

**SUBSTITUTE FOR
SENATE BILL NO. 820**

A bill to license and regulate bail enforcement agents; to provide for certain powers and duties for certain state agencies and law enforcement agencies; to require the obtaining of surety devices by licensees; to provide for the imposition of certain fees and establishment of certain standards of operation of licensees; to provide for the promulgation of rules; and to provide remedies and prescribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "bail enforcement agent regulation act".

3 Sec. 3. As used in this act:

4 (a) "Bail enforcement agent" means an individual who has
5 been contractually retained as an agent by a surety or surety
6 agent or who is otherwise authorized to act on behalf of the
7 surety, with or without consideration, for the delivery of a

1 principal to the sheriff or other peace officer of any
2 jurisdiction. Bail enforcement agent does not include a surety
3 who is a natural person executing a recognizance on his or her
4 own behalf.

5 (b) "Department" means the department of consumer and indus-
6 try services.

7 (c) "Principal" means an individual charged with a crime in
8 this or any other state who is the subject of a recognizance
9 issued by a surety for the individual's appearance on that crimi-
10 nal matter.

11 (d) "Surety" means an individual or business entity that has
12 entered into a recognizance as a surety for the personal appear-
13 ance of an individual charged with a crime.

14 Sec. 5. (1) Subject to section 11, an individual shall not
15 act as, attempt to act as, or represent himself or herself as
16 being a bail enforcement agent unless that individual obtains a
17 license from the department under this act.

18 (2) An individual may act or attempt to act as a bail
19 enforcement agent only under 1 or more of the following circum-
20 stances based upon the information and belief of the surety:

21 (a) The individual subject to the recognizance has failed to
22 appear at a required court appearance or has violated or may vio-
23 late a condition of recognizance.

24 (b) The principal has left, is leaving, or is attempting to
25 leave the jurisdiction.

26 (c) Failure of the sureties submitted by the principal.

1 (d) Disposition of the property by the principal or any
2 other person for the apparent purpose of evading the payment to
3 the surety.

4 (e) Action of the surety pursuant to section 26 of chapter V
5 of the code of criminal procedure, 1927 PA 175, MCL 765.26.

6 Sec. 7. (1) The department shall issue a license as a bail
7 enforcement agent only to a natural person.

8 (2) An individual seeking licensure as a bail enforcement
9 agent shall do all of the following:

10 (a) Apply to the department on a form supplied by the
11 department and pay an application fee and a per-year license fee
12 in the amount determined by the department in rules promulgated
13 under subsection (6).

14 (b) Be at least 18 years of age.

15 (c) Supply a copy of the applicant's fingerprints acceptable
16 to the department. The applicant shall sign an authorization for
17 a criminal history check by the criminal history records division
18 of the department of state police, including the records of the
19 federal bureau of investigation, and pay a fee determined appro-
20 priate by the department to cover the cost of the criminal his-
21 tory check.

22 (d) If applicable, demonstrate to the department that at
23 least 10 years have passed after all of the following conditions
24 regarding any felony convictions and misdemeanor convictions
involving physical injury to another person:

25 (i) The payment of all fines, costs, and restitution.

26 (ii) The serving of all terms of imprisonment.

1 (iii) The completion of all conditions of probation or
2 parole.

3 (3) Upon the issuance of a license, the department shall
4 issue a picture identification card stating the name and any
5 alias of the licensee, the date of issuance and expiration date
6 of the license, and the principal business address of the
7 licensee. For a charge of at least \$10.00 but not to exceed the
8 cost or issuance, the department shall issue a new card to a
9 licensee whose card is lost or destroyed.

10 (4) A license under this act is valid for a period of 12
11 months from the date of its issuance and is renewable by filing a
12 renewal application not less than 30 days before the expiration
13 date and enclosing the per-year license fee.

14 (5) Within 30 days after a change of home or business
15 address, the licensee shall notify the department in writing of
16 the change. Upon receipt of such a change, the department shall
17 enter the change into its records and send a sticker to the
18 licensee with the corrected information to be placed on the
19 licensee's identification card.

20 (6) The department shall promulgate rules under the adminis-
21 trative procedures act of 1969, 1969 PA 306, MCL 24.201 to
22 24.328, to set fees for application for licensure under this act
23 and for a per-year license fee. The fees shall be in an amount
24 determined by the department to cover the actual costs of pro-
25 cessing the application and issuing the license.

26 Sec. 9. A bail enforcement agent shall do all of the
27 following:

1 (a) Notify by telephone or in person an appropriate law
2 enforcement agency having jurisdiction over the location where
3 the apprehension will occur or is planned no sooner than 24 hours
4 before and at least 30 minutes in advance of a planned attempt to
5 apprehend a principal. This subdivision does not apply if all of
6 the following circumstances exist:

7 (i) The bail enforcement agent is confronted with an unan-
8 ticipated opportunity to apprehend a principal that would be
9 seriously jeopardized by the delay inherent in providing advance
10 notice so long as a reasonable person would conclude that the
11 apprehension can be accomplished without the use of force.

12 (ii) It is not foreseeable to a reasonable person that
13 injury to another person or property will occur.

14 (iii) The bail enforcement agent notifies the law enforce-
15 ment agency within 60 minutes after the apprehension.

16 (b) Have in his or her possession documentation demonstrat-
17 ing that he or she has been retained or independently contracted
18 and authorized by the surety to effect the apprehension.

19 (c) Have in his or her possession his or her license issued
20 under this act or a license issued by another jurisdiction and at
21 least 1 additional picture identification other than the licensee
22 identification issued under this or another jurisdiction. This
23 additional picture identification shall be an operator's or
24 chauffeur's license or an official identification issued by this
25 or any other jurisdiction.

26 Sec. 11. A surety or an individual licensed as a bail
enforcement agent

27 in another jurisdiction may act as a bail enforcement agent in

1 this state so long as he or she acts in compliance with section
2 9.

3 Sec. 13. (1) A person determined by a court of competent
4 jurisdiction to have done any of the following is guilty of a
5 felony and subject to a fine of not more than \$2,000.00 or
6 imprisonment for not more than 2 years:

7 (a) Acted as, attempted to act as, or represented himself or
8 herself as being a bail enforcement agent without being licensed
9 under this act.

10 (b) Knowingly possessed an altered or forged bail enforce-
11 ment agent identification card or license or knowingly altered or
12 forged a bail enforcement agent identification card or license.

13 (c) In the case of a person not licensed under this act but
14 licensed by another jurisdiction, failed to comply with section
15 9.

16 (2) Except as otherwise provided in subsection (1), a person
17 determined by a court of competent jurisdiction to have, while
18 licensed under this act, violated any other section of this act
19 is guilty of a misdemeanor and subject to a fine of not more than
20 \$1,000.00 or imprisonment for not more than 1 year.

21 Sec. 15. After a notice and an opportunity for a hearing
22 under the administrative procedures act of 1969, 1969 PA 306, MCL
23 24.201 to 24.328, the department may suspend or revoke a license
24 issued under this act of an individual determined to have vio-
25 lated this act.

26 Sec. 17. The sanctions and remedies under this act are
27 independent and cumulative. The use of a remedy or the

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1 imposition of a sanction under this act does not bar other lawful
2 remedies and does not limit criminal and civil liability.

3 Enacting section 1. This act does not take effect unless

4 Senate Bill No. 1264 of the 89th Legislature is enacted into law.