

SENATE BILL 923

C2, E2

6lr3276
CF 6lr3057

By: **Senator Rosapepe**

Introduced and read first time: February 5, 2016

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Occupational Licenses – Denial for Criminal Conviction – Notice of Prohibition**
3 **and Task Force**

4 FOR the purpose of clarifying that certain departments of State government and certain
5 units in certain departments of State government are prohibited from denying a
6 certain license to an applicant solely on the basis that the applicant has previously
7 been convicted of a crime except in accordance with certain provisions of law;
8 requiring certain departments of State government and each unit that issues certain
9 licenses in certain departments to post a certain notice on their Web sites in a certain
10 manner; establishing the Task Force on Occupational Licenses and Criminal
11 Convictions; providing for the composition, chair, and staffing of the Task Force;
12 prohibiting a member of the Task Force from receiving certain compensation, but
13 authorizing the reimbursement of certain expenses; requiring the Task Force to
14 study and make recommendations regarding occupational licensing laws and
15 criminal convictions; requiring the Task Force to report its findings and
16 recommendations to the Governor and the General Assembly on or before a certain
17 date; defining certain terms; providing for the termination of certain provisions of
18 this Act; and generally relating to occupational licenses and criminal convictions.

19 BY repealing and reenacting, without amendments,
20 Article – Agriculture
21 Section 1–101(a) and (d)
22 Annotated Code of Maryland
23 (2007 Replacement Volume and 2015 Supplement)

24 BY adding to
25 Article – Agriculture
26 Section 2–108
27 Annotated Code of Maryland
28 (2007 Replacement Volume and 2015 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 BY repealing and reenacting, without amendments,
2 Article – Business Regulation
3 Section 1–101(a) and (f)
4 Annotated Code of Maryland
5 (2015 Replacement Volume and 2015 Supplement)
- 6 BY adding to
7 Article – Business Regulation
8 Section 2–111
9 Annotated Code of Maryland
10 (2015 Replacement Volume and 2015 Supplement)
- 11 BY repealing and reenacting, without amendments,
12 Article – Correctional Services
13 Section 1–101(a) and (f)
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2015 Supplement)
- 16 BY adding to
17 Article – Correctional Services
18 Section 2–119
19 Annotated Code of Maryland
20 (2008 Replacement Volume and 2015 Supplement)
- 21 BY repealing and reenacting, without amendments,
22 Article – Criminal Procedure
23 Section 1–209
24 Annotated Code of Maryland
25 (2008 Replacement Volume and 2015 Supplement)
- 26 BY repealing and reenacting, without amendments,
27 Article – Environment
28 Section 1–101(a) and (d)
29 Annotated Code of Maryland
30 (2013 Replacement Volume and 2015 Supplement)
- 31 BY adding to
32 Article – Environment
33 Section 1–205
34 Annotated Code of Maryland
35 (2013 Replacement Volume and 2015 Supplement)
- 36 BY repealing and reenacting, without amendments,
37 Article – Health – General
38 Section 1–101(a) and (c)
39 Annotated Code of Maryland
40 (2015 Replacement Volume)

1 BY adding to
2 Article – Health – General
3 Section 2–107.1
4 Annotated Code of Maryland
5 (2015 Replacement Volume)

6 BY repealing and reenacting, without amendments,
7 Article – Human Services
8 Section 2–101 (a) and (b)
9 Annotated Code of Maryland
10 (2007 Volume and 2015 Supplement)

11 BY adding to
12 Article – Human Services
13 Section 2–303
14 Annotated Code of Maryland
15 (2007 Volume and 2015 Supplement)

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

18 **Article – Agriculture**

19 1–101.

20 (a) In this article the following words have the meanings indicated.

21 (d) “Department” means the State Department of Agriculture.

22 **2–108.**

23 **(A) IN THIS SECTION, “LICENSE”:**

24 **(1) MEANS ANY GRANT OF AUTHORITY TO CONDUCT A BUSINESS OR**
25 **TO PRACTICE AN OCCUPATION; AND**

26 **(2) INCLUDES A CERTIFICATE, PERMIT, OR REGISTRATION.**

27 **(B) THE DEPARTMENT AND A UNIT IN THE DEPARTMENT MAY NOT DENY A**
28 **LICENSE TO AN APPLICANT SOLELY ON THE BASIS OF THE APPLICANT’S PRIOR**
29 **CONVICTION OF A CRIME EXCEPT IN ACCORDANCE WITH § 1–209 OF THE CRIMINAL**
30 **PROCEDURE ARTICLE.**

