

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 remedies and administrative penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law establishes various unlawful employment practices. (Chapter 613
2 of NRS) **Section 7** of this bill prohibits an employer from conditioning the
3 employment of an employee or prospective employee on his or her consumer credit
4 report or other credit information. **Section 7** also prohibits an employer from taking
5 certain employment actions based on the refusal of an employee or prospective
6 employee to submit a credit report or other credit information or on the results of
7 such a report or information. **Section 7** further prohibits an employer from taking
8 certain employment actions where an employee or prospective employee files a
9 complaint, testifies in any legal proceeding or exercises his or her rights with
10 respect to any violation committed by the employer. **Section 8** of this bill
11 establishes the civil remedies available to a person affected by a violation
12 committed by an employer, including employment of a prospective employee,
13 reinstatement or promotion of an employee, payment of lost wages and benefits and
14 the award of reasonable costs and attorney’s fees. **Section 9** of this bill authorizes
15 the Labor Commissioner to impose an administrative penalty against an employer
16 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
2 thereto the provisions set forth as sections 2 to 9, inclusive, of this
3 act.

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

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

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

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

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

21 **Sec. 7.** *It is unlawful for any employer in this State to:*

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

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

27 3. *Discharge, discipline, discriminate against in any manner*
28 *or deny employment or promotion to, or threaten to take any such*
29 *action against any employee or prospective employee:*

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

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

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

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

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



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

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

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

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

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

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

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

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

27 2. *In determining the amount of any administrative penalty to*
28 *be imposed against the person, the Labor Commissioner shall*
29 *consider the previous record of the person in terms of compliance*
30 *with sections 2 to 9, inclusive, of this act and the severity of the*
31 *violation. Any administrative penalty imposed against the person*
32 *is in addition to any other remedy or penalty provided pursuant to*
33 *this act.*

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



