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FISCAL IMPACT REPORT

SPONSOR <u>Rehm</u> SHORT TITLE <u>Firearm Training for Filmmaking Employees</u>	LAST UPDATED _____ ORIGINAL DATE <u>2/15/23</u> BILL NUMBER <u>House Bill 338</u> ANALYST <u>Torres, J</u>
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ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	Indeterminate but substantial	Indeterminate but substantial		Recurring	General Fund

Relates to Senate Bill 225

Sources of Information

LFC Files

Responses Received From

Department of Public Safety (DPS)
 Regulation and Licensing (RLD)
 Economic Development Department (EDD)

SUMMARY

Synopsis of House Bill 338

House Bill 338 would be a new section of the Film Production Tax Credit Act, requiring all individuals employed in New Mexico by a film production company that will handle, distribute, or possess any antique or modern firearm, or firearm ammunition, or components physically located on the premises where filming is taking places shall have a valid certificate of competency in the safe handling of firearms by completing the firearm training security guard level three requirement as outline by the Regulation and Licensing Department for security guard level three.

FISCAL IMPLICATIONS

No fiscal implications noted for RLD or DPS.

EDD states:

Should the bill be enacted, there could be significant fiscal implications including the administration and execution of training, the enforcement of such training and of certification, and ensuring compliance. These costs would include necessary additional FTE and budget increases at the EDD Film Division, the film tax credit unit of TRD, and the Regulation and Licensing Department.

A film production company that employs individuals not in compliance with the provisions of Subsection A of this section shall not be eligible for tax credits pursuant to the Film Production Tax Credit Act, including film and television tax credits for the calendar year in which the violation occurs. Working for a film production utilizing firearms to become certified as a level 3 security guard (which takes approximately 44 hours for training), adds a significant layer of bureaucracy to producing film and television in New Mexico, and this would create a disincentive for filmmaking in New Mexico, resulting in declining production spend, economic impact and job creation. All of this would result in less gross receipts tax, personal income tax and corporate income tax revenue to the state and local governments.

The effective date of the bill is January 1, 2024.

SIGNIFICANT ISSUES

RLD states:

HB338 specifies that the firearms training that would be required under the new Act would be met by a showing that individual has met the standards for certification as a trainer for firearm training for a level three (3) security guard under the Private Investigations Act [*See* § 61-27B-36 NMSA 1978.]

At the present time, RLD does not issue a “certification” for firearms trainers for level three (3) security guards under the Private Investigations Act. However, House Bill 259 (HB259) which is currently scheduled for a hearing in the House Government, Elections & Indian Affairs Committee on February 15, 2023, contains a provision that would institute a “registration” requirement for trainers who would be approved by the RLD to provide firearms training for level three (3) security guards under the Private Investigations Act.

HB338 mandates that the firearm training consist of the firearm training outlined by the Regulation and Licensing Department for security guard level three (3). HB338 p. 2. Security guards level three are authorized to carry firearms “upon successful completion of the mandatory firearm training required by rules of the department.” § 61-27B-31 NMSA 1978. The firearms training curriculum is detailed in 16.48.4.8 NMAC.

One of the allowable instructors identified in HB338 is an RLD certified firearm instructor for security guard level three. However, as noted above, the RLD does not currently certify instructors. Rather, the current rules authorize “an instructor recognized and certified by the New Mexico law enforcement academy, federal government entity, military or the national rifle association law enforcement activities division” to perform the firearm training. 16.48.4.8 NMAC.

EDD states:

It appears this bill is a response to the rare incident that occurred on the production “Rust” and attempts to address presumed safety issues on film sets.

There are a multitude of significant and detrimental issues that this bill presents.

This bill requires certain individuals on a filming location where there will be firearms, ammunition, and components to become certified level three security guards. A significant portion of the training required for the level three security guard certification is very specific to the work of a security guard and has nothing to do with firearms handling on a film set. Film production companies should not be denied film production tax credits because a person has not received a level three security guard certification when the certification does not address the very different and specific nature of weapons and ammunition handling on set. Further, the bill is not drafted to consider the legal ramifications or impacts to the industry or jobs.

This bill mandates safety compliance and permitting to be tied to training and certification for security guards, not industry safety standards for filmmaking. The type of work performed by people working on a film or television production is very different from the type of work performed by security guards in their very nature, environment, parties involved, standards, practices, safety measures, safety protocols, hazards, materials, and equipment, and finally, there is also a difference between firearms and ammunition used by a security guard and set weapons and ammunition (in most cases, set weapons and ammunition are not the same as actual firearms and ammunition).

The Regulation and Licensing Department is not familiar with the film industry, nor do they know what kind of training is required for working on film sets. The level three security guard certification does not address the circumstances, nor situations specific to the film industry or filmmaking. The security guard level 3 certification does not align with, nor complement any existing safety protocols in place for the film industry, which are extensive. For reference: [Safety Bulletins – Contract Services \(csatf.org\)](http://csatf.org). Specifically, Safety Bulletin #1 is dedicated to safety with firearms and use of “blank ammunition” and is 4 pages long. Safety Bulletin #2 is dedicated to special use of live ammunition and is 6 pages long.

Training programs should involve people within the industry who are knowledgeable and fluent in current standards, practices, and protocols. If the Regulation and Licensing Department were to require security guard level 3 certification for people working on a film set it is possible New Mexico could be increasing the chance of another tragedy because there is no guarantee that those approved to provide training, as listed on the Regulation and Licensing Department website, will have adequate knowledge or expertise regarding firearm safety on set.

Enforcement of such training and permitting could be a significant issue.

ALTERNATIVES

RLD states:

In Section 1(B), amend the language to “A firearm instructor performing the training pursuant to Subsection A if this section shall possess firearm instructor certification that meets or exceeds the requirements for a firearms instructor for level three security guards pursuant to the Private Investigations Act...a New Mexico-law-enforcement-academy-certified firearm instructor or a national-rifle-association-certified firearm trainer.”

JT/al/ne