31 **(C) THE DEPARTMENT AND EACH UNIT IN THE DEPARTMENT THAT ISSUES**
32 **LICENSES SHALL POST PROMINENTLY ON ITS WEB SITE NOTICE THAT THE**

1 **DEPARTMENT AND EACH UNIT IN THE DEPARTMENT MAY NOT DENY A LICENSE TO**
2 **AN APPLICANT SOLELY ON THE BASIS OF THE APPLICANT'S PRIOR CONVICTION OF A**
3 **CRIME EXCEPT IN ACCORDANCE WITH § 1-209 OF THE CRIMINAL PROCEDURE**
4 **ARTICLE.**

5 **Article – Business Regulation**

6 1-101.

7 (a) In this article the following words have the meanings indicated.

8 (f) “Department” means the Department of Labor, Licensing, and Regulation.

9 **2-111.**

10 **(A) IN THIS SECTION, “LICENSE”:**

11 **(1) MEANS ANY GRANT OF AUTHORITY TO CONDUCT A BUSINESS OR**
12 **TO PRACTICE AN OCCUPATION; AND**

13 **(2) INCLUDES A CERTIFICATE, PERMIT, OR REGISTRATION.**

14 **(B) THE DEPARTMENT AND A UNIT IN THE DEPARTMENT MAY NOT DENY A**
15 **LICENSE TO AN APPLICANT SOLELY ON THE BASIS OF THE APPLICANT'S PRIOR**
16 **CONVICTION OF A CRIME EXCEPT IN ACCORDANCE WITH § 1-209 OF THE CRIMINAL**
17 **PROCEDURE ARTICLE.**

18 **(C) THE DEPARTMENT AND EACH UNIT IN THE DEPARTMENT THAT ISSUES**
19 **LICENSES SHALL POST PROMINENTLY ON ITS WEB SITE NOTICE THAT THE**
20 **DEPARTMENT AND EACH UNIT IN THE DEPARTMENT MAY NOT DENY A LICENSE TO**
21 **AN APPLICANT SOLELY ON THE BASIS OF THE APPLICANT'S PRIOR CONVICTION OF A**
22 **CRIME EXCEPT IN ACCORDANCE WITH § 1-209 OF THE CRIMINAL PROCEDURE**
23 **ARTICLE.**

24 **Article – Correctional Services**

25 1-101.

26 (a) In this article the following words have the meanings indicated.

27 (f) “Department” means the Department of Public Safety and Correctional
28 Services.

29 **2-119.**

1 **(A) IN THIS SECTION, “LICENSE”:**

2 **(1) MEANS ANY GRANT OF AUTHORITY TO CONDUCT A BUSINESS OR**
3 **TO PRACTICE AN OCCUPATION; AND**

4 **(2) INCLUDES A CERTIFICATE, PERMIT, OR REGISTRATION.**

5 **(B) THE DEPARTMENT AND A UNIT IN THE DEPARTMENT MAY NOT DENY A**
6 **LICENSE TO AN APPLICANT SOLELY ON THE BASIS OF THE APPLICANT’S PRIOR**
7 **CONVICTION OF A CRIME EXCEPT IN ACCORDANCE WITH § 1–209 OF THE CRIMINAL**
8 **PROCEDURE ARTICLE.**

9 **(C) THE DEPARTMENT AND EACH UNIT IN THE DEPARTMENT THAT ISSUES**
10 **LICENSES SHALL POST PROMINENTLY ON ITS WEB SITE NOTICE THAT THE**
11 **DEPARTMENT AND EACH UNIT IN THE DEPARTMENT MAY NOT DENY A LICENSE TO**
12 **AN APPLICANT SOLELY ON THE BASIS OF THE APPLICANT’S PRIOR CONVICTION OF A**
13 **CRIME EXCEPT IN ACCORDANCE WITH § 1–209 OF THE CRIMINAL PROCEDURE**
14 **ARTICLE.**

15 **Article – Criminal Procedure**

16 1–209.

17 (a) (1) In this section, “department” means:

18 (i) the Department of Agriculture;

19 (ii) the Department of the Environment;

20 (iii) the Department of Health and Mental Hygiene;

21 (iv) the Department of Human Resources;

22 (v) the Department of Labor, Licensing, and Regulation; or

23 (vi) the Department of Public Safety and Correctional Services.

24 (2) “Department” includes any unit of a department specified in paragraph
25 (1) of this subsection.

