

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 1043

Introduced by Aguilar, 35.

Read first time January 18, 2008

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to security services; to amend sections 81-1423
2 and 81-1425, Revised Statutes Cumulative Supplement,
3 2006; to adopt the Security Services Act; to harmonize
4 provisions; and to repeal the original sections.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 25 of this act shall be known
2 and may be cited as the Security Services Act.

3 Sec. 2. For purposes of the Security Services Act:

4 (1) (a) Armed security guard means a security guard who is
5 authorized under the act to possess and use a firearm; and

6 (b) Armed security guard does not include a peace
7 officer who contracts either individually with the approval of
8 the governmental unit employing the peace officer, or through such
9 governmental unit, with a public or private entity to provide
10 services while in uniform as a peace officer;

11 (2) Commission means the Nebraska Commission on Law
12 Enforcement and Criminal Justice;

13 (3) Contract security company means a person engaging in
14 the business of providing the services of armed or unarmed security
15 guards on a contractual basis for another person;

16 (4) Executive director means the executive director of
17 the commission or his or her designee;

18 (5) Private business means a business or company whose
19 source of income and main enterprise does not include providing
20 security services to others but who may employ individuals to
21 work as security guards solely for the protection of personnel or
22 property of such business or company;

23 (6) Security guard means an individual employed to guard
24 property or provide safety to employees while at the location of
25 the property or employees or upon being called to such location.

1 Security guard includes an individual who responds to the signal of
2 an alarm at the home, business, or property of the end user of an
3 alarm system and who is not employed by such end user; and

4 (7) Unarmed security guard means a security guard who is
5 not authorized under the act to possess and use a firearm.

6 Sec. 3. (1) Except as provided in section 8 of this act,
7 a person who is not licensed under the Security Services Act shall
8 not, after January 1, 2009, by any direct or indirect means, engage
9 in business as a contract security company, act or assume to act as
10 a security guard or a contract security company, or represent that
11 such person is a security guard or a contract security company. No
12 individual shall falsely represent that he or she is employed by or
13 represents a contract security company.

14 (2) Any person who violates this section is guilty of a
15 Class II misdemeanor.

16 Sec. 4. Beginning October 1, 2008, any person desiring to
17 engage in the business of providing security services in the State
18 of Nebraska as a security guard or a contract security company
19 and desiring to be licensed under the Security Services Act shall
20 file with the executive director an application for a license. If
21 such person is qualified as prescribed in the act, the executive
22 director shall issue to the person a nontransferable license to
23 engage in business in the State of Nebraska as an armed security
24 guard, an unarmed security guard, or a contract security company.

25 Sec. 5. (1) Before a license is issued to an applicant

1 under the Security Services Act, the following persons, as
2 applicable, shall be legal residents of the United States and
3 shall not have been convicted in the State of Nebraska or in any
4 other state or territory of the United States of any misdemeanor
5 involving child abuse or neglect or any felony:

6 (a) If the applicant is an individual, the individual;
7 (b) If the applicant is a corporation, each of its
8 individual officers performing the duties of president, secretary,
9 and treasurer of the corporation and the duties of the manager of
10 the business of the corporation in the State of Nebraska; and

11 (c) If the applicant is any person other than an
12 individual or a corporation, each of the individual partners,
13 members, managers, officers, or other individuals having a right to
14 participate in the management of the applicant's business in the
15 State of Nebraska.

16 (2) All persons listed in subsection (1) of this section
17 shall be subject to a criminal background check. The applicant
18 shall submit the fee for a state and national criminal history
19 check, in addition to the license fee, along with a full set of
20 fingerprints to the commission when applying for a license. The
21 executive director shall submit the fingerprints and the fee for
22 the criminal history check to the Nebraska State Patrol for a state
23 and national criminal history record information check through
24 the Federal Bureau of Investigation. The patrol shall notify the
25 executive director of the results of the criminal history record

1 information checks within thirty days after the date of the
2 application. Pursuant to section 4 of this act, the executive
3 director shall issue the license unless he or she has received
4 within such thirty-day period a report from the patrol stating that
5 the applicant is not qualified for the license on the basis of the
6 criminal history record information checks.

7 Sec. 6. To be eligible for an unarmed security guard
8 license, an applicant shall be at least eighteen years of age. To
9 be eligible for an armed security guard license, an applicant shall
10 be at least twenty-one years of age.

