



General Assembly

January Session, 2015

Amendment

LCO No. 9476



Offered by:
REP. TERCYAK, 26th Dist.
SEN. GOMES, 23rd Dist.

To: House Bill No. 6936

File No. 239

Cal. No. 170

"AN ACT CONCERNING EMPLOYEE WORKING CONDITIONS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 31-51i of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2015*):

5 (a) For the purposes of this section: [, "employer"]

6 (1) "Cannabis-type substances" shall have the same meaning as
7 provided in section 21a-240;

8 (2) "Controlled drugs" shall have the same meaning as provided in
9 section 21a-240;

10 (3) "Controlled substance" shall have the same meaning as provided
11 in section 21a-240;

12 (4) "Drug-related felony" means any offense as defined in section

13 53a-25 or any offense designated as a felony under the laws of the
14 United States or of any other state, territory or the District of
15 Columbia, that has as an element the possession, use or distribution of
16 any cannabis-type substances, controlled drugs or controlled
17 substances;

18 (5) "Employer" means any person engaged in business who has one
19 or more employees, including the state or any political subdivision of
20 the state; [.] and

21 (6) "Nonviolent misdemeanor" means any misdemeanor where the
22 underlying facts and circumstances of the offense do not involve the
23 use, attempted use or threatened use of physical force against another
24 person.

25 (b) No employer or employer's agent, representative or designee
26 may require an employee or prospective employee to disclose the
27 existence of (1) any arrest, criminal charge or conviction, the records of
28 which have been erased pursuant to section 46b-146, 54-76o or 54-142a,
29 or (2) any arrest, criminal charge or conviction for a nonviolent
30 misdemeanor or drug-related felony if five years have elapsed from
31 the date of such arrest, criminal charge or conviction.

32 (c) An employment application form that contains any question
33 concerning the criminal history of the applicant shall contain a notice,
34 in clear and conspicuous language: (1) That the applicant is not
35 required to disclose the existence of (A) any arrest, criminal charge or
36 conviction, the records of which have been erased pursuant to section
37 46b-146, 54-76o or 54-142a, or (B) any arrest, criminal charge or
38 conviction for a nonviolent misdemeanor or drug-related felony if five
39 years have elapsed from the date of such arrest, criminal charge or
40 conviction, (2) that criminal records subject to erasure pursuant to
41 section 46b-146, 54-76o or 54-142a are records pertaining to a finding of
42 delinquency or that a child was a member of a family with service
43 needs, an adjudication as a youthful offender, a criminal charge that
44 has been dismissed or nolle, a criminal charge for which the person

45 has been found not guilty or a conviction for which the person
46 received an absolute pardon, and (3) that any person whose criminal
47 records have been erased pursuant to section 46b-146, 54-76o or 54-
48 142a shall be deemed to have never been arrested within the meaning
49 of the general statutes with respect to the proceedings so erased and
50 may so swear under oath.

51 (d) No employer or employer's agent, representative or designee
52 shall deny employment to a prospective employee solely on the basis
53 that the prospective employee had (1) a prior arrest, criminal charge or
54 conviction, the records of which have been erased pursuant to section
55 46b-146, 54-76o or 54-142a, (2) a prior arrest, criminal charge or
56 conviction for a nonviolent misdemeanor or drug-related felony if five
57 years have elapsed from the date of such arrest, criminal charge or
58 conviction, or [that the prospective employee had] (3) a prior
59 conviction for which the prospective employee has received a
60 provisional pardon or certificate of rehabilitation pursuant to section
61 54-130a, or a certificate of rehabilitation pursuant to section 54-108f.

62 (e) No employer or employer's agent, representative or designee
63 shall discharge, or cause to be discharged, or in any manner
64 discriminate against, any employee solely on the basis that the
65 employee had, prior to being employed by such employer, (1) an
66 arrest, criminal charge or conviction, the records of which have been
67 erased pursuant to section 46b-146, 54-76o or 54-142a, (2) an arrest,
68 criminal charge or conviction for a nonviolent misdemeanor or drug-
69 related felony if five years have elapsed from the date of such arrest,
70 criminal charge or conviction, or [that the employee had, prior to being
71 employed by such employer,] (3) a prior conviction for which the
72 employee has received a provisional pardon or certificate of
73 rehabilitation pursuant to section 54-130a, or a certificate of
74 rehabilitation pursuant to section 54-108f.

