

SB0839/613797/1

BY: Economic Matters Committee

AMENDMENTS TO SENATE BILL 839
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “requiring” in line 7 down through “circumstances” in line 8; in line 9, strike “before”; in line 10, strike “the”; in the same line, strike “first”; strike beginning with “in-person” in line 11 down through “action;” in line 12 and substitute “including on certain application forms a question or other request for information regarding whether the applicant for employment has a criminal record or has had criminal accusations brought against the applicant;”; strike beginning with “requiring” in line 14 down through “relief;” in line 18; and in line 20, strike “establishing a certain civil penalty;” and substitute “requiring the Commissioner to issue a certain order under certain circumstances; authorizing the Commissioner to assess a certain civil penalty for certain violations of this Act under certain circumstances; requiring the Commissioner to consider certain factors in determining the amount of a certain penalty; subjecting the assessment of a certain penalty to certain requirements; providing for the construction of this Act;”.

On page 2, in line 7, strike “3-1406” and substitute “3-1405”.

AMENDMENT NO. 2

On page 4, in line 8, strike “THE MARKING OF A CHARGE “STET” ON THE DOCKET;”; in line 9, strike “(5)”; in line 10, strike “(6)” and substitute “(5)”; in line 13, after “INCLUDES” insert “:

(I) A UNIT OF LOCAL GOVERNMENT; AND

(II)”;

and in line 24, before “THIS” insert “(A)”.

(Over)

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On page 5, in line 1, strike “**FEDERAL, STATE, OR LOCAL LAW**” and substitute “**FEDERAL OR STATE LAW**”; after line 4, insert:

“(B) THIS SUBTITLE MAY NOT BE CONSTRUED TO PREEMPT A LOCAL JURISDICTION FROM ENACTING OR ENFORCING A LAW THAT IS MORE RESTRICTIVE WITH RESPECT TO CRIMINAL RECORD SCREENING PRACTICES OF EMPLOYERS IN THE LOCAL JURISDICTION.”;

strike in their entirety lines 6 through 21, inclusive, and substitute:

“AN EMPLOYER MAY NOT INCLUDE ON A PAPER OR ELECTRONIC APPLICATION FORM A QUESTION OR OTHER REQUEST FOR INFORMATION REGARDING WHETHER THE APPLICANT HAS A CRIMINAL RECORD OR HAS HAD CRIMINAL ACCUSATIONS BROUGHT AGAINST THE APPLICANT.”;

and strike in their entirety lines 23 through 32, inclusive.

On page 6, in line 1, strike “**3-1405.**”; in line 6, strike “**3-1406.**” and substitute “**3-1405.**”; and strike in their entirety lines 7 through 10, inclusive, and substitute:

“(A) IF THE COMMISSIONER DETERMINES THAT AN EMPLOYER HAS VIOLATED ANY PROVISION OF THIS SUBTITLE, THE COMMISSIONER:

(1) SHALL ISSUE AN ORDER COMPELLING COMPLIANCE; AND

(2) FOR A SUBSEQUENT VIOLATION, MAY, IN THE COMMISSIONER’S DISCRETION, ASSESS A CIVIL PENALTY OF UP TO \$300 FOR EACH APPLICANT FOR EMPLOYMENT OR EMPLOYEE WITH RESPECT TO WHOM THE EMPLOYER VIOLATED ANY PROVISION OF THIS SUBTITLE.

(B) IN DETERMINING THE AMOUNT OF THE PENALTY, IF ASSESSED, THE COMMISSIONER SHALL CONSIDER:

(1) THE GRAVITY OF THE VIOLATION;

(2) THE SIZE OF THE EMPLOYER'S BUSINESS;

(3) THE EMPLOYER'S GOOD FAITH; AND

(4) THE EMPLOYER'S HISTORY OF VIOLATIONS UNDER THIS SUBTITLE.

(C) THE ASSESSMENT OF A PENALTY UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL BE SUBJECT TO THE NOTICE AND HEARING REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE."