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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2011	.	
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The Committee on Health Regulation (Latvala) recommended the following:

Senate Amendment (with title amendment)

Between lines 1973 and 1974
insert:

Section 56. Subsections (4) through (8) of section 408.809, Florida Statutes, are amended to read:

408.809 Background screening; prohibited offenses.—

(4) In addition to the offenses listed in s. 435.04, all persons required to undergo background screening pursuant to this part or authorizing statutes must not have an arrest awaiting final disposition for, must not have been found guilty of, regardless of adjudication, or entered a plea of nolo



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13 contendere or guilty to, and must not have been adjudicated
14 delinquent and the record not have been sealed or expunged for
15 any of the following offenses or any similar offense of another
16 jurisdiction:

17 (a) Any authorizing statutes, if the offense was a felony.

18 (b) This chapter, if the offense was a felony.

19 (c) Section 409.920, relating to Medicaid provider fraud.

20 (d) Section 409.9201, relating to Medicaid fraud.

21 (e) Section 741.28, relating to domestic violence.

22 (f) Section 817.034, relating to fraudulent acts through
23 mail, wire, radio, electromagnetic, photoelectronic, or
24 photooptical systems.

25 (g) Section 817.234, relating to false and fraudulent
26 insurance claims.

27 (h) Section 817.505, relating to patient brokering.

28 (i) Section 817.568, relating to criminal use of personal
29 identification information.

30 (j) Section 817.60, relating to obtaining a credit card
31 through fraudulent means.

32 (k) Section 817.61, relating to fraudulent use of credit
33 cards, if the offense was a felony.

34 (l) Section 831.01, relating to forgery.

35 (m) Section 831.02, relating to uttering forged
36 instruments.

37 (n) Section 831.07, relating to forging bank bills, checks,
38 drafts, or promissory notes.

39 (o) Section 831.09, relating to uttering forged bank bills,
40 checks, drafts, or promissory notes.

41 (p) Section 831.30, relating to fraud in obtaining



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42 medicinal drugs.

43 (q) Section 831.31, relating to the sale, manufacture,
44 delivery, or possession with the intent to sell, manufacture, or
45 deliver any counterfeit controlled substance, if the offense was
46 a felony.

47 (5) A person who serves as a controlling interest of, is
48 employed by, or contracts with a licensee on July 31, 2010, who
49 has been screened and qualified according to standards specified
50 in s. 435.03 or s. 435.04 must be rescreened by July 31, 2015,
51 in accordance with the schedule provided in this subsection. The
52 agency may adopt rules to establish a schedule to stagger the
53 implementation of the required rescreening over the 5-year
54 period, beginning July 31, 2010, through July 31, 2015. If, upon
55 rescreening, such person has a disqualifying offense that was
56 not a disqualifying offense at the time of the last screening,
57 but is a current disqualifying offense and was committed before
58 the last screening, he or she may apply for an exemption from
59 the appropriate licensing agency and, if agreed to by the
60 employer, may continue to perform his or her duties until the
61 licensing agency renders a decision on the application for
62 exemption if the person is eligible to apply for an exemption
63 and the exemption request is received by the agency within 30
64 days after receipt of the rescreening results by the person. The
65 rescreening schedule is as follows:

66 (a) An individual whose last screening was conducted before
67 December 31, 2003, must be rescreened by July 31, 2013;

68 (b) An individual whose last screening was conducted
69 between January 1, 2004, and December 31, 2007, must be
70 rescreened by July 31, 2014; and



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71 (c) An individual whose last screening was conducted
72 between January 1, 2008, and July 31, 2010, must be rescreened
73 by July 31, 2015.

74 ~~(6)~~(5) The costs associated with obtaining the required
75 screening must be borne by the licensee or the person subject to
76 screening. Licensees may reimburse persons for these costs. The
77 Department of Law Enforcement shall charge the agency for
78 screening pursuant to s. 943.053(3). The agency shall establish
79 a schedule of fees to cover the costs of screening.

80 ~~(7)~~(6)(a) As provided in chapter 435, the agency may grant
81 an exemption from disqualification to a person who is subject to
82 this section and who:

83 1. Does not have an active professional license or
84 certification from the Department of Health; or

85 2. Has an active professional license or certification from
86 the Department of Health but is not providing a service within
87 the scope of that license or certification.

88 (b) As provided in chapter 435, the appropriate regulatory
89 board within the Department of Health, or the department itself
90 if there is no board, may grant an exemption from
91 disqualification to a person who is subject to this section and
92 who has received a professional license or certification from
93 the Department of Health or a regulatory board within that
94 department and that person is providing a service within the
95 scope of his or her licensed or certified practice.

96 ~~(8)~~(7) The agency and the Department of Health may adopt
97 rules pursuant to ss. 120.536(1) and 120.54 to implement this
98 section, chapter 435, and authorizing statutes requiring
99 background screening and to implement and adopt criteria



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100 relating to retaining fingerprints pursuant to s. 943.05(2).

101 (9)~~(8)~~ There is no unemployment compensation or other
102 monetary liability on the part of, and no cause of action for
103 damages arising against, an employer that, upon notice of a
104 disqualifying offense listed under chapter 435 or this section,
105 terminates the person against whom the report was issued,
106 whether or not that person has filed for an exemption with the
107 Department of Health or the agency.

108

109 ===== T I T L E A M E N D M E N T =====

110 And the title is amended as follows:

111 Between lines 162 and 163

112 insert:

113 amending s. 408.809, F.S.; revising provisions to
114 include a schedule for background rescreenings of
115 certain employees;