

SENATE BILL 923

C2, E2

6lr3276
CF HB 979

By: **Senator Rosapepe**

Introduced and read first time: February 5, 2016

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2016

CHAPTER _____

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; requiring the publishers of the Annotated Code of Maryland to make certain~~
19 ~~changes under certain circumstances; and generally relating to occupational licenses~~
20 and criminal convictions.

21 BY repealing and reenacting, without amendments,
22 Article – Agriculture
23 Section 1–101(a) and (d)
24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



- 1 (2007 Replacement Volume and 2015 Supplement)
- 2 BY adding to
3 Article – Agriculture
4 Section 2–108
5 Annotated Code of Maryland
6 (2007 Replacement Volume and 2015 Supplement)
- 7 BY repealing and reenacting, without amendments,
8 Article – Business Regulation
9 Section 1–101(a) and (f)
10 Annotated Code of Maryland
11 (2015 Replacement Volume and 2015 Supplement)
- 12 BY adding to
13 Article – Business Regulation
14 Section 2–111
15 Annotated Code of Maryland
16 (2015 Replacement Volume and 2015 Supplement)
- 17 BY repealing and reenacting, without amendments,
18 Article – Correctional Services
19 Section 1–101(a) and (f)
20 Annotated Code of Maryland
21 (2008 Replacement Volume and 2015 Supplement)
- 22 BY adding to
23 Article – Correctional Services
24 Section 2–119
25 Annotated Code of Maryland
26 (2008 Replacement Volume and 2015 Supplement)
- 27 BY repealing and reenacting, without amendments,
28 Article – Criminal Procedure
29 Section 1–209
30 Annotated Code of Maryland
31 (2008 Replacement Volume and 2015 Supplement)
- 32 BY repealing and reenacting, without amendments,
33 Article – Environment
34 Section 1–101(a) and (d)
35 Annotated Code of Maryland
36 (2013 Replacement Volume and 2015 Supplement)
- 37 BY adding to
38 Article – Environment
39 Section 1–205

1 Annotated Code of Maryland
 2 (2013 Replacement Volume and 2015 Supplement)

3 BY repealing and reenacting, without amendments,
 4 Article – Health – General
 5 Section 1–101(a) and (c)
 6 Annotated Code of Maryland
 7 (2015 Replacement Volume)

8 BY adding to
 9 Article – Health – General
 10 Section 2–107.1
 11 Annotated Code of Maryland
 12 (2015 Replacement Volume)

13 BY repealing and reenacting, without amendments,
 14 Article – Human Services
 15 Section 2–101 (a) and (b)
 16 Annotated Code of Maryland
 17 (2007 Volume and 2015 Supplement)

18 BY adding to
 19 Article – Human Services
 20 Section 2–303
 21 Annotated Code of Maryland
 22 (2007 Volume and 2015 Supplement)

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

25 **Article – Agriculture**

26 1–101.

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

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

29 **2–108.**

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

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

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

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

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

11 **Article – Business Regulation**

12 1-101.

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

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

15 2-111.

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

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

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

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

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

30 **Article – Correctional Services**

31 1-101.

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

2 (f) "Department" means the Department of Public Safety and Correctional
3 Services.

4 **2-119.**

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

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

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

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

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

19 **Article – Criminal Procedure**

20 1-209.

21 (a) (1) In this section, "department" means:

22 (i) the Department of Agriculture;

23 (ii) the Department of the Environment;

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

25 (iv) the Department of Human Resources;

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

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

28 (2) "Department" includes any unit of a department specified in paragraph
29 (1) of this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 Article – Environment

29 1–101.

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

1 (d) "Department" means the Department of the Environment.

2 **1-205.**

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

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

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

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

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

17 **Article – Health – General**

18 **1-101.**

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

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

21 **2-107.1.**

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

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

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

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

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

Article – Human Services

2-101.

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

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

2-303.

(A) IN THIS SECTION, "LICENSE":

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

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

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

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

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

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

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

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

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

1 ~~(3) make recommendations regarding changes to occupational licensing~~
2 ~~laws that:~~

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

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

9 ~~(iii) promote consistency in and uniform application of the~~
10 ~~occupational licensing laws.~~

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That, if Chapter _____ (S.B. 804)
15 of the Acts of the General Assembly of 2016 takes effect, the publisher of the Annotated
16 Code of Maryland, in consultation with and subject to the approval of the Department of
17 Legislative Services, shall correct, with no further action required by the General
18 Assembly, cross-references and terminology rendered incorrect in this Act by Chapter
19 _____ (S.B. 804) of the Acts of 2016. The publisher shall adequately describe such correction
20 in an editor's note following the section affected.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
22 1, 2016. Section 2 of this Act shall remain effective for a period of 1 year and, at the end of
23 June 30, 2017, with no further action required by the General Assembly, Section 2 of this
24 Act shall be abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.