11 Sec. 7. The application for a license (1) shall be made
12 on a suitable form prescribed by the commission, (2) shall be
13 accompanied when filed by (a) proof of liability insurance as
14 required by section 13 of this act, (b) a list of employees if
15 required by section 14 of this act, (c) a copy of the certificate
16 to purchase a handgun and a copy of a certificate of completion as
17 required by section 15 of this act for application for a license as
18 an armed security guard, (d) a complete set of legible fingerprints
19 for each person who is subject to a national criminal history
20 record information check under subsection (2) of section 5 of this
21 act, and (e) an application fee as prescribed in section 12 of this
22 act, (3) shall be signed and verified by each individual connected
23 with the applicant to whom the requirements of subsection (1) of
24 section 5 of this act apply, (4) shall include the applicant's
25 social security number if the applicant is an individual, and

1 (5) may contain such other information as may be required by the
2 commission.

3 Sec. 8. An applicant for a license as an unarmed security
4 guard may engage in the business of providing security services
5 as an unarmed security guard without a license if he or she
6 completes the application for a license and provides the required
7 documentation and fee to the executive director. This section
8 applies until the license is issued or denied or for no more than
9 thirty days after the date of application, whichever period is
10 shorter.

11 Sec. 9. An unarmed security guard may change status to
12 an armed security guard by filing an application for a license as
13 an armed security guard with the executive director and paying the
14 change-of-status fee prescribed in section 12 of this act. Upon
15 approval of the application for licensure under this section, the
16 new license shall be valid for the remainder of the three-year
17 period applicable to the original license.

18 Sec. 10. A license issued under the Security Services
19 Act shall be of such form and content as the commission may
20 prescribe and shall include the name of the licensee, the license
21 number, the date of issue or reissue of the license, the expiration
22 date of the license, and such other information as the commission
23 deems necessary. For a license for an armed or unarmed security
24 guard, the license shall also include the name of the employer.
25 For a contract security company, the license shall be posted and

1 prominently displayed in the licensee's principal place of engaging
2 in the business of providing security services in the State of
3 Nebraska and shall also include the name or names under which
4 the licensee is licensed to engage in the business of providing
5 security services in the State of Nebraska.

6 Sec. 11. Each license shall expire three years after
7 its issuance. The executive director may renew a license upon
8 receipt of payment and a renewal application as prescribed by
9 the commission as reasonably necessary to ascertain the licensee's
10 continued compliance with the Security Services Act. To renew a
11 license, an applicant shall submit, on or before the expiration
12 date, the license renewal fee as prescribed in section 12 of this
13 act and the renewal application.

14 Sec. 12. (1) The executive director shall collect from
15 each applicant for licensure as a contract security company a
16 license application fee of two hundred fifty dollars and for
17 renewal of a license as a contract security company a license
18 renewal fee of two hundred dollars.

19 (2) The executive director shall collect from each
20 applicant for a license or for renewal of a license as an armed or
21 unarmed security guard a license application fee or license renewal
22 fee of one hundred dollars except as provided in subsection (3)
23 of this section. The executive director shall collect from each
24 applicant for a change of status under section 9 of this act a fee
25 of thirty dollars to change from an unarmed security guard to an

1 armed security guard. An employer of a security guard may submit
2 the applicable fee for the security guard.

3 (3) If a contract security company employs not more than
4 two security guards, such guards are not required to submit the fee
5 for licensure if they are required to submit to a national criminal
6 history record information check because they are persons listed in
7 subdivision (1)(b) or (c) of section 5 of this act and they meet
8 all other requirements for licensure as a security guard.

9 Sec. 13. No person shall engage in the business of
10 providing security services as a security guard or as a contract
11 security company unless there is an insurance policy in effect
12 written by an insurance company authorized to do business in this
13 state insuring such person against liability for injury to persons
14 or property arising out of the business of providing security
15 services. Such insurance policy shall be in an amount not less than
16 the minimum amount per occurrence as established by the commission.
17 Such minimum amount shall be established with due regard to the
18 protection of the general public and the availability of insurance
19 coverage, but such minimum amount shall not be greater than one
20 million dollars per occurrence. The commission shall require such
21 an insurance policy for each security guard who works independently
22 and who is not employed by a contract security company unless the
23 applicant provides proof that he or she will be covered by the
24 liability insurance of his or her employer in an amount deemed
25 sufficient by the commission. For a contract security company, the

1 insurance policy shall cover the officers and employees of the
2 company.

3 Sec. 14. A contract security company shall provide the
4 executive director with the name of each armed security guard and
5 unarmed security guard employed by the company. The company shall
6 update such information with each license renewal application and
7 at such other times as the commission may require.

