

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1594

H. P. 1369

House of Representatives, April 13, 1977

On Motion of Mr. Hobbins of Saco, referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Hobbins of Saco.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Relating to Use of Criminal Records in Occupational Licensing.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 5 MRSA § 5301, as enacted by PL 1975, c. 150, is repealed and the following enacted in its place:

§ 5301. Eligibility for occupational license or permit

1. Effect of criminal history record information respecting certain convictions. Subject to subsection 2 and sections 5302 and 5303, in determining eligibility for the granting of any occupational license or permit issued by the State, the appropriate State licensing agency may take into consideration criminal history record information relating to certain convictions which have not been set aside or for which a full and free pardon has not been granted, but the existence of such information shall not operate as an automatic bar to being licensed or permitted to practice any trade or occupation.

2. Criminal history record information which may be considered. A licensing agency may use in connection with an application for an occupational license or permit criminal history record information pertaining to the following:

A. Convictions for which incarceration for less than one year may be imposed and which involve dishonesty or false statement;

B. Convictions for which incarceration for less than one year may be imposed and which directly relate to the trade or occupation for which the license or permit is sought;

C. Convictions for which no incarceration can be imposed and which directly relate to the trade or occupation for which the license or permit is sought; and

D. Convictions for which incarceration for one year or more may be imposed.

Sec. 2. 5 MRSA § 5302, sub-§ 1, as enacted by PL 1975, c. 150, is repealed and the following enacted in its place:

1. **Reasons for denial, revocation or suspension.** Licensing agencies may refuse to grant or renew, or may suspend any occupational license or permit on the basis of the criminal history record information relating to convictions denominated in section 5301, subsection 2, but only if the licensing agency determines that the applicant so convicted has not been sufficiently rehabilitated to warrant the public trust.

Sec. 3. 5 MRSA § 5302, sub-§ 2, 1st sentence, as enacted by PL 1975, c. 150, is amended to read:

The licensing agency shall explicitly state in writing the reasons for a decision which prohibits the applicant from practicing the trade or occupation if such decision is based in whole or in part on conviction of any crime described in ~~subsection 1, paragraph A~~ section 5301, subsection 2.

STATEMENT OF FACT

The purpose of this bill is to bring the language of the present law into conformity with the Criminal History Record Information Act, Title 16, sections 601 to 607, to replace in the present law all references to the words "felony" and "misdemeanor;" words no longer appropriate since the enactment of the Maine Criminal Code, with equivalent language and to replace in the present law the phrase "moral turpitude," a phrase troublesome in terms of meaning, with the phrase "dishonesty or false statement."