



General Assembly

January Session, 2007

Committee Bill No. 186

LCO No. 6413

06413SB00186JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE RELEASE AND SALE OF CONVICTION INFORMATION AFTER A PARDON IS GRANTED, THE RESTORATION OF AN OPERATOR'S LICENSE AND THE ISSUANCE OF A SPECIAL OPERATOR'S PERMIT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-51i of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) For the purposes of this section, "employer" means any person
4 engaged in business who has one or more employees, including the
5 state or any political subdivision of the state.

6 (b) No employer or an employer's agent, representative or designee
7 may require an employee or prospective employee to disclose the
8 existence of any arrest, criminal charge or conviction, the records of
9 which have been erased pursuant to section 46b-146, 54-76o or 54-142a.

10 (c) An employment application form that contains any question
11 concerning the criminal history of the applicant shall contain a notice,
12 in clear and conspicuous language: (1) That the applicant is not
13 required to disclose the existence of any arrest, criminal charge or

14 conviction, the records of which have been erased pursuant to section
15 46b-146, 54-76o or 54-142a, (2) that criminal records subject to erasure
16 pursuant to section 46b-146, 54-76o or 54-142a are records pertaining to
17 a finding of delinquency or that a child was a member of a family with
18 service needs, an adjudication as a youthful offender, a criminal charge
19 that has been dismissed or nolle, a criminal charge for which the
20 person has been found not guilty or a conviction for which the person
21 received an absolute pardon, and (3) that any person whose criminal
22 records have been erased pursuant to section 46b-146, 54-76o or 54-
23 142a shall be deemed to have never been arrested within the meaning
24 of the general statutes with respect to the proceedings so erased and
25 may so swear under oath.

26 (d) No employer or an employer's agent, representative or designee
27 shall deny employment to a prospective employee solely on the basis
28 that the prospective employee had a prior arrest, criminal charge or
29 conviction, the records of which have been erased pursuant to section
30 46b-146, 54-76o or 54-142a or that the prospective employee had a prior
31 conviction for which the prospective employee has received a
32 provisional pardon pursuant to section 54-130a.

33 (e) No employer or an employer's agent, representative or designee
34 shall discharge, or cause to be discharged, or in any manner
35 discriminate against, any employee solely on the basis that the
36 employee had, prior to being employed by such employer, an arrest,
37 criminal charge or conviction, the records of which have been erased
38 pursuant to section 46b-146, 54-76o or 54-142a or that the employee
39 had, prior to being employed by such employer, a prior conviction for
40 which the employee has received a provisional pardon pursuant to
41 section 54-130a.

42 (f) The portion of an employment application form which contains
43 information concerning the criminal history record of an applicant or
44 employee shall only be available to the members of the personnel
45 department of the company, firm or corporation or, if the company,

46 firm or corporation does not have a personnel department, the person
47 in charge of employment, and to any employee or member of the
48 company, firm or corporation, or an agent of such employee or
49 member, involved in the interviewing of the applicant.

50 (g) Notwithstanding the provisions of subsection (f) of this section,
51 the portion of an employment application form which contains
52 information concerning the criminal history record of an applicant or
53 employee may be made available as necessary to persons other than
54 those specified in said subsection (f) by:

55 (1) A broker-dealer or investment adviser registered under chapter
56 672a in connection with (A) the possible or actual filing of, or the
57 collection or retention of information contained in, a form U-4 Uniform
58 Application for Securities Industry Registration or Transfer, (B) the
59 compliance responsibilities of such broker-dealer or investment
60 adviser under state or federal law, or (C) the applicable rules of self-
61 regulatory organizations promulgated in accordance with federal law;

62 (2) An insured depository institution in connection with (A) the
63 management of risks related to safety and soundness, security or
64 privacy of such institution, (B) any waiver that may possibly or
65 actually be sought by such institution pursuant to section 19 of the
66 Federal Deposit Insurance Act, 12 USC 1829(a), (C) the possible or
67 actual obtaining by such institution of any security or fidelity bond, or
68 (D) the compliance responsibilities of such institution under state or
69 federal law; and

70 (3) An insurance producer licensed under chapter 701a in
71 connection with (A) the management of risks related to security or
72 privacy of such insurance producer, or (B) the compliance
73 responsibilities of such insurance producer under state or federal law.

74 (h) (1) For the purposes of this subsection: (A) "Consumer reporting
75 agency" means any person who regularly engages, in whole or in part,
76 in the practice of assembling or preparing consumer reports for a fee,

77 which reports compile and report items of information on consumers
78 which are matters of public record and are likely to have an adverse
79 effect on a consumer's ability to obtain employment; (B) "consumer
80 report" means any written, oral or other communication of information
81 bearing on an individual's credit worthiness, credit standing, credit
82 capacity, character, general reputation, personal characteristics or
83 mode of living; and (C) "criminal matters of public record" means
84 information obtained from the Judicial Department relating to arrests,
85 indictments, convictions, erased records, pardons and outstanding
86 judgments, and any other conviction information as defined in section
87 54-142g.

