

Amendment No. 484

Senate Amendment to Senate Bill No. 127

(BDR 53-453)

Proposed by: Senate Committee on Commerce, Labor and Energy**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

VMS/BFG



Date: 4/16/2013

S.B. No. 127—Prohibits employers from conditioning employment on a consumer credit report or other credit information. (BDR 53-453)



SENATE BILL NO. 127—SENATOR PARKS

FEBRUARY 18, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Prohibits employers from conditioning employment on a consumer credit report or other credit information. (BDR 53-453)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to employment practices; prohibiting employers from conditioning employment on a consumer credit report or other credit information; *providing certain exceptions*; providing remedies and administrative penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes various unlawful employment practices. (Chapter 613 of NRS) **Section 7** of this bill prohibits an employer from conditioning the employment of an employee or prospective employee on his or her consumer credit report or other credit information. **Section 7** also prohibits an employer from taking certain employment actions based on the refusal of an employee or prospective employee to submit a credit report or other credit information or on the results of such a report or information. **Section 7** further prohibits an employer from taking certain employment actions where an employee or prospective employee files a complaint, testifies in any legal proceeding or exercises his or her rights with respect to any violation committed by the employer. *Section 7.5 of this bill provides certain exceptions to the preceding prohibitions, including, without limitation, an exception for circumstances in which the information contained in the consumer credit report or other credit information is reasonably related to the position of employment.* **Section 8** of this bill establishes the civil remedies available to a person affected by a violation committed by an employer, including employment of a prospective employee, reinstatement or promotion of an employee, payment of lost wages and benefits and the award of reasonable costs and attorney's fees. **Section 9** of this bill authorizes the Labor Commissioner to impose an administrative penalty against an employer for each violation and to bring a civil action against the employer.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 613 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2 to 9, inclusive, of this act.

3 **Sec. 2.** *As used in sections 2 to 9, inclusive, of this act, unless the context*
4 *otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of*
5 *this act have the meanings ascribed to them in those sections.*

6 **Sec. 3.** *“Consumer credit report” means any written, oral or other*
7 *communication of information by a consumer reporting agency bearing on the*
8 *credit worthiness, credit standing or credit capacity of a person.*

9 **Sec. 4.** *“Consumer reporting agency” has the meaning ascribed to it in*
10 *NRS 686A.640.*

11 **Sec. 5.** *“Credit information” means any information that is related to credit*
12 *and derived from a consumer credit report or found on a consumer credit report.*
13 *The term does not include information that is not related to credit, regardless of*
14 *whether it is contained in a consumer credit report.*

15 **Sec. 6.** *“Employer” has the meaning ascribed to it in subsection 1 of NRS*
16 *613.440.*

17 **Sec. 7.** ~~HH~~ Except as otherwise provided in section 7.5 of this act, it is
18 unlawful for any employer in this State to:

19 1. *Directly or indirectly, require, request, suggest or cause any employee or*
20 *prospective employee to submit a consumer credit report or other credit*
21 *information as a condition of employment;*

22 2. *Use, accept, refer to or inquire concerning a consumer credit report or*
23 *other credit information;*

24 3. *Discharge, discipline, discriminate against in any manner or deny*
25 *employment or promotion to, or threaten to take any such action against any*
26 *employee or prospective employee;*

27 (a) *Who refuses, declines or fails to submit a consumer credit report or other*
28 *credit information; or*

29 (b) *On the basis of the results of a consumer credit report or other credit*
30 *information; or*

31 4. *Discharge, discipline, discriminate against in any manner or deny*
32 *employment or promotion to, or threaten to take any such action against any*
33 *employee or prospective employee who has:*

34 (a) *Filed any complaint or instituted or caused to be instituted any legal*
35 *proceeding pursuant to sections 2 to 9, inclusive, of this act;*

36 (b) *Testified or may testify in any legal proceeding instituted pursuant to*
37 *sections 2 to 9, inclusive, of this act; or*

38 (c) *Exercised his or her rights, or has exercised on behalf of another person*
39 *the rights afforded to him or her pursuant to sections 2 to 9, inclusive, of this act.*

40 **Sec. 7.5.** An employer may request or consider a consumer credit report or
41 other credit information for the purpose of evaluating an employee or prospective
42 employee for employment, promotion, reassignment or retention as an employee
43 if:

44 1. The employer is required or authorized, pursuant to state or federal law,
45 to use a consumer credit report or other credit information for that purpose;

46 2. The employer reasonably believes that the employee or prospective
47 employee has engaged in specific activity which may constitute a violation of state
48 or federal law; or

1 3. The information contained in the consumer credit report or other credit
2 information is reasonably related to the position for which the employee or
3 prospective employee is being evaluated for employment, promotion,
4 reassignment or retention as an employee. The information in the consumer
5 credit report or other credit information shall be deemed reasonably related to
6 such an evaluation if the duties of the position involve:

7 (a) The care, custody and handling of, or responsibility for, money, financial
8 accounts, corporate credit or debit cards, or other assets;

9 (b) Access to trade secrets or other proprietary or confidential information;

10 (c) Managerial or supervisory responsibility;

11 (d) The direct exercise of law enforcement authority as an employee of a
12 state or local law enforcement agency;

13 (e) The care, custody and handling of, or responsibility for, the personal
14 information of another person;

15 (f) Access to the personal financial information of another person;

16 (g) Employment with a financial institution that is chartered under state or
17 federal law, including a subsidiary or affiliate of such a financial institution; or

18 (h) Employment with a licensed gaming establishment, as defined in NRS
19 463.0169.

20 **Sec. 8. 1. An employer who violates the provisions of sections 2 to 9,**
21 **inclusive, of this act is liable to the employee or prospective employee affected by**
22 **the violation. The employer is liable for any legal or equitable relief as may be**
23 **appropriate, including employment of a prospective employee, reinstatement or**
24 **promotion of an employee and the payment of lost wages and benefits.**

25 **2. An action to recover the liability pursuant to subsection 1 may be**
26 **maintained against the employer by an employee or prospective employee:**

27 **(a) For or on behalf of the employee or prospective employee; and**

28 **(b) On behalf of other employees or prospective employees similarly situated.**

29 **↪ An action must not be commenced pursuant to this section more than 3 years**
30 **after the date of the alleged violation.**

31 **3. In any action brought pursuant to this section, the court, in its discretion,**
32 **may allow the prevailing party reasonable costs, including attorney's fees.**

33 **Sec. 9. 1. If any person violates sections 2 to 9, inclusive, of this act, the**
34 **Labor Commissioner may impose against the person an administrative penalty of**
35 **not more than \$9,000 for each such violation.**

36 **2. In determining the amount of any administrative penalty to be imposed**
37 **against the person, the Labor Commissioner shall consider the previous record of**
38 **the person in terms of compliance with sections 2 to 9, inclusive, of this act and**
39 **the severity of the violation. Any administrative penalty imposed against the**
40 **person is in addition to any other remedy or penalty provided pursuant to this act.**

41 **3. The Labor Commissioner may bring a civil action pursuant to this**
42 **section to restrain violations of sections 2 to 9, inclusive, of this act. A court of**
43 **competent jurisdiction may issue, without bond, a temporary or permanent**
44 **restraining order or injunction to require compliance with sections 2 to 9,**
45 **inclusive, of this act, including any legal or equitable relief incident thereto as**
46 **may be appropriate, such as employment of a prospective employee, reinstatement**
47 **or promotion of an employee, and the payment of lost wages and benefits.**