

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** CS/CS/HB 1233 Online Training for Private Security Officers  
**SPONSOR(S):** Commerce Committee and Regulatory Reform Subcommittee, Fine and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/CS/SB 1474

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**FINAL HOUSE FLOOR ACTION:** 112 Y's 0 N's **GOVERNOR'S ACTION:** Pending

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### SUMMARY ANALYSIS

CS/CS/HB 1233 passed the House on March 7, 2022, as CS/CS/SB 1474.

The Division of Licensing within the Department of Agriculture and Consumer Services (DACS) is responsible for the licensure and regulation of private investigation, private security, and recovery services, including Class "D" unarmed Security Officer and Class "G" Statewide Firearm license applicants.

An applicant for a Class "D" unarmed Security Officer license must submit proof of successful completion of a minimum of 40 hours of professional training at a Class "DS" Security Officer School or Training Facility licensed by DACS. A Class "D" Security Officer is not permitted to carry a firearm unless such licensee also obtains a Class "G" Statewide Firearm license.

An applicant for a Class "G" Statewide Firearm license must satisfy minimum training criteria for firearms established by DACS rule, including 28 hours of range and classroom training taught and administered by a Class "K" Firearms Instructor licensee. No more than eight hours of such training may consist of range training.

The bill:

- Allows 20 hours of the 28 hour training requirement for a Class "G" Statewide Firearm license to be conducted in-person or by live online instruction, with no more than eight hours consisting of in-person range training which must include safe handling and storage of firearms.
- Allows the 40 hour training requirement for Class "D" Security Officer licensure to be conducted in-person or online presented live through a secure website of the licensed school or training facility.
- Provides similar reporting requirements for Class "G" Statewide Firearm license applicants and Class "D" Security Officer applicants who complete their training online, specifically requiring both the applicant and instructor to submit training results to DACS, and requiring the instructor to provide a hard copy of the certificate to the applicant.
- Provides that an online training course must: include security questions to ensure the applicant is using the computer or mobile device; set a minimum amount of time that each applicant must spend on each screen; maintain a digital attendance log; and include randomized test questions.

The bill requires DACS to adopt rules, including those to establish the online course content, web security protocols, and course completion reporting requirements.

The bill may have an insignificant negative fiscal impact on the state that can be absorbed within existing resources.

Subject to the Governor's veto powers, the bill has an effective date of July 1, 2022.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Background**

The Department of Agriculture and Consumer Services (DACS) supports and promotes Florida agriculture, protects the environment, safeguards consumers, and ensures the safety and wholesomeness of food.<sup>1</sup> The Division of Licensing (Division) within DACS administers Florida's concealed weapon licensing program<sup>2</sup> and oversees Florida's private investigative, private security, and recovery services industries.<sup>3</sup> The Division's regulatory oversight of those services includes licensing, enforcing compliance standards, and ensuring public protection from unethical business practices and unlicensed activity.<sup>4</sup>

#### **Private Investigative and Security Services**

Currently, the Division offers 22 different types of private investigative, private security, and recovery services licenses and four different types of concealed weapon or firearm licenses. As of December 31, 2021, the Division had issued a total of 169,758 private investigative, private security, and recovery services licenses and 2,459,530 concealed weapon permits, to qualified applicants. The following chart provides a breakdown of the total number of each license type.<sup>5</sup>

<b>License Type</b>	<b>License Title</b>	<b>Total</b>
C	Private Investigators	6,992
CC	Private Investigator Interns	1,333
A	Private Investigative Agencies	2,627
AA	Private Investigative Agency Branch Offices	21
MA	Private Investigative Agency Managers	81
M	Private Investigative/Security Agency Managers	473
D	Security Officers	124,996
B	Security Agencies	1,836
BB	Security Agency Branch Offices	181
MB	Security Managers	1,395
AB	Security Agency/Private Investigative Agency Branch Offices	19
DS	Security Officer Schools	378
DI	Security Officer Instructors	1,705
G	Statewide Firearm Licenses	26,026
K	Firearms Instructors	617
E	Recovery Agents	743
EE	Recovery Agent Interns	282
R	Recovery Agencies	282
RR	Recovery Agency Branch Offices	38
MR	Recovery Agency Managers	1

<sup>1</sup> Department of Agriculture and Consumer Services, *About*, <http://www.freshfromflorida.com/About/> (last visited Mar. 7, 2019).

