

SENATE BILL 639

C2

71r1087

By: **Senator Klausmeier**

Introduced and read first time: February 2, 2007

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors -**
3 **Criminal Background Checks**

4 FOR the purpose of requiring an applicant for a heating, ventilation, air-conditioning,
5 and refrigeration license to apply for a national and State criminal history
6 records check in a certain manner; requiring the Criminal Justice Information
7 System of the Department of Public Safety and Correctional Services to provide
8 the Board of Heating, Ventilation, Air-Conditioning, and Refrigeration
9 Contractors with a certain criminal history record of an applicant, an update to
10 the criminal history records check, and a certain receipt; requiring an applicant
11 to submit to the Central Repository a complete set of legible fingerprints taken
12 in a certain manner; requiring an applicant to pay certain fees; specifying that
13 certain information obtained by the Board shall be confidential and may be
14 disseminated only to certain individuals; requiring the Board to periodically
15 verify the continued licensure of individuals requiring criminal history records
16 checks in accordance with certain regulations; requiring a licensee to submit
17 proof of an update of a certain criminal history records check as a condition for
18 the renewal of a license; requiring the Board to allow an applicant to operate in
19 a temporary licensing status under certain circumstances; requiring the
20 temporary licensing to expire at a certain time; requiring an applicant obtaining
21 a temporary license to meet certain requirements; providing for the application
22 of this Act; defining certain terms; providing for a delayed effective date; and
23 generally relating to licensure of heating, ventilation, air-conditioning, and
24 refrigeration contractors.

25 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Business Regulation
2 Section 9A–302(a) and 9A–309(b)
3 Annotated Code of Maryland
4 (2004 Replacement Volume and 2006 Supplement)

5 BY adding to
6 Article – Business Regulation
7 Section 9A–302.1 and 9A–309.1
8 Annotated Code of Maryland
9 (2004 Replacement Volume and 2006 Supplement)

10 BY repealing and reenacting, without amendments,
11 Article – Business Regulation
12 Section 9A–310(a)(1)(v) and (b)
13 Annotated Code of Maryland
14 (2004 Replacement Volume and 2006 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Criminal Procedure
17 Section 10–221(b)(7)
18 Annotated Code of Maryland
19 (2001 Volume and 2006 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Business Regulation**

23 9A–302.

24 (a) To qualify for an apprentice, journeyman, journeyman restricted, master,
25 master restricted, or limited license, an applicant shall meet the requirements of this
26 section AND § 9A–302.1 OF THIS SUBTITLE.

27 **9A–302.1.**

28 (A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL
29 JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT
30 OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

31 (B) TO QUALIFY FOR AN APPRENTICE, JOURNEYMAN, JOURNEYMAN
32 RESTRICTED, MASTER, MASTER RESTRICTED, OR LIMITED LICENSE, AN

1 APPLICANT SHALL APPLY TO THE CENTRAL REPOSITORY FOR A NATIONAL AND
2 STATE CRIMINAL HISTORY RECORDS CHECK ON A FORM APPROVED BY THE
3 DIRECTOR OF THE CENTRAL REPOSITORY.

4 (C) THE CENTRAL REPOSITORY SHALL PROVIDE TO THE BOARD:

5 (1) THE NATIONAL AND STATE CRIMINAL HISTORY RECORDS OF
6 AN APPLICANT AND ISSUE A PRINTED STATEMENT LISTING ANY CONVICTIONS
7 AND PLEAS OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL CHARGE;

8 (2) AN UPDATE OF THE INITIAL CRIMINAL HISTORY RECORDS
9 CHECK FOR THE APPLICANT AND ISSUE A REVISED PRINTED STATEMENT
10 LISTING ANY CONVICTIONS AND PLEAS OF GUILTY OR NOLO CONTENDERE TO
11 ANY CRIMINAL CHARGE OCCURRING IN THE STATE AFTER THE DATE OF THE
12 INITIAL CRIMINAL HISTORY RECORDS CHECK; AND

13 (3) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A
14 CRIMINAL HISTORY RECORDS CHECK BY AN INDIVIDUAL REQUIRING A
15 CRIMINAL HISTORY RECORDS CHECK.

