

Private Security and Investigative Services Act: How changes may possibly impact ORFA members

Private Security & Investigative Services Licensing

On August 23, 2007, the Private Security and Investigative Services Act came into effect. The new law requires that security industry workers are licensed, including some that were not licensed previously

First Significant Change to Security Industry in Ontario Since 1966

TORONTO - The McGuinty government is making Ontarians safer by introducing legislation that would strengthen professional requirements for private investigators and security practitioners states Community Safety and Correctional Services Minister Monte Kwinter.

“Professionals offering protection services to Ontarians should be properly licensed, trained and equipped”, Kwinter said. “We need to ensure that security personnel have the training they need to keep us safe as they play a larger role in safeguarding Ontarians.”

If you are a security guard, private investigator, bodyguard, bouncer or loss prevention personnel, you must now apply for a licence from the Ministry of Community Safety and Correctional Services.

The ORFA has reviewed the changes and offer this overview of the Act as general guidance towards compliance. The following observations should not be considered a sole resource to the Private Security and Investigative Services Act (PISA) or any other legislative responsibility – it is presented as an awareness tool to an emerging issue that can be used in harmony with a more comprehensive internal review.

Legislative changes to better control the security of public venues and events may well have an impact on some recreational operations. Recreation departments that outsource security services must ensure these operations meet the obligations of the Act.

Any recreation department that employs its own in-house security personnel, but is not in the business of selling security services, will be required to register with the Private Security and Investigative Services Branch.

Security guards are defined as:

2 (4) A person who performs work, for remuneration, that consists primarily of protecting persons or property.

(5) Examples of the types of work that protect persons or property include,

(a) Guarding or patrolling property;

(b) Acting as a bouncer;

(c) Acting as a bodyguard; and

(d) Performing services to prevent the loss of property through theft or sabotage in an industrial, commercial, residential or retail environment.

Changes to the Legislation: Pressure Points for Consideration

1. *Municipal Alcohol Policies (MAP)*
Clearly define in workplace operational manuals staff role for breaches of the Liquor License Act (LLA) whether by way of reporting or taking action. Not including staff training on how to perform these duties for those given this responsibility could place both worker and employer in a precarious position should things go wrong. Although the legal sale of alcohol is often strictly controlled through the MAP, it is the illegal consumption of alcohol on municipal properties that may be of concern when staff is expected to intervene.
2. *Security for Events* MAPs that require security to be in place when alcohol is served should be reviewed to ensure that this requirement is clearly defined. The municipality requires that a service be in place through an adopted policy and for that reason staff must implement this policy. Hiring of approved individuals to provide such a service is clearly defined in the legislation – the gray area is the fact that volunteer security is exempt from the changes. A volunteer is defined as a person who

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offers service for no compensation. Compensation does not need to be monetary in nature – admission, meals or tokens of appreciation may be determined by the courts as a means of compensation for services provided by the volunteer.

This “gray area” creates a loophole for recreation to take advantage of. However, there remains an obligation to ensure these volunteers are properly qualified for such a role (placement of the word SECURITY on the back of a t-shirt and giving it to a volunteer is not assurance of competency).

Role of Security-Review and clearly define the role of security for events. The following is typical wording found in many MAPs developed in the 80s and 90s that should be revised to ensure all legislative obligations are being met.

“Be sure to have enough security staff on hand; well-trained door staff are essential to maintaining order and heading off problems. Security staff should carefully check ID at the door, refuse entry to anyone who is already intoxicated, monitor washrooms, and tactfully deal with potential troublemakers.”

“Employ adequate security staff to keep trouble out. In many establishments, well-trained security is essential to maintain order and stave off potential problems. Security staff should carefully check ID, monitor washrooms, deter potential trouble and handle incidents as needed.”

3. **Municipal Corporation** Operations that include the Municipal Corporation on the Special Occasion Permit (SOP) as part of a festival or other significant event or, those who hold permanent liquor licenses as part of their on-site services must adhere to both the LLA and the PSISA.

The following appears on every SOP application:

The permit holder must provide security sufficient to ensure that unauthorized persons do not attend the event and to ensure that the conditions of the permit and requirements of the Act are observed.

In order to determine whether security is sufficient, the permit holder shall consider,

- a) Nature of the event;*
- b) Size of the premises; and*
- c) Age and number of persons attending the event*

4. **Patron Ejection** We have spoken significantly about how the PSISA is impacted by the LLA. However, what needs to be truly considered is the work related obligations that have silently existed as part of a recreation worker’s workplace obligations – patron ejection under the Trespass to Property Act.

Recreation departments have historically posted rules of conduct for the privilege of entry and use of the facility. Staff is often left to enforce these rules through warnings or ejection from facility for breaches – most have never been given any type of training on how these workplace obligations are to be applied. For example, a referee is given complete control of the game and its direct environment – referees have been known to stop game play in order to have an unruly fan removed from the bleachers. Has staff received proper training on patron ejection? Does your user group contract define these roles and any responsibilities for such a scenario?

If you are allowing staff to “fly blind” on matters involving patron ejections, it is only a matter of time that you will both be held accountable.

5. **User Groups** Security obligations turned over to the user group as part of the rental contract. This does not absolve the obligation to facility owners to ensure that those attending the building are safe and that the individuals who are given security responsibilities are

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adequately trained for the task. Clear direction on security related responsibilities and the expectations for response must be provided to groups should an issue occur that requires their intervention.

How should these individuals respond to a noxious gas leak, bomb threat, fire and other type of emergency? Are they included in part of your emergency evacuation planning activities? Ensure that all parties are familiar with this plan. These roles and obligations must be clearly defined between both parties as part of the rental agreement.

6. *Youth Events* Opportunities for youth have always been an important part of a recreation centre's programming objectives. Many facilities were built on the benefits of youth interaction in these positive recreational environments. Securing youth events must be carefully planned to ensure that the service is being safely provided safely for all involved.

Compliance

As much as the changes we have discussed in this article may seem new and cumbersome they have in fact quietly existed within the industry for many years. Collectively, we must better understand these obligations and take action to ensure that those who work in our industry are prepared to take on these responsibilities; and to continually remind the decision makers to provide sufficient human and financial resources to ensure compliance is achievable.

Conclusion

Under the *Occupational Health and Safety Act* employers must provide workers with basic training on violence in the workplace.

It is recommended that senior staff receive comprehensive training on security and violence in the workplace to understand how these obligations might impact their operations and to prepare them to train both full and seasonal frontline staff.

The ORFA offers a variety of training opportunities to help its members better understand these issues

For more information:

info@orfa.com or Tel: 416-426-7062 or 1-800-661-6732

Visit www.orfa.com to view all ORFA training opportunities and designed for the recreation facility

Resources

Private Security and Investigative Services Act, 2005 http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_05p34_e.htm

First Significant Change to Security Industry in Ontario Since 1966
<http://ogov.newswire.ca/ontario/GPOE/2007/08/23/c9506.html?lmatch=&lang=e.html>

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