8 Sec. 15. No person shall act as an armed security guard
9 unless such person has a certificate to purchase a handgun issued
10 pursuant to sections 69-2401 to 69-2425 and a certificate of
11 completion issued by a qualified firearm instructor under section
12 16 of this act.

13 Sec. 16. (1) In order to maintain proficiency in handgun
14 operation, an armed security guard shall qualify at least once
15 every calendar year with the handgun to be carried by the security
16 guard while on duty. Such qualification shall take place on a
17 handgun shooting course approved by the commission. The course
18 shall be similar to but does not need to exceed the requirements
19 of the course required of law enforcement officers in the State of
20 Nebraska.

21 (2) Qualification on a handgun shooting course shall
22 be conducted by a qualified firearm instructor pursuant to rules
23 and regulations adopted and promulgated by the commission. The
24 instructor shall issue a certificate of completion to a security
25 guard who qualifies.

1 (3) Each contract security company which employs
2 armed security guards and each armed security guard who
3 works independently shall maintain records as to the handgun
4 qualification.

5 Sec. 17. (1) Each contract security company shall issue
6 an identification card to each security guard that the company
7 employs. Each security guard who works independently shall obtain
8 an identification card as prescribed by the commission.

9 (2) The identification card shall include the name,
10 license number, and photographic image of the security guard,
11 the name and license number of the contract security company if
12 applicable, the expiration date of the guard's license, and any
13 other information prescribed by the commission.

14 (3) Each security guard shall carry the identification
15 card while on duty.

16 Sec. 18. The executive director may cancel, suspend,
17 revoke, or refuse to renew a license issued under the Security
18 Services Act for failure to comply with the act or the rules and
19 regulations promulgated by the commission or for good cause shown.
20 Any such action taken by the executive director shall comply with
21 the Administrative Procedure Act.

22 Sec. 19. (1) The executive director shall automatically
23 revoke an armed security guard license if (a) any individual
24 connected with the licensee to whom the requirements of subsection
25 (1) of section 5 of this act apply is convicted of a misdemeanor

1 involving child abuse or neglect, domestic violence, or any felony,
2 (b) the licensee's certificate to purchase a handgun issued
3 pursuant to sections 69-2401 to 69-2425 is revoked, or (c) the
4 licensee fails to obtain a certificate of completion as required in
5 section 16 of this act.

6 (2) The executive director shall serve notice of the
7 revocation on the licensee and the employer of the licensee, if
8 any, and the revocation shall be effective thirty days after the
9 date of service of the notice. The notice of revocation shall
10 contain a statement explaining the operation of the administrative
11 revocation procedure. The executive director shall also provide to
12 the licensee an addressed envelope and a petition form which the
13 licensee may use to request a hearing before the executive director
14 to contest the revocation. The petition form shall clearly state on
15 its face that the petition must be completed and delivered to the
16 executive director or postmarked within ten days after receipt or
17 the licensee's right to a hearing to contest the revocation will be
18 foreclosed. The commission shall prepare and approve the form for
19 the petition, the addressed envelope, and the notice of revocation.

20 (3) The licensee shall postmark or return to the
21 executive director a petition within ten days after the receipt of
22 the notice of revocation if the licensee desires a hearing. The
23 petition shall be in writing and shall state the grounds on which
24 the licensee is relying to prevent the revocation from becoming
25 effective.

1 Sec. 20 (1) The executive director shall conduct the
2 hearing at the office of the commission within twenty days after
3 a petition is received. Upon receipt of a petition, the executive
4 director shall notify the petitioner of the date and location for
5 the hearing by certified or registered mail postmarked at least
6 seven days prior to the hearing date. The receipt of the petition
7 shall not prevent the automatic revocation of the petitioner's
8 license at the expiration of the thirty-day period.

9 (2) At the hearing the issues under dispute shall be
10 limited to:

11 (a) Is there a conviction as described under subdivision
12 (1) (a) of section 19 of this act;

13 (b) Was the certificate to purchase a handgun revoked;
14 and

15 (c) Has the licensee obtained a certificate of completion
16 as required in section 16 of this act.

17 (3) The executive director shall adopt and promulgate
18 rules and regulations to govern the conduct of the hearing and
19 insure that the hearing will proceed in an orderly manner. The
20 executive director may appoint a hearing officer to preside at
21 the hearing, administer oaths, examine witnesses, take testimony,
22 and report to the executive director. All proceedings before
23 the hearing officer shall be recorded. The executive director's
24 order of revocation has prima facie validity and it becomes the
25 petitioner's burden to establish by a preponderance of the evidence

1 grounds upon which the license revocation should not take effect.
2 The executive director shall make a determination of the issue
3 within seven days after the conclusion of the hearing. A person
4 whose license is revoked following a hearing requested pursuant to
5 this section may appeal the order of revocation as provided in
6 section 21 of this act.

