

1 employees by reason of its violation of the provisions of RCW  
2 18.185.100. The bond shall be made payable to the state of Washington,  
3 and anyone so injured by the agency or its servants, officers,  
4 contractors, agents, or employees may bring suit upon the bond in any  
5 county in which jurisdiction over the licensee may be obtained.  
6 Notwithstanding any contract between a bail bond agent and a bail bond  
7 recovery agent to the contrary, in any suit against a bail bond  
8 recovery agent for civil damages based upon the negligent act or  
9 omission of the bail bond recovery agent, the bail bond agent shall be  
10 liable for the negligent act or omission of the bail bond recovery  
11 agent, if the bail bond recovery agent was acting as the bail bond  
12 agent's servant, officer, contractor, agent, or employee. The suit  
13 must be brought not later than two years after the failure to return  
14 property in accordance with RCW 18.185.100. If valid claims against  
15 the bond exceed the amount of the bond or deposit, each claimant shall  
16 be entitled only to a pro rata amount, based on the amount of the claim  
17 as it is valid against the bond, without regard to the date of filing  
18 of any claim or action.

19 (2) Every licensed bail bond agency must at all times maintain on  
20 file with the director the bond required by this section in full force  
21 and effect. Upon failure by a licensee to do so, the director shall  
22 suspend the licensee's license and shall not reinstate the license  
23 until this requirement is met.

24 (3) In lieu of posting a bond, a qualified agent may deposit in an  
25 interest-bearing account, ten thousand dollars.

26 (4) The director may waive the bond requirements of this section,  
27 in his or her discretion, pursuant to adopted rules.

28 **Sec. 4.** RCW 18.185.090 and 2004 c 186 s 7 are each amended to read  
29 as follows:

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

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

1 (3) A bail bond agent or bail bond recovery agent shall notify the  
2 director within seventy-two hours upon receipt of information affecting  
3 the bail bond recovery agent's continuing eligibility to hold a bail  
4 bond recovery agent's license under the provisions of this chapter.

5 (4) A bail bond agent or bail bond recovery agent shall notify the  
6 director within ten business days following a forced entry for the  
7 purpose of apprehending a fugitive criminal defendant, whether planned  
8 or unplanned. The notification under this subsection must include  
9 information required by rule of the director.

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

15 **Sec. 5.** RCW 18.185.110 and 2007 c 256 s 2 are each amended to read  
16 as follows:

17 In addition to the unprofessional conduct described in RCW  
18 18.235.130, the following conduct, acts, or conditions constitute  
19 unprofessional conduct:

20 (1) Violating any of the provisions of this chapter or the rules  
21 adopted under this chapter;

22 (2) Failing to meet the qualifications set forth in RCW 18.185.020,  
23 18.185.030, and 18.185.250;

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

31 (4) Assigning or transferring any license issued pursuant to the  
32 provisions of this chapter, except as provided in RCW 18.185.030 or  
33 18.185.250;

34 (5) Conversion of any money or contract, deed, note, mortgage, or  
35 other evidence of title, to his or her own use or to the use of his or  
36 her principal or of any other person, when delivered to him or her in  
37 trust or on condition, in violation of the trust or before the

1 happening of the condition; and failure to return any money or  
2 contract, deed, note, mortgage, or other evidence of title within  
3 thirty days after the owner is entitled to possession, and makes demand  
4 for possession, shall be prima facie evidence of conversion;

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

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

9 (8) Violation of an order to cease and desist that is issued by the  
10 director under chapter 18.235 RCW;

11 (9) Wearing, displaying, holding, or using badges not approved by  
12 the department;

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

16 (11) Failing to carry a copy of the contract or to present a copy  
17 of the contract as required under RCW 18.185.270(1);

18 (12) Using the services of an unlicensed bail bond recovery agent  
19 or using the services of a bail bond recovery agent without issuing the  
20 proper contract;

21 (13) Misrepresenting or knowingly making a material misstatement or  
22 omission in the application for a license;

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

26 (15) Performing the functions of a bail bond recovery agent without  
27 being both (a) licensed under this chapter or supervised by a licensed  
28 bail bond recovery agent under RCW 18.185.290; and (b) under contract  
29 with a bail bond agent;

30 (16) Performing the functions of a bail bond recovery agent without  
31 exercising due care to protect the safety of persons other than the  
32 defendant and the property of persons other than the defendant; or

33 (17) Using a dog in the apprehension of a fugitive criminal  
34 defendant.

35 **Sec. 6.** RCW 18.185.250 and 2004 c 186 s 3 are each amended to read  
36 as follows:

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

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

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

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

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

9 (5) Not have been convicted of a crime in any jurisdiction, if the  
10 director determines that the applicant's particular crime directly  
11 relates to a capacity to perform the duties of a bail bond recovery  
12 agent, and that the license should be withheld to protect the citizens  
13 of Washington state. The director shall make the director's  
14 determination to withhold a license because of previous convictions  
15 notwithstanding the restoration of employment rights act, chapter 9.96A  
16 RCW;

17 (6) Not have had certification as a peace officer revoked or denied  
18 under chapter 43.101 RCW, unless certification has subsequently been  
19 reinstated under RCW 43.101.115;

20 (7) Submit a receipt showing payment for a background check through  
21 the Washington state patrol and the federal bureau of investigation;

22 ~~((+7))~~ (8) Have a current firearms certificate issued by the  
23 commission if carrying a firearm in the performance of his or her  
24 duties as a bail bond recovery agent;

25 ~~((+8))~~ (9)(a) Have a current license or equivalent permit to carry  
26 a concealed pistol ~~((if carrying a firearm in the performance of his or~~  
27 ~~her duties as a bail bond recovery agent))~~);

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

31 ~~((+9))~~ (10)(a) Pay the required nonrefundable fee for each  
32 application for a bail bond recovery agent license;

33 (b) A bail bond agent or qualified agent who wishes to perform the  
34 duties of a bail bond recovery agent must first obtain a bail bond  
35 recovery agent endorsement to his or her bail bond agent or agency  
36 license in order to act as a bail bond recovery agent, and pay the  
37 required nonrefundable fee for each application for a bail bond  
38 recovery agent endorsement.

