

SENATE BILL 834

C2
SB 639/07 – EHE

8lr3107

By: **Senator Klausmeier**
Introduced and read first time: February 8, 2008
Assigned to: Rules

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,
26 Article – Business Regulation
27 Section 9A-302(a) and 9A-309(b)
28 Annotated Code of Maryland
29 (2004 Replacement Volume and 2007 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Business Regulation
3 Section 9A–302.1 and 9A–309.1
4 Annotated Code of Maryland
5 (2004 Replacement Volume and 2007 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article – Business Regulation
8 Section 9A–310(a)(1)(v) and (b)
9 Annotated Code of Maryland
10 (2004 Replacement Volume and 2007 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – Criminal Procedure
13 Section 10–221(b)(7)
14 Annotated Code of Maryland
15 (2001 Volume and 2007 Supplement)

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

18 **Article – Business Regulation**

19 9A–302.

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

23 **9A–302.1.**

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

27 (B) TO QUALIFY FOR AN APPRENTICE, JOURNEYMAN, JOURNEYMAN
28 RESTRICTED, MASTER, MASTER RESTRICTED, OR LIMITED LICENSE, AN
29 APPLICANT SHALL APPLY TO THE CENTRAL REPOSITORY FOR A NATIONAL AND
30 STATE CRIMINAL HISTORY RECORDS CHECK ON A FORM APPROVED BY THE
31 DIRECTOR OF THE CENTRAL REPOSITORY.

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

33 (1) THE NATIONAL AND STATE CRIMINAL HISTORY RECORDS OF
34 AN APPLICANT AND A PRINTED STATEMENT LISTING ANY CONVICTIONS AND
35 PLEAS OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL CHARGE;

1 **(2) AN UPDATE OF THE INITIAL CRIMINAL HISTORY RECORDS**
2 **CHECK FOR THE APPLICANT AND A REVISED PRINTED STATEMENT LISTING ANY**
3 **CONVICTIONS AND PLEAS OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL**
4 **CHARGE OCCURRING IN THE STATE AFTER THE DATE OF THE INITIAL CRIMINAL**
5 **HISTORY RECORDS CHECK; AND**

6 **(3) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A**
7 **CRIMINAL HISTORY RECORDS CHECK BY AN INDIVIDUAL REQUIRING A**
8 **CRIMINAL HISTORY RECORDS CHECK.**

9 **(D) AN APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY A**
10 **COMPLETE SET OF LEGIBLE FINGERPRINTS TAKEN AT ANY DESIGNATED STATE**
11 **OR LOCAL LAW ENFORCEMENT OFFICE IN THE STATE OR OTHER AGENCY OR**
12 **LOCATION APPROVED BY THE SECRETARY OF PUBLIC SAFETY AND**
13 **CORRECTIONAL SERVICES.**

14 **(E) THE APPLICANT SHALL PAY:**

15 **(1) THE MANDATORY PROCESSING FEE REQUIRED BY THE**
16 **FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY**
17 **RECORDS CHECK; AND**

18 **(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE**
19 **CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL**
20 **HISTORY RECORDS.**

21 **(F) INFORMATION OBTAINED BY THE BOARD FROM THE CENTRAL**
22 **REPOSITORY UNDER THIS SUBTITLE SHALL BE CONFIDENTIAL AND MAY BE**
23 **DISSEMINATED ONLY TO THE INDIVIDUAL WHO IS THE SUBJECT OF THE**
24 **CRIMINAL HISTORY RECORDS CHECK.**

25 **(G) THE BOARD SHALL PERIODICALLY VERIFY THE CONTINUED**
26 **LICENSURE OF INDIVIDUALS REQUIRING CRIMINAL HISTORY RECORDS CHECKS**
27 **IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY OF PUBLIC**
28 **SAFETY AND CORRECTIONAL SERVICES.**

29 9A-309.