<sup>2</sup> S. 790.06, F.S.

<sup>3</sup> Ch. 493, F.S.

<sup>4</sup> Office of Program Policy Analysis and Government Accountability, Government Program Summaries, *Department of Agriculture and Consumer Services Licensing*, <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=4101> (last visited Jan. 23, 2022).

<sup>5</sup> The Florida Department of Agriculture and Consumer Services, *Division of Licensing Statistical Reports*, <https://www.fdacs.gov/Divisions-Offices/Licensing/Statistical-Reports> (last visited Jan. 23, 2022).

RS	Recovery Agent Schools	6
RI	Recovery Agent Instructors	9
<b>Subtotal of Private Investigative, Private Security, and Recovery Services Licenses</b>		<b>170,041</b>
W	Concealed Weapon or Firearm	2,445,471
WJ	Concealed Weapon or Firearm/Circuit and County Judges	809
WR	Concealed Weapon or Firearm/Retired Law Enforcement and Correctional Officers	13,244
WS	Concealed Weapon or Firearm/Consular Security Official	6
<b>Subtotal of Concealed Weapon Licenses</b>		<b>2,459,530</b>
<b>Total Number of Licenses</b>		<b>2,629,571</b>

### Class “D” Security Officer Licenses

Section 493.6101, F.S., defines the following:

- “Security officer” means any individual who, for consideration, advertises as providing or performs bodyguard services or otherwise guards persons or property; attempts to prevent theft or unlawful taking of goods, wares, and merchandise; or attempts to prevent the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes, or other documents, papers, and articles of value or procurement of the return thereof. The term also includes armored car personnel and those personnel engaged in the transportation of prisoners.<sup>6</sup>
- “Security agency” means any person who, for consideration, advertises as providing or is engaged in the business of furnishing security services, armored car services, or transporting prisoners.

To become an unarmed Security Officer in Florida, a Class “D” Security Officer license is required.<sup>7</sup> “Unarmed” means that no firearm shall be carried while providing Security Officer services regulated by ch. 493, F.S.<sup>8</sup> In order to carry a firearm in the course of performing such duties, the licensee must also obtain a Class “G” Statewide Firearm license in addition to the Class “D” Private Security license.<sup>9</sup>

To qualify for a Class “D” Private Security license, an applicant must:

- Be at least 18 years old;
- Be one of the following:
  - A United States citizen,
  - A permanent legal resident, or
  - A holder of a work visa from the United States Citizenship and Immigration Service;
- Have no disqualifying criminal history;
- Be of good moral character;
- Have no history of:
  - Mental illness,
  - Alcohol abuse, or
  - Substance abuse;
- Submit an application with certain identifying information;<sup>10</sup> and
- Complete 40 hours of required training and submit proof thereof to DACS.<sup>11</sup>

<sup>6</sup> S. 493.6101(19), F.S.

<sup>7</sup> S. 493.6301(5), F.S. Exceptions to the licensure requirement are listed in s. 493.6102, F.S.

<sup>8</sup> S. 493.6101(9), F.S.

<sup>9</sup> S. 493.6115(2), F.S.

<sup>10</sup> S. 493.6105, F.S. and r. 5N-1.100(6), F.A.C.

<sup>11</sup> S. 493.6303(4)(a), F.S.