75 (f) The portion of an employment application form which contains
76 information concerning the criminal history record of an applicant or
77 employee shall only be available to the members of the personnel

78 department of the company, firm or corporation or, if the company,
79 firm or corporation does not have a personnel department, the person
80 in charge of employment, and to any employee or member of the
81 company, firm or corporation, or an agent of such employee or
82 member, involved in the interviewing of the applicant.

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

88 (1) A broker-dealer or investment adviser registered under chapter
89 672a in connection with (A) the possible or actual filing of, or the
90 collection or retention of information contained in, a form U-4 Uniform
91 Application for Securities Industry Registration or Transfer, (B) the
92 compliance responsibilities of such broker-dealer or investment
93 adviser under state or federal law, or (C) the applicable rules of self-
94 regulatory organizations promulgated in accordance with federal law;

95 (2) An insured depository institution in connection with (A) the
96 management of risks related to safety and soundness, security or
97 privacy of such institution, (B) any waiver that may possibly or
98 actually be sought by such institution pursuant to section 19 of the
99 Federal Deposit Insurance Act, 12 USC 1829(a), (C) the possible or
100 actual obtaining by such institution of any security or fidelity bond, or
101 (D) the compliance responsibilities of such institution under state or
102 federal law; and

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

107 (h) (1) For the purposes of this subsection: (A) "Consumer reporting
108 agency" means any person who regularly engages, in whole or in part,

109 in the practice of assembling or preparing consumer reports for a fee,
110 which reports compile and report items of information on consumers
111 that are matters of public record and are likely to have an adverse
112 effect on a consumer's ability to obtain employment, but does not
113 include any public agency; (B) "consumer report" means any written,
114 oral or other communication of information bearing on an individual's
115 credit worthiness, credit standing, credit capacity, character, general
116 reputation, personal characteristics or mode of living; and (C)
117 "criminal matters of public record" means information obtained from
118 the Judicial Department relating to arrests, indictments, convictions,
119 outstanding judgments, and any other conviction information, as
120 defined in section 54-142g.

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

125 (A) At the time the consumer reporting agency issues such
126 consumer report to a person other than the consumer who is the
127 subject of the report, provide the consumer who is the subject of the
128 consumer report (i) notice that the consumer reporting agency is
129 reporting criminal matters of public record, and (ii) the name and
130 address of the person to whom such consumer report is being issued;

131 (B) Maintain procedures designed to ensure that any criminal
132 matter of public record reported is complete and up-to-date as of the
133 date the consumer report is issued, which procedures shall, at a
134 minimum, conform to the requirements set forth in section 54-142e.

135 (3) This subsection shall not apply in the case of an agency or
136 department of the United States government seeking to obtain and use
137 a consumer report for employment purposes if the head of the agency
138 or department makes a written finding pursuant to 15 USC
139 1681b(b)(4)(A).

140 (i) (1) Except as otherwise provided in subdivision (2) of this
141 subsection, no employer or an employer's agent, representative or
142 designee may require any employee or prospective employee to (A)
143 complete an employment application form that contains any question
144 concerning the criminal history of the applicant, or (B) disclose the
145 existence of any arrest, criminal charge or conviction (i) the records of
146 which have not been erased, or (ii) for a nonviolent misdemeanor or
147 drug-related felony where such arrest, criminal charge or conviction
148 occurred less than five years prior, until such time as such employer,
149 agent, representative or designee has determined that the applicant is
150 otherwise qualified for the position.

151 (2) Notwithstanding the provisions of subdivision (1) of this
152 subsection, an employer may require (A) any corrections officer or
153 prospective corrections officer, (B) any judicial marshal, state marshal,
154 juvenile or adult probation officer, juvenile detention officer or
155 investigator employed by the Division of Criminal Justice, or (C) any
156 member or prospective member of (i) a state or municipal police force,
157 (ii) the police force for the constituent units of the state system of
158 higher education or the independent institutions of higher education in
159 this state, (iii) the police force of Bradley International Airport, or (iv)
160 the Office of the State Capitol Police, to complete an employment
161 application form that contains questions concerning criminal history or
162 disclose the existence of such criminal history as described in
163 subparagraphs (A) and (B) of subdivision (1) of this subsection.

164 (j) Any person aggrieved by a violation of this section may bring a
165 civil action in the Superior Court to recover damages, together with
166 costs and reasonable attorney's fees.

167 (k) Notwithstanding the provisions of subsections (b) to (i),
168 inclusive, of this section, an employer may require a prospective
169 employee to disclose the existence of any arrest, criminal charge or
170 conviction if such disclosure is required under any applicable state or
171 federal law."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	31-51i