

NEWSLETTER

July 2013 (Volume 25, Number 2)

LEGISLATURE PASSES TWO BILLS AFFECTING CHAPTER 493 LICENSEES

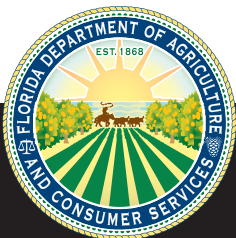
The Legislature passed two pieces of legislation in the 2013 session that will affect individuals and agencies licensed under Chapter 493, Florida Statutes. House Bill 7023 was the department's omnibus bill; House Bill 875 was initiated by the regulated industries. The two bills became law on July 1.

The changes in the law made by these two bills will have a far-reaching impact on the regulated industries as well as the operation of the division. For example, each of these bills provided for enhanced penalties for certain violations of Chapter 493. The department's bill augmented the requirements for reporting annual training for licensees who hold a Class "G" Statewide Firearm License, while the industry's bill gave authority to security officers and security managers to detain possible suspects at critical infrastructure facilities. A detailed summary of the changes to the law made by these two bills appears below.

SUMMARY OF CHANGES MADE BY HOUSE BILL 7023

The definition of the term "repossession," which appears in Section 493.6101(22) was expanded to provide clarification concerning when a recovery agent is actually in control, custody, and possession of a vehicle or other piece of equipment being recovered. This is crucial to indicating when a repossession is complete. A summary of the language added to the statute is below:

- Property that is being repossessed shall be considered to be in the control, custody, and possession of a recovery agent if the vehicle or other equipment being repossessed has been secured in preparation for transport from the site of the recovery by means of having been attached to or placed on the towing or other transport vehicle or if the vehicle or equipment being recovered is being operated or about to be operated by an employee of the recovery agency.
- Holders of Class "G" Statewide Firearm Licenses will now no longer be able to wait until time of renewal to report the eight hours of annual re-certifying training. Rather, they will need to submit each year's training as that training is completed. This is most important for the first year's training. If the license holder does not provide proof of completion of the four hours of training required the first year by the one-year anniversary of the license, the Class "G" license will automatically be suspended until the division receives proof of completion of the training. Proof of completion of the second year's training can be submitted with the application for license renewal. As of July 1, the division is including an insert with all new and renewal Class "G" licenses being mailed from Tallahassee informing the license holders of this new reporting requirement. Class "G" licensees can attach scanned copies of their Certificates of Firearms Proficiency to an e-mail and submit it to the division at DOLGRequal@FreshFromFlorida.com. Alternatively, the Certificate of Firearms Proficiency can be faxed to the division at (850) 245-5319.



Florida Department of Agriculture and Consumer Services
Adam H. Putnam, Commissioner

SUMMARY OF CHANGES MADE BY HOUSE BILL 7023 CONTINUED

- In the past several years, the division has become increasingly aware of the widespread circulation of fraudulent training certificates. This piece of legislation changed the law to make it a third-degree felony for a school or instructor to sell or issue a fraudulent training certificate to a person applying for licensure. Similarly, it is also a third-degree felony for a person to submit a fraudulent training certificate to the division as part of an application.
- Finally, the bill eliminated the 50-mile radius limitation on private investigator and recovery agent internships.

SUMMARY OF CHANGES MADE BY HOUSE BILL 875

- With the passage of House Bill 875, Florida law now confers upon licensed security personnel the power to detain. The new law authorizes a uniformed licensed security officer or security agency manager on the premises at a “critical infrastructure facility” (a term defined in the bill) to temporarily detain a person at that facility if there is probable cause to believe that a person has committed or is committing a crime against the client operating the premises or the client’s patron, thus allowing time to properly ascertain the person’s identity and the circumstances of the person’s activity at the critical infrastructure facility. During temporary detention, the security officer or security agency manager may search the detainee or the detainee’s belongings if the officer or manager observes that the person is armed with a firearm, concealed weapon, or destructive device that poses a safety threat, or if the detainee admits to having a weapon in his or her possession. There is a provision in the new language that publishes procedures for notifying law enforcement and for transferring custody of the detained person to law enforcement officials after they arrive on the scene.
- Up until now, a person violating any provision of Chapter 493 could be charged with a first-degree misdemeanor. This applied to even the most egregious violations of the law. With the passage of House Bill 875, unlicensed activity is still a first-degree misdemeanor; however, second or subsequent violations involving unlicensed activity will now be a third-degree felony, and the division may, at its discretion, impose a civil penalty of up to \$10,000 for such an offense. The law allows an exemption from this severe punishment if the person engages in unlicensed activity within 90 days after the expiration date of the person’s license.
- In addition to the enhanced penalty specified above, the new law also makes it a third-degree felony for a person, while impersonating a security officer, private investigator, recovery agent, or other person required to have a license under Chapter 493 to knowingly and intentionally force another person to assist the impersonator in an activity within the scope of duty of a professional licensed under that chapter. However, it is a second-degree felony if a person commits this violation during the course of committing a felony, and a first-degree felony if a person commits this violation during the course of committing a felony that results in death or serious bodily injury to another human being.

DEPARTMENT TO INITIATE RULEMAKING ACTIVITIES

The department is in the process of updating two sections of its administrative rules. One of the rule changes involves the need for security personnel from outside the state of Florida to come into the state after a declared state of emergency. The other rule change addresses the requalification requirements for the Class “G” Statewide Firearm License in light of the current ammunition shortage.

RULE 5N-1.120 - OUT-OF-STATE EMERGENCY SECURITY SERVICES

The division has filed the required documents with the Florida Department of State to amend Rule 5N-1.120. This is the rule that allows out-of-state security personnel to come into Florida to provide security services after a state of emergency has been formally declared by the Governor or by an appropriate federal agency.

In its current form, the rule imposes rather narrow restrictions, allowing only those security agencies already