Currently, the required training must take place in-person at a licensed school or training facility that has a physical location.<sup>12</sup> Many states, including California and Georgia, do not prohibit online training for unarmed Security Officers.<sup>13</sup>

According to the National Conference of State Legislatures (NCSL),<sup>14</sup> 11 states do not require a license for unarmed security guards.<sup>15</sup> Of the states that do require a license, 13 do not have any training requirements in order to qualify for a license,<sup>16</sup> and only nine states explicitly require that training be provided in a classroom setting.<sup>17</sup>

### Class “G” Statewide Firearm Licenses

In order to carry a firearm in the course of duty, the licensee must also obtain a Class “G” Statewide Firearm license.<sup>18</sup> Only Class “C” Private Investigator, Class “CC” Private Investigator Intern, Class “D” Security Officer, Class “M” Private Investigative/Security Agency Manager, Class “MA” Private Investigative Agency Manager, or Class “MB” Security Manager licensees are permitted to bear a firearm and any such licensee who bears a firearm must also have a Statewide Firearm license.<sup>19</sup>

An applicant for a Class “G” Statewide Firearm license must satisfy minimum training criteria for firearms established by DACS rule,<sup>20</sup> including, but not limited to, 28 hours of in-person range and classroom training taught and administered by a Class “K” Firearms Instructor licensee. No more than eight hours of such training may consist of range training.<sup>21</sup>

### Class “DS” Security Officer School and Training Facility Licenses

A Class “DS” Security Officer School and Training Facility license is required for schools and training facilities that provide training services for Class “D” Security Officer license applicants. An application for a Class “DS” Security Officer School and Training Facility license must contain the following information:

- The name and address of the school or training facility,
- The street address of the place where training will be conducted, and
- A copy of the curriculum and final exam to be administered,<sup>22</sup> in accordance with the requirements set forth by DACS.<sup>23</sup>

The general content and number of hours of each subject area to be taught in a school or training facility is established by DACS rule.<sup>24</sup> Firearms instructors may use audio/video material as an instructional aide when teaching the classroom portion of the firearms training course, but a Class “K” Firearm Instructor cannot rely solely on the use of audio/video material. Firearms instruction must be

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<sup>12</sup> Ss. 493.6303(4)(a) and 493.6304, F.S.; and Department of Agriculture and Consumer Services, *Class “D” Security Officer License Requirements*, <https://www.freshfromflorida.com/Business-Services/Private-Security-Licenses/Class-D-Security-Officer-License-Requirements> (last visited Jan. 24, 2022).

<sup>13</sup> Cal. Bus. & Prof. § 7583.6 (2017); Ga. Comp. R. & Regs. r. 509-3-.02; and O.C.G.A. § 43-38-7.1(a).

<sup>14</sup> Email from Zach Hermann, MSW, Research Analyst II, Employment, Labor & Retirement Program, National Conference of State Legislatures, NCSL REPLY: classroom vs online education for unarmed security guard licensure, (Mar. 11, 2019).

<sup>15</sup> Colorado, Idaho, Kansas, Kentucky, Massachusetts, Mississippi, Missouri, Nebraska, Rhode Island, South Dakota, and Wyoming.

<sup>16</sup> Indiana, Iowa, Maine, Maryland, Michigan, Montana, Nevada, New Hampshire, Ohio, Pennsylvania, Texas, West Virginia, and Wisconsin.

<sup>17</sup> Alabama, Georgia, Illinois, North Carolina, North Dakota, Oregon, Utah, Vermont, and Virginia.

<sup>18</sup> S. 493.6115(2), F.S.

<sup>19</sup> S. 493.6115(2), F.S.

<sup>20</sup> R. 1.132, F.A.C.

<sup>21</sup> S. 493.6105(5), F.S.

<sup>22</sup> S. 493.6304, F.S.

<sup>23</sup> R. 5N-1.134, F.A.C.

