

Brian T. Murray, Director

Communications & Marketing

PHONE: 609.984.2841

EMAIL: MediaCalls@dol.state.nj.us



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- News Release -

**NEW JERSEY DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
PO BOX 110, TRENTON, NEW JERSEY 08625-0110**

FOR IMMEDIATE RELEASE

Opportunity to Compete Act Takes Effect March 1

TRENTON, N.J., February 27, 2015 - The Opportunity to Compete Act, otherwise known as the Ban the Box Law signed by Governor Chris Christie last year, will take effect this weekend, March 1.

The law generally prohibits an employer from requiring that an applicant for employment complete any employment application during the initial application process that asks about an applicant's criminal record. It also prohibits an employer from making any oral or written inquiry during the initial employment application process regarding an applicant's criminal record

The law, which will be enforced by the state Department of Labor and Workforce Development, is designed to assist individuals with criminal incidents in their backgrounds that may hinder their prospects of becoming employed. The law is designed to get the individuals through the initial interview and employment application processes with employers and ultimately assist people with criminal records to reintegrate into the community, become productive members of the workforce and to provide for their families and themselves.

The law additionally prohibits employers from producing solicitations for a position that state the employer will not consider anyone who has a criminal record, with certain exceptions.

The “initial employment application process” identified in the law ends when the employer has conducted a first interview of the job applicant, after which inquiries regarding an applicant’s criminal record may be made by the prospective employer. There are also exceptions when the position sought is in law enforcement, corrections, the judiciary, homeland security or emergency management; where the employment sought or being considered is for a position where a criminal background check is required by law, rule or regulation, or where an arrest or conviction of the person for one or more crimes or offenses would or may preclude the person from holding such employment as required by law, rule or regulation or where any law rule or regulation restricts an employer’s ability to engage in specified business activities based on the criminal records of its employees; or, where the employment sought or being considered is for a position designated by the employer to be part of a program or systematic effort designed predominantly or exclusively to encourage the employment of persons who have been arrested or convicted of one or more crimes or offenses. Moreover, nothing in the law would prohibit any employer from refusing to hire an applicant with a criminal record, unless the record has been expunged or erased through executive pardon.

An employer with 15 or more employees who violates the provisions of the Opportunity to Compete Act will be liable for a civil penalty of up to \$1,000 for the first violation, up to \$5,000 for the second violation, and up to \$10,000 for each subsequent violation, however, the law explicitly provides that a violation of the act’s provisions may not serve as the basis for a private lawsuit or for the imposition of any other penalties.

Lastly, the act sets a statewide standard for criminal history inquiries in the employment context by preempting all local ordinances, thereby making it easier for employers across the State to comply.

To read the law, go to: http://www.njleg.state.nj.us/2014/Bills/A2000/1999_R1.PDF

A draft rule proposal which may be of some assistance to employers and job applicants as they review the law, is available at:

http://lwd.dol.state.nj.us/labor/forms_pdfs/legal/2015/NJAC_12_68.pdf.

The draft rule proposal has been submitted by the Department of labor and Workforce Development to the state Office of Administrative Law for publication in the March 16, 2015 issue of the New Jersey Register. After publication of the rule proposal, there will be a public hearing and a 60-day comment period.

Regardless of when the rules are formally adopted, the law does go into effect on March 1, 2015 and will be enforced by the Department beginning on that date.

To file a complaint under the Opportunity to Compete Act, please use the Division of Wage and Hour Compliance “Wage Claim” form. On the form, under the heading “Claim Details,” please check

the box for “other” and provide a detailed explanation. You may access the form by clicking http://lwd.dol.state.nj.us/labor/forms_pdfs/lse/mw-31a.pdf.