16 (D) AN APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY A
17 COMPLETE SET OF LEGIBLE FINGERPRINTS TAKEN AT ANY DESIGNATED STATE
18 OR LOCAL LAW ENFORCEMENT OFFICE IN THE STATE OR OTHER AGENCY OR
19 LOCATION APPROVED BY THE SECRETARY OF PUBLIC SAFETY AND
20 CORRECTIONAL SERVICES.

21 (E) THE APPLICANT SHALL PAY:

22 (1) THE MANDATORY PROCESSING FEE REQUIRED BY THE
23 FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY
24 RECORDS CHECK; AND

25 (2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE
26 CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL
27 HISTORY RECORDS.

28 (F) INFORMATION OBTAINED BY THE BOARD FROM THE CENTRAL
29 REPOSITORY UNDER THIS TITLE SHALL BE CONFIDENTIAL AND MAY BE

1 **DISSEMINATED ONLY TO THE INDIVIDUAL WHO IS THE SUBJECT OF THE**
 2 **CRIMINAL HISTORY RECORDS CHECK.**

3 **(G) THE BOARD SHALL PERIODICALLY VERIFY THE CONTINUED**
 4 **LICENSURE OF INDIVIDUALS REQUIRING CRIMINAL HISTORY RECORDS CHECKS**
 5 **IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY OF PUBLIC**
 6 **SAFETY AND CORRECTIONAL SERVICES.**

7 **9A-309.**

8 (b) Before the license expires, the licensee may renew it for an additional
 9 2-year term, if the licensee:

- 10 (1) otherwise is entitled to be granted a license;
- 11 (2) pays to the Board a renewal fee established by the Board; and
- 12 (3) submits:
- 13 (i) proof of insurance as provided by § 9A-402 of this title;

14 [and]

15 **(II) PROOF OF AN UPDATE OF THE INITIAL CRIMINAL**
 16 **HISTORY RECORDS CHECK FOR THE APPLICANT CONDUCTED UNDER § 9A-302.1**
 17 **OF THIS SUBTITLE AND A REVISED PRINTED STATEMENT LISTING ANY**
 18 **CONVICTIONS AND PLEAS OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL**
 19 **CHARGE OCCURRING IN THE STATE AFTER THE DATE OF THE INITIAL CRIMINAL**
 20 **HISTORY RECORDS CHECK; AND**

21 [(ii)] **(III) a renewal application in the form that the Board**
 22 **provides.**

23 **9A-309.1.**

24 **(A) THE BOARD SHALL ALLOW THE APPLICANT TO OPERATE IN A**
 25 **TEMPORARY LICENSING STATUS IN ACCORDANCE WITH SUBSECTION (B) OF**
 26 **THIS SECTION IF:**

27 **(1) THE RENEWAL APPLICATION WAS SUBMITTED AS REQUIRED**
 28 **UNDER § 9A-309 OF THIS SUBTITLE;**

1 2. a misdemeanor that is directly related to the fitness
2 and qualification of the applicant or licensee to provide heating, ventilation,
3 air-conditioning, or refrigeration services;

4 (b) The Board shall consider the following facts in the granting, denial,
5 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
6 applicant or licensee is convicted of a felony or misdemeanor described in subsection
7 (a)(1)(v) of this section:

8 (1) the nature of the crime;

9 (2) the relationship of the crime to the activities authorized by the
10 license;

11 (3) with respect to a felony, the relevance of the conviction to the
12 fitness and qualification of the applicant or licensee to provide heating, ventilation,
13 air-conditioning, and refrigeration services;

14 (4) the length of time since the conviction; and

15 (5) the behavior and activities of the applicant or licensee before and
16 after the conviction.

17 **Article – Criminal Procedure**

18 10–221.

19 (b) Subject to Title 3, Subtitle 4 of the State Finance and Procurement
20 Article, the regulations adopted by the Secretary under subsection (a)(1) of this section
21 and the rules adopted by the Court of Appeals under subsection (a)(2) of this section
22 shall:

23 (7) regulate the development of a fee schedule and provide for the
24 collection of the fees for obtaining criminal history record information for other than
25 criminal justice purposes.

26 SECTION 2. AND BE IT FURTHER ENACTED, That an individual who holds
27 a valid license issued by the State Board of Heating, Ventilation, Air-Conditioning,
28 and Refrigeration Contractors under Title 9A, Subtitle 3 of the Business Regulation
29 Article on or before December 31, 2007, is required to first obtain a national and State
30 criminal history records check when the licensee applies for renewal of that license.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 January 1, 2008.