26 (b) This section does not apply to a person who was previously convicted of a crime
27 of violence, as defined in § 14–101 of the Criminal Law Article.

1 (c) It is the policy of the State to encourage the employment of nonviolent ex-
2 offenders and remove barriers to their ability to demonstrate fitness for occupational
3 licenses or certifications required by the State.

4 (d) A department may not deny an occupational license or certificate to an
5 applicant solely on the basis that the applicant has previously been convicted of a crime,
6 unless the department determines that:

7 (1) there is a direct relationship between the applicant's previous
8 conviction and the specific occupational license or certificate sought; or

9 (2) the issuance of the license or certificate would involve an unreasonable
10 risk to property or to the safety or welfare of specific individuals or the general public.

11 (e) In making the determination under subsection (d) of this section, the
12 department shall consider:

13 (1) the policy of the State expressed in subsection (c) of this section;

14 (2) the specific duties and responsibilities required of a licensee or
15 certificate holder;

16 (3) whether the applicant's previous conviction has any impact on the
17 applicant's fitness or ability to perform the duties and responsibilities authorized by the
18 license or certificate;

19 (4) the age of the applicant at the time of the conviction and the amount of
20 time that has elapsed since the conviction;

21 (5) the seriousness of the offense for which the applicant was convicted;

22 (6) other information provided by the applicant or on the applicant's behalf
23 with regard to the applicant's rehabilitation and good conduct; and

24 (7) the legitimate interest of the department in protecting property and the
25 safety and welfare of specific individuals or the general public.

26 Article – Environment

27 1–101.

28 (a) In this article the following words have the meanings indicated.

29 (d) “Department” means the Department of the Environment.

30 **1–205.**

1 (A) IN THIS SECTION, "LICENSE":

2 (1) MEANS ANY GRANT OF AUTHORITY TO CONDUCT A BUSINESS OR
3 TO PRACTICE AN OCCUPATION; AND

4 (2) INCLUDES A CERTIFICATE, PERMIT, OR REGISTRATION.

5 (B) THE DEPARTMENT AND A UNIT IN THE DEPARTMENT MAY NOT DENY A
6 LICENSE TO AN APPLICANT SOLELY ON THE BASIS OF THE APPLICANT'S PRIOR
7 CONVICTION OF A CRIME EXCEPT IN ACCORDANCE WITH § 1-209 OF THE CRIMINAL
8 PROCEDURE ARTICLE.

9 (C) THE DEPARTMENT AND EACH UNIT IN THE DEPARTMENT THAT ISSUES
10 LICENSES SHALL POST PROMINENTLY ON ITS WEB SITE NOTICE THAT THE
11 DEPARTMENT AND EACH UNIT IN THE DEPARTMENT MAY NOT DENY A LICENSE TO
12 AN APPLICANT SOLELY ON THE BASIS OF THE APPLICANT'S PRIOR CONVICTION OF A
13 CRIME EXCEPT IN ACCORDANCE WITH § 1-209 OF THE CRIMINAL PROCEDURE
14 ARTICLE.

15 Article – Health – General

16 1-101.

17 (a) In this article the following words have the meanings indicated.

18 (c) "Department" means the Department of Health and Mental Hygiene.

19 2-107.1.

20 (A) IN THIS SECTION, "LICENSE":

21 (1) MEANS ANY GRANT OF AUTHORITY TO CONDUCT A BUSINESS OR
22 TO PRACTICE AN OCCUPATION; AND

23 (2) INCLUDES A CERTIFICATE, PERMIT, OR REGISTRATION.

24 (B) THE DEPARTMENT AND A UNIT IN THE DEPARTMENT MAY NOT DENY A
25 LICENSE TO AN APPLICANT SOLELY ON THE BASIS OF THE APPLICANT'S PRIOR
26 CONVICTION OF A CRIME EXCEPT IN ACCORDANCE WITH § 1-209 OF THE CRIMINAL
27 PROCEDURE ARTICLE.

28 (C) THE DEPARTMENT AND EACH UNIT IN THE DEPARTMENT THAT ISSUES
29 LICENSES SHALL POST PROMINENTLY ON ITS WEB SITE NOTICE THAT THE
30 DEPARTMENT AND EACH UNIT IN THE DEPARTMENT MAY NOT DENY A LICENSE TO

1 AN APPLICANT SOLELY ON THE BASIS OF THE APPLICANT'S PRIOR CONVICTION OF A
2 CRIME EXCEPT IN ACCORDANCE WITH § 1-209 OF THE CRIMINAL PROCEDURE
3 ARTICLE.