1       **Sec. 7.** RCW 18.185.260 and 2004 c 186 s 5 are each amended to read  
2 as follows:

3       (1) The director shall adopt rules establishing prelicense training  
4 and testing requirements for bail bond recovery agents, which shall  
5 include ~~((a minimum of four))~~ no less than thirty-two hours of field  
6 operations classes. The director may establish, by rule, continuing  
7 education and recertification requirements for bail bond recovery  
8 agents.

9       (2) The director ~~((shall))~~ or the director's designee, with the  
10 advice of law enforcement agencies and associations, the criminal  
11 justice training commission, prosecutors' associations, or such other  
12 entities as may be appropriate, may consult with representatives of the  
13 bail bond industry and associations before adopting or amending the  
14 prelicensing training ~~((or continuing education requirements of this~~  
15 ~~section.~~

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

20       ~~(4) The director, or the director's designee, with the advice of~~  
21 ~~representatives of the bail bond industry and associations, law~~  
22 ~~enforcement agencies and associations, and prosecutors' associations,~~  
23 ~~shall adopt rules establishing prelicense training and), testing, and~~  
24 continuing education and recertification requirements of this section  
25 and shall establish minimum exam standards necessary for a bail bond  
26 recovery agent to qualify for licensure or endorsement.

27       ~~((+5))~~ (3) The standards ~~((shall be))~~ must include, but are not  
28 limited to, the following:

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

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

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

35       (d) Adequate training of the use of firearms from the criminal  
36 justice training commission ~~((or))~~, from an instructor who has been  
37 trained or certified by the criminal justice training ~~((center))~~  
38 commission, or from another entity approved by the director.

1 ((+6)) (4) The legislature does not intend, and nothing in this  
2 chapter shall be construed to restrict or limit in any way the powers  
3 of bail bond agents as recognized in and derived from the United States  
4 supreme court case of *Taylor v. Taintor*, 16 Wall. 366 (1872).

5 **Sec. 8.** RCW 18.185.280 and 2004 c 186 s 10 are each amended to  
6 read as follows:

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

10 (2) A bail bond agent may contract with a person to perform the  
11 functions of a bail bond recovery agent. Before contracting with the  
12 bail bond recovery agent, the bail bond agent must check the license  
13 issued by the department under this chapter. The requirements  
14 established by the department under this chapter do not prevent the  
15 bail bond agent from imposing additional requirements that the bail  
16 bond agent considers appropriate.

17 (3) A contract entered into under this chapter is authority for the  
18 person to perform the functions of a bail bond recovery agent as  
19 specifically authorized by the contract and in accordance with  
20 applicable law. A contract entered into by a bail bond agent with a  
21 bail bond recovery agent is not transferable by the bail bond recovery  
22 agent to another bail bond recovery agent.

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

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

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

34 (+7)) Nothing in this chapter is meant to prevent a bail bond agent  
35 from contacting a fugitive criminal defendant for the purpose of  
36 requesting the surrender of the fugitive, or from accepting the  
37 voluntary surrender of the fugitive.

1       **Sec. 9.** RCW 18.185.300 and 2004 c 186 s 12 are each amended to  
2 read as follows:

3       (1) Before a bail bond recovery agent may apprehend a person  
4 subject to a bail bond in a planned forced entry, the bail bond  
5 recovery agent must:

6       (a) Have reasonable cause to believe that the defendant is inside  
7 the dwelling, building, or other structure where the planned forced  
8 entry is expected to occur; and

9       (b) Notify an appropriate law enforcement agency in the local  
10 jurisdiction in which the apprehension is expected to occur.  
11 Notification must include, at a minimum: The name of the defendant;  
12 the address, or the approximate location if the address is  
13 undeterminable, of the dwelling, building, or other structure where the  
14 planned forced entry is expected to occur; the name of the bail bond  
15 recovery agent; the name of the contracting bail bond agent; and the  
16 alleged offense or conduct the defendant committed that resulted in the  
17 issuance of a bail bond.

18       (2) During the actual planned forced entry, a bail bond recovery  
19 agent:

20       (a) Shall wear a shirt, vest, or other garment with the words "BAIL  
21 BOND RECOVERY AGENT," "BAIL ENFORCEMENT," or "BAIL ENFORCEMENT  
22 AGENT" displayed in at least two-inch-high reflective print letters across the  
23 front and back of the garment and in a contrasting color to that of the  
24 garment; and

25       (b) May display a badge approved by the department with the words  
26 "BAIL BOND RECOVERY AGENT," "BAIL ENFORCEMENT," or "BAIL ENFORCEMENT  
27 AGENT" prominently displayed.

28       (3) Any law enforcement officer who assists in or is in attendance  
29 during a planned forced entry is immune from civil action for damages  
30 arising out of actions taken by the bail bond recovery agent or agents  
31 conducting the forced entry.

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