

259-060-0450

Compliance

(1) The Department or its designated staff may cause inspections of records and procedures of ~~proprietary security managers or security contractors~~, instructors, **and** private security officers **professionals** and ~~private security officer alarm monitors~~, relating to the minimum employment standards and training standards that are mandated by the Private Security Service Providers Act, as well as those records and procedures which are under the purview of OAR 259-060-0000 to 259-060-0500, in order to verify adherence to and compliance with any applicable rule or statute.

(2) The Department or its designated staff may cause any administrative proceeding and/or court action to be initiated to enforce compliance with the provisions of the Private Security Service Providers Act, and the administrative rules promulgated thereunder.

(3) Scope and authority. Application of a civil penalty includes, but is not limited to, the violations set out in sub-section (5) of this rule.

(a) This rule sets guidelines for civil penalties for violations of the private security laws under ORS 181, and the administrative rules under chapter 259, division 60;

(b) This rule is authorized by ORS 181.870-181.991 and carries out ORS 181.991.

(4) Definitions. For the purposes of this rule:

(a) "Flagrant violation" is:

(A) An act by a provider, contractor, owner or manager who, after being notified of a violation, intentionally continues it;

(b) "Penalty order" is the entry of an administrative order, either:

(A) Assessing a penalty; or

(B) Finding a violation, regardless of whether a penalty is assessed.

(c) "Subsequent violation" is a repeat violation of any statute or rule within a 36-month period following any order for the same violation.

(5) Civil penalty amounts. For non-flagrant violations,

(a) A penalty of no less than \$250 for the first violation and \$500 for subsequent violations shall be charged for each of the following:

(A) Failure by an unarmed private security officer or private security officer-alarm monitor to complete training, apply for certification or obtain a temporary work permit, prior to providing private security services;

(B) Falsification of DPSST-submitted documents by an unarmed private security officer or private security officer-alarm monitor;

(C) Failure of an unarmed private security officer or private security officer-alarm monitor to cease providing private security services upon notice of termination, suspension, denial or revocation;

(D) Failure of an unarmed private security officer or private security officer-alarm monitor to report his or her own arrest.

(b) A penalty of no less than \$500 for the first violation and \$750 for subsequent violations shall be charged for each of the following:

(A) Failure by an armed private security officer to complete training or apply for certification prior to providing private security services;

(B) Falsification of DPSST-submitted documents by an armed private security officer;

(C) Failure of an armed private security officer to cease providing private security services upon notice of termination, suspension, denial or revocation;

(D) Failure of an armed private security officer to report his or her own arrest

(c) A penalty of no less than \$500 for the first violation and \$750 for subsequent violations shall be charged for each of the following:

(A) Failure by a private security unarmed or alarm monitor instructor to complete training or apply for certification, prior to providing private security training;

(B) Falsification of DPSST-submitted documents by a private security unarmed security or alarm monitor instructor;

(C) Failure of a private security unarmed or alarm monitor instructor to cease providing private security training upon notice of termination, suspension, denial or revocation;

(D) Failure of a private security unarmed or alarm monitor instructor to report his or her own arrest;

(E) Failure of a private security unarmed or alarm monitor instructor to instruct the full DPSST-certified curriculum as required by ORS 181.883.

(d) A penalty of no less than \$750 for the first violation and \$1,000 for subsequent violations shall be charged for each of the following:

(A) Failure by a private security firearms instructor to complete training or apply for certification, prior to providing private security training;

(B) Falsification of DPSST-submitted documents by a private security firearms instructor;

(C) Failure of a private security firearms instructor to cease providing private security training upon notice of termination, suspension, denial or revocation;

(D) Failure of a private security firearms instructor to report his or her own arrest;

(E) Failure of a private security firearms instructor to instruct the full DPSST-certified curriculum as required by ORS 181.883.

(e) A penalty of no less than \$1,000 for the first violation and \$1,500 for subsequent violations shall be charged for each of the following:

(A) Failure by a private security manager to complete training or apply for certification, prior to providing private security services, except as provided for in OAR 259-060-0130(11);

(B) Falsification of DPSST-submitted documents by a private security manager;

(C) Failure of a private security manager to cease providing private security services upon notice of termination, suspension, denial or revocation;

(D) Failure of a private security manager to report his or her own arrest, or the known arrest of an employed private security services provider;

(E) Failure of a private security manager to terminate the employment of a private security services provider or applicant whose application has been terminated, or whose certificate has been suspended, denied or revoked, upon notice from the Department to do so.

(F) The employment of private security providers who have not completed the training and application process required under the Private Security Service Providers Act.

(6) Procedures.

(a) Except as provided in section (8) of this rule, a case report of the designated failure to comply and subsequent recommendation of civil penalty shall be forwarded by staff for review by the Advisory Committee on Private Security Services, which in turn, shall forward its recommendation to the Board for final dispensation.

(b) Written notice of the violation of administrative rule or statute shall be served upon the licensee or certificate holder by certified and regular mail, with an opportunity for the licensee or certificate holder to remedy the violation within 14 days of the mailing of the notice, except for providers who have falsified the criminal history section of an application;

(c) Civil penalties may be lowered from the amount set in this rule, waived where further mitigation is warranted, or resolved by stipulation as provided in section (8) of this rule. Providers who remedy the stated violation and come into compliance without hearing may be assessed half of the penalty provided for in this rule.

(7) Options.

(a) If civil penalties are sought under ORS 181.991 for a continuing flagrant violation of the private security laws or rules, staff shall seek, and the committee shall recommend to the Board on Public Safety Standards and Training, the assessment of \$1,500 per occurrence.

(b) If judicial review of any application of a penalty under this section is requested under ORS 183.480:

(A) No civil penalty shall be sought or assessed for the alleged violation until after the review has been completed and the assessment upheld;

(B) Notwithstanding a request for judicial review, civil penalties can be brought or assessed for failure to comply with other laws or rules that do not involve the matter under review;

(C) The obligation to advise the Department of a judicial review request is on the person charged or about to be charged for the violation.

(8) Resolution by stipulation.

(a) Department staff is authorized to seek resolution by stipulation, subject to acceptance and approval by the Board or Director, if:

(A) The matter is resolved before entry of an order assessing penalty;

(B) The respondent corrects or proceeds to correct all deficiencies itemized by Department staff within the time allowed; and

(C) The penalty amount agreed to is tendered in certified check, bank draft, cashier's check or postal money order, along with the stipulation.

(b) A stipulation shall not be accepted for less than the guideline provided for in this rule if the violation is for failure to obtain a required certificate or license, and such is not obtained as part of the resolution.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878