<sup>24</sup> S. 493.6303(4)(a), F.S.

presented as live, in-person classes where the firearms instructor is present to allow for necessary student teacher interaction when teaching students to use firearms.<sup>25</sup>

### Class “K” Firearm Instructor Licenses

A “firearm instructor” is defined to mean any Class “K” licensee who provides classroom or range instruction to applicants for a Class “G” Statewide Firearm license.<sup>26</sup>

To qualify for a Class “K” Firearm Instructor license, an applicant must comply with the age, citizenship, criminal and mental history, and other general requirements in the section of law governing the initial application for private investigative, private security, and repossession services licensees.<sup>27</sup>

In addition, an applicant for a Class “K” Firearm Instructor license must:<sup>28</sup>

- Submit one of the following:
  - The Florida Criminal Justice Standards and Training Commission Instructor Certificate and written confirmation by the commission that the applicant possesses an active firearms certification.
  - A valid National Rifle Association Private Security Firearm Instructor Certificate issued not more than three years before the submission of the applicant’s Class “K” application.
  - A valid firearms instructor certificate issued by a federal law enforcement agency issued not more than three years before the submission of the applicant’s Class “K” application.
- Pay the fee and pass the examination administered by DACS, which is based upon, but not necessarily limited to, a firearms instruction manual provided by DACS.

Class “K” Firearm Instructor licensees provide classroom or range instruction to applicants for a Class “G” Statewide Firearm license.<sup>29</sup> Class “K” Firearm Instructors are not currently required to be affiliated with a school or training facility. Administrative rules currently state that Class “K” Firearms Instructors may not rely solely on the use of audio/video material in their course, but may use such material as an instructional aide when teaching the classroom portion of the course.<sup>30</sup>

Class “K” Firearm Instructors must provide a standardized Certificate of Firearms Proficiency for Statewide Firearm License to each student who successfully completes the 28-hour firearms proficiency course.<sup>31</sup> The Class “K” Firearm Instructor licensee must retain a copy of each certificate he or she provides, and is subject to penalty for the falsification of any such certificate.<sup>32</sup>

### **COVID-19 Emergency Orders**

### Class “D” Security Officer Licenses

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<sup>25</sup> R. 5N-1.132(4)(c), F.A.C.

<sup>26</sup> S. 493.6161(14), F.S.

<sup>27</sup> S. 493.6105, F.S.

<sup>28</sup> S. 493.6105(6), F.S.

<sup>29</sup> Ss. 493.6101(14) and 493.6115(7), F.S.

<sup>30</sup> R. 5N-1.132(4)(c), F.A.C.

<sup>31</sup> R. 5N-1.132(4)(d), F.A.C.

<sup>32</sup> R. 5N-1.132(4)(d)-(e), F.A.C.

On March 20, 2020, the Commissioner of Agriculture issued Emergency Order 2020-004 to “provide flexibility for workers” during the COVID-19 pandemic<sup>33</sup> by allowing Class “D” Security Officers to complete their initial 40 hours of training via live video conference.<sup>34</sup>

### Class “G” Statewide Firearm Licenses

On April 24, 2020, the Commissioner of Agriculture issued Emergency Order 2020-10, to suspend the provisions of s. 493.6105(5), F.S., and its related rules to allow Class “G” Statewide Firearm license applicants to conduct their classroom training by live video conference.<sup>35</sup>

These emergency orders expired on June 26, 2021.<sup>36</sup>

### **Effect of the Bill**

#### Class “G” Statewide Firearm Licenses

The bill revises the minimum firearms training criteria for Class “G” Statewide Firearm license applicants to require the 28 hours of range and classroom training be conducted by in-person instruction or live online instruction through a secure website as follows:

- The applicant's identity, attendance, and successful completion of training must be verified by the instructor.
- The applicant must submit a training certificate to DACS upon completion of the training.
- The training must be taught and administered by one or more Class "K" Firearm Instructor licensees.
- No more than 20 hours of such training may be conducted in an online classroom.
- Eight hours of such training must consist of in-person range training including safe handling and storage of firearms.

The bill requires DACS to establish by rule, consistent with s. 493.6115, F.S., relating to Class “G” Statewide Firearm applicants, the following:

- General content and number of hours of each subject area to be taught;
- Method of delivery and the security protocols for online training and testing;
- Reporting requirements for verification of successful completion of training; and
- Any other rules necessary for the regulation of Class “K” Firearm Instructors providing in-person or online training.