7 (4) The executive director shall reduce the decision
8 revoking a license after a hearing to writing, and the executive
9 director shall notify the licensee and the employer of the
10 licensee, if any, in writing of the revocation. The notice shall
11 set forth the period of revocation and be served by mailing
12 it to the licensee and the employer of the licensee, if any,
13 by certified or registered mail to the address provided to the
14 executive director at the hearing or, if the licensee does not
15 appear at the hearing, to the address appearing on the records of
16 the executive director. If the address on the executive director's
17 records differs from the address on the license application, the
18 notice shall be sent to both addresses.

19 (5) If the executive director does not revoke the
20 license, the executive director shall immediately notify the
21 licensee and employer of the licensee, if any, in writing of
22 the decision. The notice shall be mailed by certified or registered
23 mail as provided in subsection (4) of this section.

24 Sec. 21. Any licensee who feels aggrieved because of
25 revocation under sections 19 and 20 of this act may appeal to

1 the district court. The appeal shall be in accordance with the
2 Administrative Procedure Act. The appeal shall suspend the order of
3 revocation until the final judgment of a court finds against the
4 licensee so appealing. The period of revocation shall commence at
5 the time of final judgment of the court for the full period of the
6 time of revocation.

7 Sec. 22. (1) Any person engaged in business as a security
8 guard or a contract security company may use or require the use
9 of a uniform, other clothing, a patch, a shield, a vehicle, or an
10 advertisement only if such item is clearly distinguishable from any
11 such item used by local law enforcement agencies or the Nebraska
12 State Patrol. No contract security company or security guard shall
13 use or require the use of a uniform, other clothing, a patch, a
14 shield, a vehicle, or an advertisement that would lead a reasonable
15 person to believe that the security guard is a law enforcement
16 officer.

17 (2) A violation of this section is a Class II
18 misdemeanor, except that a violation of this section by a security
19 guard who is required to use an item by the contract security
20 company or private business which employs the security guard is a
21 Class IV misdemeanor.

22 Sec. 23. (1) The Security Services Advisory Council is
23 created. The council shall consist of the executive director and
24 six members appointed by the Governor. The six appointed members
25 shall include one representative of a contract security company,

1 one representative of local law enforcement, one representative
2 of a private business which employs a security guard, one
3 representative of an armored vehicle company, one representative of
4 the Nebraska State Patrol, and one person from the public at large.

5 (2) The members of the council shall serve for terms of
6 four years each, except that the Governor shall appoint three of
7 the initial members for two-year terms. Any vacancy shall be filled
8 in the same manner as the original appointment. The executive
9 director shall serve as chairperson.

10 (3) A member may be removed from the council at the
11 discretion of the Governor.

12 (4) The members of the council shall serve without
13 compensation, but they shall be entitled to receive reimbursement
14 for any actual expenses incurred as a necessary incident to such
15 service as provided in sections 81-1174 to 81-1177.

16 (5) The council shall serve in an advisory capacity
17 to the executive director. The council shall review and make
18 recommendations regarding rules and regulations to be adopted and
19 promulgated under the Security Services Act, including handgun
20 shooting courses, standards for licensure, and fees.

21 Sec. 24. The Security Services Cash Fund is created. All
22 money collected by the commission pursuant to the Security Services
23 Act shall be remitted to the State Treasurer for credit to the
24 fund. The fund shall be used for the administrative and enforcement
25 expenses of the commission in carrying out the act. Any money in

1 the fund available for investment shall be invested by the state
2 investment officer pursuant to the Nebraska Capital Expansion Act
3 and the Nebraska State Funds Investment Act.

4 Sec. 25. The commission shall adopt and promulgate rules
5 and regulations to carry out the Security Services Act.

6 Sec. 26. Section 81-1423, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 81-1423 The commission shall have authority to:

9 (1) Adopt and promulgate rules and regulations for its
10 organization and internal management and rules and regulations
11 governing the exercise of its powers and the fulfillment of its
12 purposes under sections 81-1415 to 81-1426;

13 (2) Delegate to one or more of its members such powers
14 and duties as it may deem proper;

15 (3) Coordinate and jointly pursue its activities with the
16 Governor's Policy Research Office;

17 (4) Appoint and abolish such advisory committees as may
18 be necessary for the performance of its functions and delegate
19 appropriate powers and duties to them;

20 (5) Plan improvements in the administration of criminal
21 justice and promote their implementation;