88 (2) Each consumer reporting agency that issues a consumer report
89 that is used or is expected to be used for employment purposes and
90 that includes in such report criminal matters of public record
91 concerning the consumer shall:

92 (A) At the time the consumer reporting agency issues such
93 consumer report to a person other than the consumer who is the
94 subject of the report, provide the consumer who is the subject of the
95 consumer report (i) notice that the consumer reporting agency is
96 reporting criminal matters of public record, and (ii) the name and
97 address of the person to whom such consumer report is being issued;

98 (B) Verify any criminal matters of public record with the Judicial
99 Department to ensure that information reported is complete and up-to-
100 date as of the date the consumer report is issued; and

101 (C) Maintain procedures designed to ensure that any criminal
102 matter of public record reported is complete and up-to-date as of the
103 date the consumer report is issued.

104 (3) This subsection shall not apply in the case of an agency or
105 department of the United States government seeking to obtain and use
106 a consumer report for employment purposes if the head of the agency
107 or department makes a written finding pursuant to 15 USC

108 1681b(b)(4)(A).

109 Sec. 2. Section 54-142k of the general statutes is repealed and the
110 following is substituted in lieu thereof (*Effective October 1, 2007*):

111 (a) Each person or agency holding conviction information or
112 nonconviction information shall establish reasonable hours and places
113 of inspection of such information.

114 (b) Each person or agency holding conviction information or
115 nonconviction information shall (1) update such information not later
116 than two business days after related criminal history record
117 information is erased, modified or corrected or when a pardon is
118 granted; (2) post on any conviction information or nonconviction
119 information available to the public a notice that the criminal history
120 record information may change daily due to erasures, corrections,
121 pardons and other modifications to individual criminal history record
122 information and that the person or agency cannot guarantee the
123 accuracy of the information except with respect to the date the
124 information is disclosed or obtained; and (3) post on any Internet web
125 site maintained by or on behalf of the person or agency only
126 information that is available to the public through the State Police
127 Bureau of Identification and not information available solely through
128 the Offender Based Tracking System developed by the Office of Policy
129 and Management.

130 [(b)] (c) Conviction information shall be available to the public for
131 any purpose.

132 [(c)] (d) Nonconviction information shall be available to the subject
133 of the information and to [such person's] the subject's attorney
134 pursuant to this subsection and subsection [(d)] (e) of this section. Any
135 person shall, upon satisfactory proof of [his] the person's identity, be
136 entitled to inspect, for purposes of verification and correction, any
137 nonconviction information relating to [him] the person and upon [his]
138 the person's request shall be given a computer printout or photocopy

139 of such information for which a reasonable fee may be charged,
140 provided no erased record may be released except as provided in
141 subsection (f) of section 54-142a. Before releasing any exact
142 reproductions of nonconviction information to the subject of the
143 information, the agency holding such information may remove all
144 personal identifying information from such reproductions.

145 [(d)] (e) Any person may authorize, in writing, an agency holding
146 nonconviction information pertaining directly to [such] the person to
147 disclose such information to [his attorney-at-law] the person's
148 attorney. The holding agency shall permit such attorney to inspect and
149 obtain a copy of such information if both [his] the attorney's identity
150 and that of [his] the attorney's client are satisfactorily established,
151 provided no erased record may be released unless [such] the attorney
152 attests to [his] such attorney's client's intention to challenge the
153 accuracy of such record.

154 [(e)] (f) Any person who obtains nonconviction information by
155 falsely representing to be the subject of the information shall be guilty
156 of a class D felony.

157 Sec. 3. Subsection (k) of section 14-111 of the general statutes is
158 repealed and the following is substituted in lieu thereof (*Effective*
159 *October 1, 2007*):

160 (k) (1) Whenever any person has been convicted of any violation of
161 section 14-110, 14-147, 14-215, 14-222 or 14-224 and such person's
162 license has been suspended by the commissioner or, if such person has
163 had his or her license suspended in accordance with the provisions of
164 section 14-111c or 14-111n, such person may make application to the
165 commissioner for the reversal or reduction of the term of such
166 suspension. [Such application shall be] The applicant shall make such
167 application in writing and shall state specifically the reasons why such
168 applicant believes that the applicant is entitled to such reversal or
169 reduction and, if the application is filed pursuant to subparagraph (B)
170 of subdivision (2) of this subsection, the applicant shall state in the

171 application any extraordinary circumstances alleged. The
172 commissioner shall consider each such application and the applicant's
173 driver control record, as defined in section 14-111h, and may grant a
174 hearing to the applicant in accordance with the provisions of chapter
175 54 and section 14-4a.

176 (2) Any person whose license has been revoked in accordance with
177 subparagraph (C) of subdivision (3) of subsection (g) of section 14-
178 227a, may (A) on or after October 1, 1999, [may,] at any time after ten
179 years from the date of such revocation, make application to the
180 commissioner in accordance with the provisions of subdivision (1) of
181 this subsection for reversal or reduction of such revocation, or (B) on or
182 after October 1, 2007, at any time after six years from the date of such
183 revocation, if the person alleges that extraordinary circumstances
184 warrant a reversal or reduction of such revocation prior to the
185 expiration of such ten-year period, make application to the
186 commissioner in accordance with the provisions of subdivision (1) of
187 this subsection for reversal or reduction of such revocation.