4 **Article – Human Services**

5 2-101.

6 (a) In this title the following words have the meanings indicated.

7 (b) "Department" means the Department of Human Resources.

8 **2-303.**

9 (A) IN THIS SECTION, "LICENSE":

10 (1) MEANS ANY GRANT OF AUTHORITY TO CONDUCT A BUSINESS OR
11 TO PRACTICE AN OCCUPATION; AND

12 (2) INCLUDES A CERTIFICATE, PERMIT, OR REGISTRATION.

13 (B) THE DEPARTMENT AND A UNIT IN THE DEPARTMENT MAY NOT DENY A
14 LICENSE TO AN APPLICANT SOLELY ON THE BASIS OF THE APPLICANT'S PRIOR
15 CONVICTION OF A CRIME EXCEPT IN ACCORDANCE WITH § 1-209 OF THE CRIMINAL
16 PROCEDURE ARTICLE.

17 (C) THE DEPARTMENT AND EACH UNIT IN THE DEPARTMENT THAT ISSUES
18 LICENSES SHALL POST PROMINENTLY ON ITS WEB SITE NOTICE THAT THE
19 DEPARTMENT AND EACH UNIT IN THE DEPARTMENT MAY NOT DENY A LICENSE TO
20 AN APPLICANT SOLELY ON THE BASIS OF THE APPLICANT'S PRIOR CONVICTION OF A
21 CRIME EXCEPT IN ACCORDANCE WITH § 1-209 OF THE CRIMINAL PROCEDURE
22 ARTICLE.

23 SECTION 2. AND BE IT FURTHER ENACTED, That:

24 (a) There is a Task Force on Occupational Licenses and Criminal Convictions.

25 (b) The Task Force consists of the following members:

26 (1) two members of the Senate of Maryland, appointed by the President of
27 the Senate;

28 (2) two members of the House of Delegates, appointed by the Speaker of
29 the House;

- 1 (3) the Attorney General, or the Attorney General’s designee;
- 2 (4) the Secretary of Health and Mental Hygiene, or the Secretary’s
3 designee;
- 4 (5) the Secretary of Labor, Licensing, and Regulation, or the Secretary’s
5 designee;
- 6 (6) the Secretary of Public Safety and Correctional Services, or the
7 Secretary’s designee;
- 8 (7) the Secretary of Human Resources, or the Secretary’s designee;
- 9 (8) the Secretary of the Environment, or the Secretary’s designee;
- 10 (9) the Secretary of Agriculture, or the Secretary’s designee;
- 11 (10) the Director of the Governor’s Office of Crime Control and Prevention,
12 or the Director’s designee; and
- 13 (11) one representative of a nonprofit organization with the mission to
14 develop and advocate policies and programs to increase the skills, job opportunities, and
15 incomes of low-skill, low-income workers and job seekers, appointed by the Governor.
- 16 (c) The Governor shall designate the chair of the Task Force.
- 17 (d) The Department of Legislative Services shall provide staff for the Task Force.
- 18 (e) A member of the Task Force:
- 19 (1) may not receive compensation as a member of the Task Force; but
- 20 (2) is entitled to reimbursement for expenses under the Standard State
21 Travel Regulations, as provided in the State budget.
- 22 (f) The Task Force shall:
- 23 (1) review potential barriers to employment and entrepreneurship related
24 to ex-offenders and occupational licenses, including the denial, suspension, or revocation
25 of occupational licenses for occupational criminal convictions;
- 26 (2) review the criminalization of occupational license violations, including
27 the practicing an occupation without a license; and
- 28 (3) make recommendations regarding changes to occupational licensing
29 laws that:

1 (i) promote the State's policy of encouraging employment of
2 ex-offenders and removing barriers to an ex-offender's ability to demonstrate fitness for
3 an occupational license;

4 (ii) protect the integrity of professional occupations while promoting
5 the State's interest in maintaining public safety and reducing costs and burdens to the
6 criminal justice system; and

7 (iii) promote consistency in and uniform application of the
8 occupational licensing laws.

9 (g) On or before December 31, 2016, the Task Force shall report its findings and
10 recommendations to the Governor and, in accordance with § 2-1246 of the State
11 Government Article, the General Assembly.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
13 1, 2016. Section 2 of this Act shall remain effective for a period of 1 year and, at the end of
14 June 30, 2017, with no further action required by the General Assembly, Section 2 of this
15 Act shall be abrogated and of no further force and effect.