The bill provides that:

- Upon completion of the training, instructors must submit results directly to the Division in a manner prescribed by DACS.
- The instructor must also provide a copy of the training results to the applicant who completed the training.

#### Online Training Course Requirements

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<sup>33</sup> Florida Department of Agriculture and Consumer Service, *2020 Press Release, Commissioner Nikki Fried Issues Emergency Orders & Rules During COVID-19* (Mar. 31, 2020), <https://www.fdacs.gov/News-Events/Press-Releases/2020-Press-Releases/Commissioner-Nikki-Fried-Issues-Emergency-Orders-Rules-During-COVID-19> (last visited Feb. 17, 2022).

<sup>34</sup> Florida Department of Agriculture and Consumer Services, *Emergency Order 2020-004* (Mar. 20, 2020), <https://www.fdacs.gov/content/download/91595/file/2020-03-20-EmergencyOrder2020-004%28DOLCOVID-19%29.pdf> (last visited Feb. 17, 2022).

<sup>35</sup> Florida Department of Agriculture and Consumer Services, *Emergency Order 2020-010* (Apr. 24, 2020), <https://www.fdacs.gov/content/download/91642/file/2020-04-24-DOL-Class-G-Emergency-Order-2020-010.pdf> (last visited Feb. 17, 2022).

<sup>36</sup> Florida Department of Agriculture and Consumer Services, *Commissioner of Agriculture Emergency Orders Regarding COVID-19*, <https://www.fdacs.gov/Divisions-Offices/Licensing> (last visited Feb. 17, 2022).

The bill requires an online training course for a Class "D" Security Officer license to be conducted live by a Class "DS" Security Officer School and Training Facility licensee that maintains a physical location in this state.

The bill requires a Class "K" Firearms Instructor licensee conducting an online training course to maintain a physical location in this state and to conduct online classes live at a location in this state.

The bill specifies that an applicant may only be logged into the online training course from one device at a time.

The bill requires such online training courses to include, at a minimum:

- Security questions to ensure that the applicant is actively using the computer or mobile device and is following along with the online training;
- A minimum amount of time that each applicant must spend on each screen before moving on to the next screen;
- Randomized test questions; and
- A digital record of the applicant's attendance log along with any components required by DACS rule.

The bill requires a Class "DS" Security Officer School or Training Facility, or Class "K" Firearm Instructor licensee conducting an online course to:

- Maintain records of all training sessions, including the name and license number of the instructor who is present online with the students while the students are receiving instruction, and proof of compliance with all security protocols at the school, facility, or place of business in this state. The records must be made accessible to DACS investigators upon request.
- Provide the Division with live access to each course for the purposes of auditing, monitoring, or inspection as deemed necessary by the Division.
- Allow instruction to be delivered via recording where an applicant is absent during a portion of the live online class, as limited by DACS rule.

### Class "D" Security Officer Licenses

The bill revises the 40 hour training requirement for applicants for a Class "D" Security Officer license to allow the required training to be conducted by in-person instruction or online instruction presented live through a secure website of the Class "DS" Security Officer School or Training Facility provided that the applicant's identity, attendance, and successful completion of training are verified by the instructor.

The bill specifies that, as part of his or her application, the applicant must submit the completed training certificate to DACS upon completion of the training.

DACS is required to establish by rule, and in accordance with s. 493.6103, F.S., the following:

- General content;
- Number of hours of each subject area;
- Method of delivery;
- Security protocols;
- Reporting requirements for verification of successful completion; and
- Any other rules necessary for the regulation of schools or training facilities providing in-person or online training.

The bill provides that upon completion of such training, the training facility or the instructor must:

- Submit proof of completion of training for each applicant to DACS electronically in a manner prescribed by DACS; and
- Provide a copy of the training results to the applicant who completed the training.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The bill may have an insignificant negative fiscal impact on DACS that can be absorbed within existing resources for the rulemaking requirements of the bill.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.