
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: AB 2515 **Hearing Date:** June 28, 2022
Author: Holden
Version: June 22, 2022
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Proprietary and private security services*

HISTORY

Source: Author

Prior Legislation: AB 229 (Holden), Ch. 697, Stats. of 2021
SB 609 (Glazer), Ch. 377, Stats. of 2019
AB 2349 (Chen, 2018), Ch. 20, Stats of 2018
SB 1196 (Hill), Ch. 800, Stats. of 2016
SB 1362 (Mendoza, 2016), not heard in Senate Public Safety

Support: California Association of Licensed Security Agencies, Guards and Associates

Opposition: Biola University; Association of Independent California Colleges & Universities (unless amended); California College and University Police Chiefs Association (unless amended)

Assembly Floor Vote: 73 - 0

PURPOSE

The purpose of this bill is to revise and recast several provisions of law related to proprietary and private security officers and employers, particularly with regard to the registration of officers, imposition of fines for prohibited activities, and requirements related to obtaining a permit and carrying a baton.

Existing law establishes the Bureau of Security and Investigative Services (BSIS) within the Department of Consumer Affairs (DCA), which licenses and regulates the private security industry, private investigators, locksmiths, repossessioners, and alarm companies. (Business and Professions Code (BPC) §§ 7512 et seq.)

Existing law establishes the Private Security Services Act, which provides for the BSIS's regulation of Private Patrol Operators (PPO) who employ private security guards and security patrolpersons. (BPC §§ 7580 et seq.)

Existing law, the Proprietary Security Services Act, also provides for the BSIS's regulation of proprietary private security employers and officers. (BPC §§ 7574 et seq.)

Existing law defines a “proprietary private security employer (PSE)” as a person who has one or more employees who provide security services for the employer and only for the employer. A person who employs proprietary private security officers pursuant to this chapter at more than one location shall be considered a single employer. (BPC § 7574.01 (e))

Existing law defines a “proprietary private security officer (PSO)” as an unarmed individual who is employed exclusively by any one employer whose primary duty is to provide security services for his or her employer, whose services are not contracted to any other entity or person. (BPC § 7574.01(f))

Existing law requires BSIS to issue a firearms permit to an applicant is a licensed under the Private Investigator (PI) Act, the Private Security Services Act, or the Alarm Company Act, as specified, when specified conditions are met and when they have determined that carrying and use of a firearm presents no apparent threat to public safety. (BPC §§ 7542.2, 7583.23, 7596.3)

Existing law prohibits a person required to be registered as a security guard from carrying or using a firearm unless the security guard is an employee of a PPO licensee or an employee of the state or a political subdivision thereof. (BPC § 7583.3)

Existing law requires a person entering the employ of a licensee as a security guard or a security patrolperson to complete a course in the exercise of the power to arrest before being assigned to a duty location. (BPC § 7583.6)

Existing law requires a person registered pursuant to the Private Security Services Act to complete at least 32 hours of training in security officer skills within six months from the date the registration card is issued and that that 16 of the hours must be completed within 30 days of the registration card issuance. (BPC § 7583.6)

Existing law requires a course provider to issue a certificate to a security guard upon satisfactory completion of a required course and authorizes a PPO to provide additional training programs and courses. Requires a registrant who is unable to provide their employer the certificate to complete 16 hours or the training within 30 days of the registrant’s employment date and the 16 remaining hours within six months of the registrant’s employment date. (BPC § 7583.6)

Existing law requires the DCA to develop and approve by regulation a standard course and curriculum for skills training and authorizes the course of training to be administered, tested, and certified by any licensee, organization, or school approved by the DCA. Requires the DCA to consult with consumers, labor organizations, and subject matter experts to do so. (BPC § 7583.6)

Existing law requires a PPO licensee, on and after January 1, 2005, to annually provide each registered employee with 8 hours of review or practice of security officer skills, as described, and to maintain records of such training. (BPC § 7583.6)

Existing law prohibits a security guard or security patrolperson who is employed by a licensed PPO from being issued a registration card before the instructor of the exercise of the power to arrest course properly certifies that the employee has been taught and the certificate has been sent to the DCA. (BPC § 7583.8)

Existing law requires a potential security guard employee, before accepting employment by a PPO, to apply for registration as a security guard and to obtain fingerprint cards for submission to the Department of Justice (DOJ) for use as specified. (BPC § 7583.9)

Existing law requires a PPO licensee to maintain supplies of applications and fingerprint cards that shall be provided by the bureau upon request. (BPC § 7583.9)

Existing law requires a security guard employee, on their first day, to display to the client their registration card if it is feasible and practical and requires the employee to display their card upon the request of the client. (BPC § 7583.9)

Existing law requires the application for a security guard registration who is employed by a PPO to be verified and include information about the employee, employer, and the employer's certification that the employee received a course in the exercise of the power to arrest. (BPC § 7583.10)

Existing law prohibits a PPO from failing to report to the Director of Consumer Affairs the discharge of any firearm or any physical altercations with a member of the public while on duty while acting within the course and scope of their employment, as specified. (BPC § 7583.2(f).)