188 Sec. 4. Section 14-37a of the general statutes is repealed and the
189 following is substituted in lieu thereof (*Effective October 1, 2007*):

190 (a) Any person whose operator's license has been suspended
191 pursuant to any provision of this chapter or chapter 248, except
192 pursuant to section 14-215 for operating under suspension or pursuant
193 to section 14-140 for failure to appear for trial, or any person whose
194 operator's license has been revoked pursuant to section 14-227a or 14-
195 227b, may make application to the Commissioner of Motor Vehicles for
196 a special permit to operate a motor vehicle to and from such person's
197 place of employment or, if such person is not employed at a fixed
198 location, to operate a motor vehicle only in connection with, and to the
199 extent necessary, to properly perform such person's business or
200 profession.

201 (b) The commissioner may, in the commissioner's discretion upon a
202 showing of significant hardship, grant each such application that is

203 submitted in proper form and contains such information and
204 attestation by the applicant as the commissioner may require. In
205 determining whether to grant such application, the commissioner may
206 also consider the driving record of the applicant and shall ascertain
207 that the suspension is a final order that is not under appeal pursuant to
208 section 4-183. A special operator's permit shall not be issued pursuant
209 to this section to any person for the operation of a motor vehicle for
210 which a public passenger transportation permit or commercial driver's
211 license is required. [or to any person whose operator's license has been
212 suspended previously pursuant to section 14-227a or 14-227b.] A
213 special operator's permit shall not be issued pursuant to this section to
214 any person whose operator's license has been suspended pursuant to
215 subparagraph (C) of subdivision (1) of subsection (i) of section 14-227b
216 for refusing to submit to a blood, breath or urine test or analysis until
217 such operator's license has been under suspension for a period of not
218 less than ninety days. A person shall not be ineligible to be issued a
219 special operator's permit under this section solely on the basis of being
220 convicted of two violations of section 14-227a unless such second
221 conviction is for a violation committed after a prior conviction.

222 (c) A special operator's permit issued pursuant to this section shall
223 be of a distinctive format and shall include the expiration date and the
224 legend "work only".

225 (d) Any person issued a special operator's permit pursuant to this
226 section who operates a motor vehicle during the period of the permit
227 for a purpose not authorized by the conditions of the permit shall,
228 upon receipt of written report of a police officer, in such form as the
229 commissioner may prescribe, of such unauthorized operation, be
230 subject to a civil penalty of not more than five hundred dollars. Any
231 person who makes improper use of a special operator's permit issued
232 pursuant to this section or in any manner alters any such permit or
233 who loans or sells such permit for use by another person shall be
234 subject to the penalties provided by section 14-147.

235 (e) If a person issued a special operator's permit pursuant to this
 236 section has [his] such person's operator's license suspended by the
 237 commissioner in connection with any motor vehicle violation or other
 238 offense for which suspension action is authorized, the special
 239 operator's permit shall be deemed revoked on the effective date of
 240 such suspension, and any such person with notice of the suspension
 241 who operates a motor vehicle shall be operating under suspension and
 242 shall be subject to double the penalties provided by the applicable
 243 provisions of subsection (b) of section 14-111 and section 14-215.

244 (f) Any decision made by the commissioner under this section shall
 245 not be subject to appeal pursuant to the provisions of chapter 54 or any
 246 other provisions of the general statutes.

247 (g) The commissioner may adopt regulations, in accordance with
 248 the provisions of chapter 54, to implement the provisions of this
 249 section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	31-51i
Sec. 2	<i>October 1, 2007</i>	54-142k
Sec. 3	<i>October 1, 2007</i>	14-111(k)
Sec. 4	<i>October 1, 2007</i>	14-37a

Statement of Purpose:

To: (1) Require timely updates of criminal history information in consumer reports issued for employment purposes and require notice to consumers who are the subject of a consumer report issued for employment purposes, (2) require timely updates of criminal history information provided by state agencies, and (3) expand the circumstances under which a person convicted of certain motor vehicle offenses may (A) qualify for a special operator's permit for employment purposes, or (B) have a suspension or revocation of an operator's license reversed.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. LOONEY, 11th Dist.; REP. GONZALEZ, 3rd Dist.
REP. REYNOLDS, 42nd Dist.; REP. GREEN, 1st Dist.
SEN. COLEMAN, 2nd Dist.; SEN. GOMES, 23rd Dist.
REP. BACKER, 121st Dist.; REP. CLEMONS, 124th Dist.
REP. MCCRORY, 7th Dist.; REP. KIRKLEY-BEY, 5th Dist.
REP. WALKER, 93rd Dist.; REP. PAWELKIEWICZ, 49th Dist.
SEN. HARP, 10th Dist.; REP. HEWETT, 39th Dist.
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REP. CANDELARIA, 95th Dist.

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