



# Submission

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Ms. Karen Forsyth  
Deputy Registrar, Security Programs  
Department of Justice, Security Programs Office  
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Dear Karen,

Please accept the following correspondence as context and supplementary comment to the on-line submission provided by the Retail Council of Canada, pursuant to the *Security and Investigative Services Act*. Loss Prevention Workers will be regulated for the first time with the introduction of this new legislation and it is therefore critical that the new regulations be sensitive to the unique nature of loss prevention. Thank you for the opportunity to provide feedback on this important matter.

## RETAIL COUNCIL OF CANADA

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### History and Mandate

Retail Council of Canada (RCC) has been the Voice of Retail in Canada since 1963. We speak for an industry that touches the daily lives of Canadians in every corner of the country — by providing jobs and career opportunities and by investing in the communities we serve.

RCC is a not-for-profit, industry-funded association representing more than 40,000 store fronts of all retail formats across Canada, including department, specialty, discount, and independent stores, and online merchants.

RCC is a strong advocate for retailing in Canada and works with all levels of government and other stakeholders to support employment growth and career opportunities in retail, to promote and sustain retail investments in communities from coast to coast, and to enhance consumer choice and industry competitiveness. RCC also provides its members with a full range of services and programs including education and training, benchmarking and best practices, networking, advocacy, and information.

### Vision Statement

Retail Council of Canada (RCC) is the leader in advancing and protecting the interests of the retail industry in Canada.

## **Mission Statement**

Retail Council of Canada's (RCC) mission is to be the Voice of Retail in Canada by providing advocacy, research, education and services that enhance opportunities for retail success, and increase awareness of retail's contribution to the communities and customers it serves.

## **LOSS PREVENTION IN RETAIL**

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When looking at the application of Security legislation to the retail sector, it is important to remember that retailers are not willingly in the loss prevention business. Reacting to crime is an act of self-preservation. Retailers implement loss prevention strategies and the subsequent costs into their business plan in order to survive in a competitive environment. Unlike third party providers of investigative and security services, for retailers there is no profit in making an arrest. However, the cost of doing nothing to mitigate crime in retail is potential business failure accompanied by the resulting loss of jobs.

When thinking about crime occurring in a retail store, most people think only of shoplifting. Over time, retailers have struggled to have this activity properly identified as the criminal offence of theft. Theft is part of a much larger problem called inventory shrinkage. But in fact, there are a variety of other retail crimes not covered under the shrinkage umbrella, including counterfeit currency, robbery, breaking and entering and numerous other criminal activities. New technologies are leading to new forms of crime, including pin-pad tampering and credit card fraud, much of which is driven by sophisticated retail organized crime. All these crimes significantly affect retail sales, the availability of product for sale, the safety of employees and customers, increased consumer costs, higher insurance premiums and increased deployment of staff time and resources, just to name a few.

A 2008 Retail Council of Canada Retail Security Survey found that the average shrink level translates into just over \$3.0 billion in losses to Canadian retailers, or \$8.6 million per shopping day in Canada. These numbers do not include costs for retailers to train staff in ways to prevent losses, or investment in asset protection personnel and technology such as closed circuit television and electronic surveillance tags. Thus for retailers, it simply makes good business sense to prevent crime. Staff training emphasizes each particular merchant's philosophical approach to loss prevention, and the context within which the retailer operates, ranging from small operations to sophisticated settings in which there is a division of specialties that often overlap in the protection of people and property. Despite these differences in approach, retailers agree that responses to crime occurring in their business are becoming a significant business responsibility. Ensuring that all interaction between the retailer and a suspect is managed in a professional manner is ingrained into the training and philosophy of the retail approach to loss prevention.

Nova Scotia's new Security and Investigative Services Act introduces regulation to the context of retail loss prevention. While LP has not been regulated in Nova Scotia, retailers have already done their due diligence in relation to training for in-house retail loss prevention officers, and they request that regulations under the new Act recognize this and allow flexibility for retailers to continue to adapt to the unique environment in which they operate.

## **REGULATIONS UNDER THE SECURITY & INVESTIGATIVE SERVICES ACT**

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While the majority of RCC's comments on the development of regulations under the new Act can be found in our on-line submission, there were several areas where we felt that supplementary comments were important, either because the consultation document did not refer to the topics, or to add context to information provided in the submission.

### *Classes of Licences*

The consultation document is silent on the issue of classes of licences, though the Act does provide for the creation of licence classes in the regulations.

RCC asserts that the regulations will be more flexible, adaptable and straightforward to administer if classes of licensees are introduced in the regulations. In particular, we propose that a class for Loss Prevention Workers is critical in order to recognize and provide for the unique nature of LP workers.