Existing law, operative January 1, 2023, provides that every licensee and any person employed and compensated by a licensee as a security guard or patrolperson who carries a firearm shall complete a course of training in the exercise of the power to arrest and the appropriate use of force and a course of training in the carrying and use of firearms. (BPC § 7583.5)

Existing law, operative January 1, 2023, provides that each applicant for a security guard registration shall complete a course in the exercise of the power to arrest and appropriate use of force as a condition for the issuance of the registration. (BPC § 7583.6)

Existing law, operative January 1, 2023, specifies who may administer the training described above and the required topics, which include several subtopics on the use of force. (BPC § 7583.7)

Existing law requires the BSIS to make available a guidebook as a standard for teaching the course in the exercise of the power to arrest and the appropriate use of force. (BPC § 7583.7(c).)

Existing law provides that any licensee or registered uniformed security guard who wishes to carry a baton in the course of their duties shall qualify the weapon as specified, and that no licensee shall permit any employee to carry a baton prior to ascertaining that the employee is proficient in the use of the weapon. (BPC §§ 7583.33, 7583.34)

Existing law establishes various requirements related to firearm and baton training facilities, and related training requirements for prospective security guards and licensees. (BPC § 7585 et. seq)

Existing law mandates that the Commission on Peace Officers Standards and Training (POST) shall implement a course or courses of instruction for the regular and periodic training of law enforcement officers in the use of force and shall also develop uniform, minimum guidelines for adoption and promulgation by California law enforcement agencies for use of force. The guidelines and course of instruction shall stress that the use of force by law enforcement

personnel is of important concern to the community and law enforcement and that law enforcement should safeguard life, dignity, and liberty of all persons, without prejudice to anyone. These guidelines shall be a resource for each agency executive to use in the creation of the use of force policy that the agency is required to adopt and promulgate pursuant to Section 7286 of the Government Code, and that reflects the needs of the agency, the jurisdiction it serves, and the law. (Penal Code § 13519.10)

Existing law provides that nothing in specified provisions of law prohibits any police officer, special police officer, peace officer, or law enforcement officer from carrying any wooden club or baton. (Penal Code §22295(a).)

Existing law provides that nothing in specified provisions of law prohibits a uniformed security guard, under specified conditions, from carrying any wooden club or baton if the uniformed security guard has satisfactorily completed a course of instruction certified by the Department of Consumer Affairs in the carrying and use of the club or baton. (Penal Code §22295(b).)

Existing law provides that any uniformed security guard who successfully completes a course of instruction under this section is entitled to receive a permit to carry and use a club or baton within the scope of employment, issued by the Department of Consumer Affairs. (Penal Code §22295(d).)

Existing law exempts various persons from the course requirement, including individuals who have completed a POST-certified course prior to 1983, individuals employed as a county sheriff's or police security officer, as defined, and animal control officers and illegal dumping enforcement officers. (Penal Code §22295(e)-(g).)

This bill requires an application for registration as a PSE to include a "designated responsible person."

This bill requires a person registered as a PSE to make specified records available, by demand, to BSIS, and requires registration to be shown to any peace officer or BSIS representative upon demand.

This bill provides that the registration of a PSO is automatically suspended upon BSIS mailing a notice of conviction and suspension to the registrant at their address of record if the officer is convicted of any crime that is substantially related to the functions, duties, and responsibilities of a proprietary private security officer.

This bill requires a registered PSE to deliver a written report, under specified circumstances, describing any physical altercation including, but not limited, to injuries or damages incurred, the identity of all participants, and whether a police investigation was conducted with a member of the public while on duty within seven business days after the incident.

This bill prohibits PSE from engaging in specified conduct and establishes associated fines, including permitting any employee to carry a firearm or other deadly weapon, as specified.

This bill prohibits a registered PSO from engaging in specified conduct and establishes associated fines, including carrying a firearm or other deadly weapon.

This bill authorizes the DCA Director to deny, suspend, or revoke a license if they determine that the PSE, responsible person of the PSE, or registered PSO, has engaged in specific acts.

