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SENATE BILL 459

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Clinton D. Harden

AN ACT

RELATING TO EMPLOYMENT; AMENDING THE CRIMINAL OFFENDER
EMPLOYMENT ACT TO RESTRICT THE INQUIRY AND CONSIDERATION OF A
CONVICTION UNTIL THE FINAL STAGES OF THE HIRING PROCESS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 28-2-3 NMSA 1978 (being Laws 1974,
Chapter 78, Section 3) is amended to read:

"28-2-3. EMPLOYMENT ELIGIBILITY DETERMINATION.--

A. Subject to the provisions of Subsection B of
this section and Sections [~~3 and 4 of the Criminal Offender
Employment Act~~] 28-2-4 and 28-2-5 NMSA 1978, in determining
eligibility for employment with the state or any of its
political subdivisions or for a license, permit, certificate or
other authority to engage in any regulated trade, business or
profession, the regulatory board or other department or agency

.175986.1

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 having jurisdiction may take into consideration [~~the~~] a
2 conviction, but [~~such~~] the conviction shall not operate as an
3 automatic bar to obtaining public employment or license or
4 other authority to practice the trade, business or profession.
5 A regulatory board, department or agency shall not make an
6 inquiry regarding a conviction on an initial application for
7 employment and shall only take into consideration a conviction
8 after the applicant has been selected as a finalist for the
9 position.

10 B. The following criminal records shall not be
11 used, distributed or disseminated in connection with an
12 application for any public employment, license or other
13 authority:

14 (1) records of arrest not followed by a valid
15 conviction; and

16 (2) misdemeanor convictions not involving
17 moral turpitude."