We recommend that the Department of Justice refer to the Alberta system for classes of licensees. While not all of the Alberta classes will be relevant for Nova Scotia (e.g., Locksmith), their classes and definitions for the most part could be adapted for Nova Scotia. This includes separate categories for:

- Security services worker
- Loss prevention worker
- Executive protection worker
- Patrol dog handler (Must also hold a Security Services Worker licence.)
- Security alarm responder
- Investigator
- Locksmith
- Automotive lock bypass worker

Within these classes, LP workers are defined as "Any person or organization that provides or supervises any person undertaking to monitor, investigate and perform security services to prevent loss or damage to the commercial, industrial or retail property or premises of a person or organization. This licence class is exempt from wearing a uniform if desired. If a uniformed is worn it must be compliant with legislation."

Complete definitions of all Alberta licence classes can be found at [https://www.solgps.alberta.ca/programs\\_and\\_services/public\\_security/private\\_security\\_programs/Pages/SecurityProgramsDefinitions.aspx](https://www.solgps.alberta.ca/programs_and_services/public_security/private_security_programs/Pages/SecurityProgramsDefinitions.aspx)

### *Training Licenses*

Legislation in other Canadian jurisdictions has recognized the importance of making a Training Licence available. In all cases these licences are issued on a one-time basis (i.e., non-renewable), and for a shorter duration of time (e.g., 90 days in BC, 30 days in AB).

Given that it contravenes the act to hire an unlicensed security worker, and to hold oneself out as a security worker when one does not hold a licence, it is critical that there be an opportunity to hold a temporary licence while undergoing training. As described above, retail loss prevention workers function in very specific, complex environments. Training licences allow for individuals to be hired as security personnel while undergoing basic training as well as training specific to the retail environment for which they have been hired.

### *Licensing Terms*

The consultation document requests feedback on the issuing of short-term licences to ease the administrative burden during the introductory phase of the new legislation. RCC asserts that such a requirement would place undue burden on retailers, particularly as they are new to licensing. We believe there are alternatives that will ease the administrative burden on government while avoiding additional administrative burden on registrants:

- Reduce initial administration by phasing in the training component of the licensing process over several years. RCC would strongly recommend a model similar to Alberta, where the new legislation took effect June 1 2010, however only baton training was required at time of proclamation. Basic security training was deferred for 12 months after proclamation, and Investigator Training for 24 months. This provided time for government to focus on issuing licences while providing adequate time consulting on and developing the training program.
- Temporarily offer licences of, for example, one year and four months, to individuals applying for a one-year licence. That would help with staggering, and would not place undue burden on retailers and LP staff applying for a licence. Given that this would be done exclusively to relieve an administrative burden on the department, these longer-term licences should be offered at the one year price point.

### *Grandfathering*

The proposed grandfathering provisions are not sufficient, as they only cover individuals who were licensed under the previous legislation (i.e., individuals holding a licence at the time of proclamation of the new Act). There are many extremely well qualified LP professionals whose experience should also be acknowledged and grandfathered.

A lack of grandfathering for LP workers would severely impact the retail sector from human resource and cost perspectives as it would require every worker to undergo testing and training with no regard to their experience.

**RCC strongly urges the Department of Justice to adopt a model similar to Alberta, where a one-year window is provided between proclamation and the introduction of the training requirement (in Alberta this time period is June 2010 to June 2011), and anyone applying for a licence during that period is exempt from the training and testing requirement, unless required to take the training by their employer.**

Details on Alberta's training requirements and related exemptions can be found at [https://www.solgps.alberta.ca/programs\\_and\\_services/public\\_security/private\\_security\\_programs/Pages/TrainingandTesting.aspx](https://www.solgps.alberta.ca/programs_and_services/public_security/private_security_programs/Pages/TrainingandTesting.aspx)

Note: The provision exempting these individuals from testing as well as training is found in the Draft Policy Handbook, [https://www.solgps.alberta.ca/programs\\_and\\_services/public\\_security/private\\_security\\_programs/Publications/Private%20Security%20Programs/SSIA%20-%20Draft%20Policy%20Manual%20Official.pdf](https://www.solgps.alberta.ca/programs_and_services/public_security/private_security_programs/Publications/Private%20Security%20Programs/SSIA%20-%20Draft%20Policy%20Manual%20Official.pdf), page 60.

While the above is our ideal model, if the department opts not to exempt all licensees who apply for a licence during a phase-in period, then it is absolutely critical that the grandfathering provisions apply to *anyone* with related experience, not just individuals who hold licences under the previous legislation. Also, in order to make the introduction of the new legislation manageable from administrative and financial perspectives, the grandfathering should apply to both training *and* testing.