This bill requires a PPO licensee, a qualified manager of a PPO licensee, or a security guard carrying a baton to wear a uniform, carry a valid license, possess a qualified manager certificate or security guard registration card, and carry a valid baton permit. Qualified law enforcement officers, as defined, who meet specified conditions are exempt from this requirement.

This bill provides that an employer must require an employee to possess a valid baton permit to use a baton.

This bill authorizes BSIS to issue a baton permit only if specified conditions are met, including the completion of a course of training, completion of an application to the BSIS, is a qualified licensee, affiliate of a licensee or a security guard, and has paid fees.

This bill provides that the baton permit must be renewed every two years.

This bill, effective January 1, 2024, repeals existing baton permit requirements and removes related cross references.

This bill recasts the requirements for baton permits, effective January 1, 2024, as follows:

- Adds baton permit holders to the list of BSIS licensees may request a review disciplinary review committee as well as affirming, rescinding, or modifying appealed decisions.
- Requires a peace officers exempt from a baton permit to submit a letter of approval from their primary employer allowing the peace officer to carry a baton while working as a security guard or security officer.
- Adds baton use to the fee requirements for peace officers who engages in off-duty employment solely and exclusively as a security guard or security officer, and who is required to be registered as a security guard or security officer.

This bill provides that nothing in specified provisions of the Penal Code prohibits a licensed private patrol operator, a qualified manager of a licensed private patrol operator, or a registered security guard, regularly employed and compensated by a person engaged in any lawful business, while actually employed and engaged in protecting and preserving property or life within the scope of employment from carrying a baton, if they comply with the requirements of this bill and other related requirements. This bill makes other, technical conforming revisions to the relevant Penal Code section.

This bill exempts the guidebook created by BSIS on the exercise of the power to arrest and the appropriate use of force from the Administrative Procedures Act.

This bill delays the operation of various provisions of law enacted by AB 229 (Holden), Ch. 697, Statutes of 2021 until July 1, 2023.

COMMENTS

1. Need for This Bill

According to the Author:

Last year, I introduced and Governor Newsom signed AB 229 [(Holden), Chapter 697, Statutes of 2021], which stipulates that private patrol operators must report within seven business days any incidents involving physical altercation with a member of the public requiring any type of first aid or other medical attention, and any physical use of force or violence on any person while on duty. However, there is nothing in existing law that requires proprietary private security employers to adhere to the same requirements. It is imperative that we hold proprietary private security employers to the same standards as private patrol operators. Additionally, this bill provides greater accountability by requiring that the Bureau of Security and Investigative Services issue baton permits. This ensures that students attending Bureau-certified baton training facilities are not being overcharged for their participation.

2. The Bureau of Security and Investigative Services

The Bureau of Security and Investigative Services (BSIS) is a division of the Department of Consumer Affairs that regulates, licenses and enforces California's private security industry. There are currently over 433,000 BSIS licenses held by about 350,000 businesses and employees serving in the areas of alarm services, locksmith services, private investigation, private security, repossession, and firearm and baton training. The Bureau regulates the following Acts:

- Alarm Company Act
- Locksmith Act
- Private Investigator Act
- Private Security Services Act
- Proprietary Security Services Act
- Collateral Recovery Act

This bill deals with two of these laws, the Private Security Services Act¹, which regulates Private Patrol Operators (PPOs) and Security Guards (SGs), and the Proprietary Security Services Act², which regulates proprietary private security employers (PSEs) and proprietary private security officers (PSOs). A PPO is a person or business, licensed by BSIS, that employs SGs and contracts them out to another person or business, while SGs are persons employed by a PPO to provide security services, and may be either armed or unarmed. Conversely, a PSE is a person or business that employs PSOs and may not employ armed SGs, while PSOs are security officers who must hold valid PSE registration if they wear a distinctive uniform and interact with the public when performing private security duties. Unlike an SG, a PSO may not contract out their security services, and may only provide security services to the PSE by whom they are employed.

¹ Business and Professions Code §7580 et. seq

² BPC §7574 et. seq.

3. Use of Firearms and Batons or Similar Weapons by BSIS Licensees

Under existing law, SGs and other BSIS licensees, such as private investigators and PPOs, may carry firearms or batons in the course of their employment. Unlike SGs, PSOs are not authorized to carry a firearm, baton or deadly weapon of any kind in the course of their employment, and a PSE may not permit a PSO to use or carry them. In order to carry a firearm, a licensee must obtain a BSIS Firearms Permit by undergoing a background check, completing extensive training, and passing an assessment for the purposes of determining whether they possess the judgment, restraint and self-control to carry a firearm while on duty.³ In order to carry a baton, existing law requires registered security guards to obtain a baton permit, in part by completing a baton training course from a BSIS-approved baton training facility.⁴ SGs who use or wear a baton or exposed firearm must wear a patch on each arm that reads “private security” and includes the name of the company by which they are employed.