30 (b) Before the license expires, the licensee may renew it for an additional
31 2-year term, if the licensee:

32 (1) otherwise is entitled to be granted a license;

33 (2) pays to the Board a renewal fee established by the Board; and

1 (3) submits:

2 (i) proof of insurance as provided by § 9A-402 of this title;
3 [and]

4 (II) PROOF OF AN UPDATE OF THE INITIAL CRIMINAL
5 HISTORY RECORDS CHECK FOR THE APPLICANT CONDUCTED UNDER § 9A-302.1
6 OF THIS SUBTITLE AND A REVISED PRINTED STATEMENT LISTING ANY
7 CONVICTIONS AND PLEAS OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL
8 CHARGE OCCURRING IN THE STATE AFTER THE DATE OF THE INITIAL CRIMINAL
9 HISTORY RECORDS CHECK; AND

10 [(ii)] (III) a renewal application in the form that the Board
11 provides.

12 **9A-309.1.**

13 (A) THE BOARD SHALL ALLOW THE APPLICANT TO OPERATE IN A
14 TEMPORARY LICENSING STATUS IN ACCORDANCE WITH SUBSECTION (B) OF
15 THIS SECTION IF:

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

18 (2) THE NATIONAL AND STATE CRIMINAL HISTORY RECORDS
19 CHECK REQUIRED UNDER § 9A-302.1 OF THIS SUBTITLE IS NOT COMPLETED
20 BEFORE A LICENSE EXPIRES; AND

21 (3) THE APPLICANT OTHERWISE MEETS THE REQUIREMENTS OF
22 THIS SECTION.

23 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
24 BOARD SHALL TEMPORARILY LICENSE ANY INDIVIDUAL WHO DOES NOT HAVE
25 THE NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK REQUIRED
26 UNDER § 9A-302.1 OF THIS SUBTITLE.

27 (2) IF THE BOARD DETERMINES AFTER A PRELIMINARY
28 BACKGROUND INVESTIGATION THAT THE ISSUANCE OF A TEMPORARY LICENSE
29 TO AN INDIVIDUAL WOULD RESULT IN A POTENTIAL THREAT TO PUBLIC SAFETY,
30 THE BOARD MAY REFUSE TO TEMPORARILY LICENSE THAT INDIVIDUAL.

31 (C) TEMPORARY LICENSING OF AN INDIVIDUAL UNDER THIS SECTION
32 SHALL EXPIRE AT THE COMPLETION OF THE NATIONAL AND STATE CRIMINAL
33 HISTORY RECORDS CHECK REQUIRED UNDER § 9A-302.1 OF THIS SUBTITLE.

1 **(D) AN APPLICANT OBTAINING TEMPORARY LICENSING UNDER THIS**
2 **SECTION:**

3 **(1) SHALL RECEIVE A FORM OF IDENTIFICATION AS DETERMINED**
4 **BY THE BOARD; AND**

5 **(2) SHALL WORK UNDER THE SUPERVISION OF AN INDIVIDUAL**
6 **WHO HAS MET THE LICENSING REQUIREMENTS OF THIS SUBTITLE.**

7 9A-310.

8 (a) (1) The Board may deny a license to any applicant, reprimand any
9 licensee, or suspend or revoke a license after a public hearing conducted in accordance
10 with the provisions of § 9A-311 of this subtitle, if the Board finds that the individual:

11 (v) under the laws of the United States or of any state, is
12 convicted of:

13 1. a felony; or

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

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

21 (1) the nature of the crime;

22 (2) the relationship of the crime to the activities authorized by the
23 license;

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

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

28 (5) the behavior and activities of the applicant or licensee before and
29 after the conviction.

30 **Article - Criminal Procedure**

31 10-221.

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

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

8 SECTION 2. AND BE IT FURTHER ENACTED, That an individual who holds
9 a valid license issued by the State Board of Heating, Ventilation, Air-Conditioning,
10 and Refrigeration Contractors under Title 9A, Subtitle 3 of the Business Regulation
11 Article on or before December 31, 2008, is required to first obtain a national and State
12 criminal history records check when the licensee applies for renewal of that license.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 January 1, 2009.