22 (6) Make or encourage studies of any aspect of the
23 administration of criminal justice;

24 (7) Conduct research and stimulate research by public
25 and private agencies which shall be designed to improve the

1 administration of criminal justice;

2 (8) Coordinate activities relating to the administration
3 of criminal justice among agencies of state and local government;

4 (9) Cooperate with the federal and other state
5 authorities concerning the administration of criminal justice;

6 (10) Accept and administer loans, grants, and donations
7 from the United States, its agencies, the State of Nebraska, its
8 agencies, and other sources, public and private, for carrying out
9 any of its functions, except that no communications equipment shall
10 be acquired and no approval for acquisition of communications
11 equipment shall be granted without receiving the written approval
12 of the Director of Communications of the office of Chief
13 Information Officer;

14 (11) Enter into contracts, leases, and agreements
15 necessary, convenient, or desirable for carrying out its purposes
16 and the powers granted under sections 81-1415 to 81-1426 with
17 agencies of state or local government, corporations, or persons;

18 (12) Acquire, hold, and dispose of personal property in
19 the exercise of its powers;

20 (13) Conduct random annual audits of criminal justice
21 agencies to verify the accuracy and completeness of criminal
22 history record information maintained by such agencies and to
23 determine compliance with laws and regulations dealing with
24 the dissemination, security, and privacy of criminal history
25 information;

1 (14) Do all things necessary to carry out its purposes
2 and for the exercise of the powers granted in sections 81-1415 to
3 81-1426, except that no activities or transfers or expenditures
4 of funds available to the commission shall be inconsistent
5 with legislative policy as reflected in substantive legislation,
6 legislative intent legislation, or appropriations legislation;

7 (15) Exercise budgetary and administrative control over
8 the Crime Victim's Reparations Committee and the Jail Standards
9 Board;

10 (16) Appoint and remove for cause the director of the
11 Nebraska Law Enforcement Training Center;

12 (17) Provide budgetary and administrative support to the
13 Community Corrections Council; and

14 (18) Adopt and promulgate rules and regulations setting
15 policies for administering the Security Services Act; and

16 ~~(18)~~ (19) Do all things necessary to carry out sections
17 81-1843 to 81-1851.

18 Sec. 27. Section 81-1425, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 81-1425 The executive director of the commission shall:

21 (1) Supervise and be responsible for the administration
22 of the policies established by the commission;

23 (2) Establish a Jail Standards subdivision within the
24 commission and establish, consolidate, or abolish any other
25 administrative subdivision within the commission and appoint and

1 remove for cause the heads thereof, and delegate appropriate powers
2 and duties to them;

3 (3) Establish and administer projects and programs for
4 the operation of the commission;

5 (4) Appoint and remove employees of the commission and
6 delegate appropriate powers and duties to them;

7 (5) Make rules and regulations for the management and the
8 administration of policies of the commission and the conduct of
9 employees under his or her jurisdiction;

10 (6) Collect, develop, maintain, and analyze statistical
11 information, records, and reports as the commission may determine
12 relevant to its functions, including, but not limited to, the
13 statistical information set forth in section 47-627;

14 (7) Prior to August 1, 2001, review and analyze all cases
15 involving criminal homicide committed on or after April 20, 1973.
16 The review and analysis shall examine (a) the facts, including
17 mitigating and aggravating circumstances, (b) to the extent such
18 can be ascertained, the race, gender, religious preference, and
19 economic status of the defendant and of the victim, (c) the charges
20 filed, (d) the result of the judicial proceeding in each case,
21 and (e) the sentence imposed. Upon the completion of such review,
22 the report of such shall be transmitted to the Governor, the Clerk
23 of the Legislature, and the Chief Justice of the Supreme Court.
24 The review and analysis shall be updated as new cases of criminal
25 homicide occur. The commission shall update such report annually to

1 the parties named in this subdivision;

2 (8) Transmit monthly to the commission a report of the
3 operations of the commission for the preceding calendar month;

4 (9) Execute and carry out the provisions of all
5 contracts, leases, and agreements authorized by the commission with
6 agencies of federal, state, or local government, corporations, or
7 persons;

8 (10) Perform such additional duties as may be assigned to
9 him or her by the commission, by the chairperson of the commission,
10 or by law; and

11 (11) Administer the Security Services Act according to
12 the policies set by the commission; and

13 ~~(11)~~ (12) Exercise all powers and perform all duties
14 necessary and proper in carrying out his or her responsibilities.

15 Sec. 28. Original sections 81-1423 and 81-1425, Revised
16 Statutes Cumulative Supplement, 2006, are repealed.