This bill does not affect SG firearm permitting provisions, but significantly restructures existing requirements for obtaining a baton permit. Generally, these changes require the BSIS to issue a baton permit if the applicant 1) is a licensee, affiliated with a licensee as specified, or a registered SG, 2) has completed the required course of training, and 3) has an attestation from a baton training instructor that training has been completed, and 4) has filed an application and fee. Additionally, to lawfully carry a baton, the licensee or affiliated person must wear a uniform and carry the baton permit on their person. This bill also maintains various peace officer exemptions for these requirements and conforms the relevant Penal Code provisions to these changes. For a more in-depth analysis of the licensing issues in the bill, see the analysis prepared by the Committee on Business and Professions.

4. Security Guard Use of Force Updates

California underwent an overhaul on the issue of uses of force, and standards for deadly force in 2019 with the passage of AB 392 (Weber), Ch. 170, Stats. of 2019 and SB 230 (Caballero), Ch 285, Stats. of 2019. These bills updated California’s use of force statutes, and the mandated training of law enforcement in the updated standards. The standard for use of deadly force in California prior to the 2019 amendments was enacted in 1872 and at the time was the single oldest un-amended law enforcement use of force statute in the country. Like the standards for law enforcement, the standards for private armed security were due for an update to reflect the peace officer standards implemented in 2019.

This update was achieved via AB 229 (Holden), Ch. 697, Stats. of 2021, which applied many of the same principles to licensed private security that had been applied to law enforcement agencies by AB 392 and SB 230. Specifically, AB 229, among other changes, added a course of training in the use of force to existing requirements for SGs and PSOs and required PPOs to report the discharge of a firearm, altercations with a member of the public, and additional new uses of force to BSIS within 7 business-days. AB 229 also required the Department of Consumer Affairs to make available a guidebook as a standard for teaching the course in the appropriate use of force. This bill applies many of the requirements that AB 229 imposed solely on PPOs to PSEs, including a requirement that altercations between a PSO and a member of the public be reported to the BSIS within seven business days.

³ BPC §§ 7583.5; 7583.23

⁴ BPC § 7583.33; Penal Code § 22295(d)

5. Recent Amendments

The most recent amendments to the bill reflect discussions between the author, stakeholders and staff of the Senate Business and Professions Committee, but were crossed by this committee for timing purposes. The amendments, reflected in this analysis, delay the implementation of provisions enacted by AB 229, rename the training guidebook mentioned above, and exempt the guidebook from the Administrative Procedures Act.

6. Argument in Support

According to the California Association of Licensed Security Agencies, Guards and Associates:

As a membership service association, CALSAGA is dedicated to improving the security industry, representing the professional and business interests of Private Patrol Operators, Proprietary Security Employers, Private Security Training Facilities, and their employees. We strive to make sure that our industry is complying with all laws and regulations, and we do not believe segments of the industry should be allowed to skirt these laws especially when it comes to weapons and the safety of the public. For these reasons, we absolutely support Assemblyman Holden's Bill AB2515.

We believe all colleges who wish for their security professionals to carry weapons (and who do not have peace officer powers) must have their officers licensed and regulated by the Bureau of Security & Investigative Services (BSIS). Additionally, in the *California Bureau of Security and Investigative Services Laws and Regulations Manual*, 7574.01, Section F: A Proprietary Security Officer is specifically defined as an UNARMED Security Officer. The same is stated within the BSIS California Code of Regulations under Roles and Responsibilities where it states that Proprietary Security Officers are to be unarmed. We would like to stress that all current laws and regulations support AB2515.

7. Argument in Opposition

According to Biola University:

As currently drafted, Assembly Bill 2515 prohibits our Campus Safety officers from carrying a firearm, any electronic control device, stun gun, baton, and any chemical agent such as pepper spray. This is solely because we are a private university even though our officers perform the same job duties as police officers do at public colleges and universities. This prohibition leaves us with only two choices: either (i) contract with an unreliable security company who has lower safety standards and whose guards receive considerably less training than ours and who have no capabilities or experience with regard to the many health and safety issues presented on a college campus, or (ii) disarm our own officers and leave them with no way to reasonably protect our students and employees from violent crimes. Both options would make our campus considerably less safe and significantly thwart the reasonable expectations of our students and their parents.