
**Community Safety, Justice, & Reentry
Committee**

HB 1369

Brief Description: Concerning off-duty employment of fish and wildlife officers.

Sponsors: Representatives Griffey, Bronoske, Riccelli, Maycumber, Couture, Abbarno, Volz, Barkis, Christian and Leavitt.

Brief Summary of Bill

- Directs the Washington Department of Fish and Wildlife (WDFW) to encourage off-duty law enforcement employment by its officers.
- Requires the Chief of the WDFW law enforcement to adopt guidelines for officers who choose to engage in off-duty employment.
- Specifies the state is not liable for tortious conduct by off-duty WDFW officers.

Hearing Date: 1/30/23

Staff: Martha Wehling (786-7067).

Background:

Washington Department of Fish and Wildlife (WDFW) officers have the same police powers and duties as sheriffs and peace officers, making them general authority peace officers. A sheriff has the authority to arrest persons committing public offenses, protect public safety, execute court orders and warrants, attend court proceedings, and keep and preserve the peace within their county.

There are multiple definitions of peace officers. A general peace officer is an officer of a state or

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local government or agency whose primary function is violations of traffic or criminal laws. The Washington State Patrol and the WDFW are general authority law enforcement agencies. A limited authority peace officer is a state or local government or agency with limited subject areas. The Departments of Natural Resources, Social and Health Services, Corrections, and Parks and Recreation; the Gambling Commission, Lottery Commission, Insurance Commissioner, and Utilities and Transportation Commission; the Liquor and Cannabis Board; and the Office of Independent Investigations are limited authority law enforcement agencies. A sworn peace officer has the authority to enforce traffic or criminal laws when the officer has written consent of a jurisdiction's sheriff or police chief, is responding to an emergency threatening human life or property, is responding to a request for assistance, is transporting a prisoner, is executing a warrant, or is in pursuit. There are also federal peace officers, specially commissioned peace officers, and reserve peace officers, which have different authorities than agency officers.

Armed private security guards employed by private security agencies must comply with Department of Licensing requirements. These apply to security officers or guards, patrol or merchant patrol service officers or guards, armed escorts or bodyguards, armored vehicle guards, burglar alarm response runners, or crowd control officers or guards.

The Department of Licensing requirements do not apply to sworn peace officers who are engaged in their official duties, or who are employed as crowd management or event staff when the employment does not require a firearm, uniform, or responsibility for detainment. Sworn peace officers who are employed in off-duty employment as a private security guard are only exempt from the Department of Licensing requirements when the officer's employment is approved by the chief law enforcement officer of the jurisdiction where the employment takes place, and the officer does not employ, contract with, or broker for profit any other person to assist the officer in performing the private duties. If the conditions are not met, use of a uniform, vehicle, or equipment while off duty is a gross misdemeanor, and could result in a civil penalty, fine, or proceedings to revoke the officer's certification by the Washington State Criminal Justice Training Commission as well as potential disciplinary action by the officer's employer.

A peace officer's primary agency has liability for the officer's exercise of authority unless the officer is acting under the direction of another agency or another agency assumes liability pursuant to a written agreement with the primary agency. The WDFW has liability for its officers' exercise of authority unless the WDFW officer is acting under the direction of another agency or another agency assumes liability pursuant to an agreement with the WDFW.

Summary of Bill:

The Department of Fish and Wildlife is directed to support its officers' engagement in private off-duty law enforcement employment. The Chief of the WDFW enforcement is required to adopt guidelines that ensure preservation of the integrity and professionalism of the agency when officers choose to participate in off-duty employment. Officers may wear their uniforms when engaged in off-duty law enforcement when doing so is consistent with the Department of

Licensing's requirements.

The State of Washington is not liable for tortious conduct by WDFW officers who engage in private off-duty law enforcement. Prior to engaging in private employment, WDFW officers must provide the private employer with written notice of this limitation.

Appropriation: None.

Fiscal Note: Available.

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