### *Training Programs*

RCC recognizes the value of harmonization between Canadian provinces, and supports the implementation of training programs that are consistent with this principle. That said, the training program should be flexible enough to adapt to the specific needs of different classes of licensee. As demonstrated in our introductory paragraphs, LP workers will receive training in credit card fraud, pin pad tampering, currency fraud, and other topics that would never be included in training for other classes of security staff. Similarly, there are topics critical for bouncers, for example, that LP staff will not find relevant. By establishing minimum standards (rather than a prescriptive curriculum) for programs and allowing for the recognition of in-house programs that meet the minimum standards, the regulations will allow for the adaptation of training to specific work environments while ensuring that there is consistency and a similar base-line of knowledge amongst all licensees.

One very good example of this need for flexibility can be seen in the advanced training for use of force. Loss prevention workers do sometimes find themselves in situations where use of hand restraints is necessary. However retailers often train employees on hand restraints as part of the basic training of LP staff, perhaps adding one day to the required training in contexts where hand restraints are required.

The Alberta model once again provides a solution. In Alberta, additional training is required for security personnel using batons, however handcuffs can be used with only basic training, *with the approval of the employer*. This model allows for flexibility that meets the unique needs of Loss Prevention workers, while maintaining accountability through the employer. It allows the employer to customize training to ensure safe use of handcuffs as part of basic training.

More information on Alberta's training requirements for use-of-force training can be found in their FAQ handbook, page 31 (page 32 of the PDF): [https://www.solgps.alberta.ca/programs\\_and\\_services/public\\_security/private\\_security\\_programs/Publications/Private%20Security%20Programs/Commonly%20Asked%20Questions.pdf](https://www.solgps.alberta.ca/programs_and_services/public_security/private_security_programs/Publications/Private%20Security%20Programs/Commonly%20Asked%20Questions.pdf)

### *Recognizing the Role of Employers*

The consultation document was silent on information that will be collected at the time of applying for a licence, and also on the issue of communicating licence changes to the employers of licensees. RCC recommends that the regulations should specifically state that the

name of the employer(s) must be provided when applying for a security licence, that changes in employment must be reported to the registrar, and that if a change in the status of a licence takes place (for example, if a licence is suspended or revoked) the employer(s) will be notified of this change. Employers, responsible for managing employee performance, must have every opportunity to be informed of changes to an employee's licence.

RCC and its members wish to further emphasize that retailers may have internal policies that are more conservative than what the law will allow (e.g. use of force, use of handcuffs). If the standards developed for Security Guard training give loss prevention associates broader discretion than the discretion given to the associate by his/her employers, then the risk of confusion is high and the risk of policy violation by the loss prevention associate is high. We see that a provision has been included in the regulations to clarify the precedence of employer policies limiting use of force / weapons, and strongly support this.

### *Display of Licence*

The Security and Investigative Services Act states that licensees must display their licence *"upon request to any person to whom the security agent holds himself or herself out as being a security agent pursuant to this Act."* Most loss prevention workers work under cover and maintaining this cover is critical to the successful observation of thefts.

While working under cover, a loss prevention worker would not be "holding himself or herself out" as a security guard, thus presumably this would exempt LP workers from this section of the Act. However this subtlety could be open to misinterpretation. RCC suggests that this provides additional support to our recommendation that a separate class of licence be created for LP workers, and that the regulations should clarify that LP workers are exempt from the requirement to produce their licence if that would jeopardize the investigation or the safety of the licensee.

## **CONCLUSION**

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On behalf of the Retail Council of Canada and our members in Nova Scotia, I extend appreciation to the Department of Justice, Private Security Office, for providing the opportunity to submit feedback on the development of regulations under the new Security & Investigative Services Act. We commend the Department for its efforts to improve professionalism, safety and security in the sector.

We encourage the Department to recognise the vast experience that retailers have in the areas of security and loss prevention. We feel that by recognising this experience and the strides already made by retailers, the implementation of the new legislation will be as seamless and as straightforward as possible.

We look forward to participating in follow-up consultations on specific components of the regulations as the development process moves forward. Please feel free to contact me at 902-406-4350 or [atlantic@retailcouncil.org](mailto:atlantic@retailcouncil.org) if we can provide any further details to assist in the regulation drafting process.

Respectfully submitted,

A handwritten signature in black ink that reads "James". The signature is written in a cursive, flowing style with a large, prominent 'J' and 'M'.

Christine James  
Director, Government Relations (Atlantic)

Cc: Diane J. Brisebois, President & CEO, Retail Council of Canada  
Theresa Rowsell, AVP Operations, RCC  
Ruth Thorkelson, Senior Vice President, Public Affairs, RCC  
RCC Members in Nova Scotia