



Terry L. Rhodes
Executive Director

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February 11, 2020

Honorable Ron DeSantis, Governor
Executive Office of the Governor
The Capitol
400 South Monroe Street
Tallahassee, FL 32399

Honorable Bill Galvano, President
Office of Senate President
409 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Honorable Jose R. Oliva
Speaker of the House
420 The Capitol
402 South Monroe Street
Tallahassee, FL 32399

Dear Governor, President, and Speaker,

Pursuant to s. 112.0111, F.S., each state agency, including, but not limited to, those state agencies responsible for professional and occupational regulatory boards must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives every four years that includes the following information:

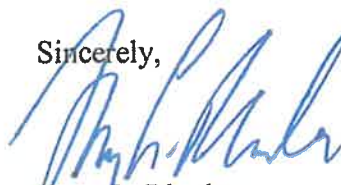
- A. A list of all agency or board statutes or rules that disqualify from employment or licensure persons who have been convicted of a crime and have completed any incarceration and restitution to which they have been sentenced for such crime.
- B. A determination of whether the disqualifying statutes or rules are readily available to prospective employers and licensees.
- C. The identification and evaluation of alternatives to the disqualifying statutes or rules which protect the health, safety, and welfare of the general public without impeding the gainful employment of ex-offenders.

Honorable Ron DeSantis, Governor
Honorable Bill Galvano, President
Honorable Jose R. Oliva, Speaker
Page 2

The Department of Highway Safety and Motor Vehicles is complying with s. 112.0111, F.S., by providing the requested information in the attached document.

I hope you find this information helpful. If you have any additional questions or need further assistance, please feel free to contact my office.

Sincerely,



Terry L. Rhodes
Executive Director

TLR:
Attachment

§112.0111, Fla. Stat., Restrictions on the Employment of Ex-offenders

A.	EMPLOYMENT BY THE DEPARTMENT	Readily Available to Prospective Employees	Alternatives to the Disqualifying Statutes/ Rules
1.	<p>§112.011(1)(a), Fla. Stat.: A person may be denied employment by reason of a prior conviction for a crime if the crime was a felony or first-degree misdemeanor and directly related to the position of employment sought. It should be noted that §112.011(2), Fla. Stat., specifically exempts law enforcement officers, who are subject to §943.13, Florida Statutes, per Section A.4., below.</p>	<p>State employment application asks questions regarding previous felony or first-degree misdemeanor convictions.</p>	<p>Disqualification is not mandatory.</p> <p>Applicant may request an exemption within 30 days of screening notification. If exemption denied, applicant may pursue administrative remedies under chapter 120, Florida Statutes.</p>
2.	<p>§§435.01, 435.04 and 435.06(1), Fla. Stat.: All employees required by law to be screened pursuant to these sections must undergo a Level 1 or Level 2 background screening as a condition of employment. Based on the results of the background screening, an employer may exclude employees and potential employees from employment.</p>	<p>The requirement is included in job advertisements by the Department.</p>	<p>Disqualification is not mandatory.</p> <p>The Department may solicit additional information from the applicant and permit applicant to submit an exemption request.</p>
3.	<p><u>Driver's License Employees and Tax Collectors (REAL ID)</u></p> <p>6 CFR 37.45: States required to perform background checks for persons who are involved in the manufacture or production of REAL ID driver's licenses and identification cards, or who have the ability to affect the identity information that appears on the driver's license or identification card, or current employees who will be assigned to such positions. The background check must include a name-based and fingerprint-based criminal history records check. May be disqualified under 49 CFR 1572.103.</p> <p>49 CFR 1572.103: This section lists disqualifying criminal offenses if convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction.</p>	<p>State employment application asks questions regarding previous felony or first-degree misdemeanor convictions.</p>	<p>Applicants with non-disqualifying convictions may be eligible. If an applicant has written proof that his/her arrest did not result in conviction for a disqualifying criminal offense, such proof may be provided to the Transportation Security</p>

			Administration within 60 days.
4.	<p><u>Florida Highway Patrol Officers</u></p> <p>§943.13, Fla. Stat.: Minimum qualifications for employment or appointment of an officer must: Not have been convicted of any felony or misdemeanor involving perjury or a false statement, or have received dishonorable discharge from any of the Armed Forces of the United States. Any person who, after July 1, 1981, pleads guilty or nolo contendere to, or is found guilty of, any felony or misdemeanor involving perjury or a false statement is not eligible for employment or appointment as an officer, notwithstanding suspension of sentence or withholding of adjudication. Notwithstanding this subsection, any person who has pled nolo contendere to a misdemeanor involving a false statement, prior to December 1, 1985, and has had such record sealed or expunged shall not be deemed ineligible for employment or appointment as an officer.</p>	DHSMV Website provides access to the trooper application, which asks about felonies and convictions.	None.
5.	<p>DHSMV Employees who need to be certified to access the Criminal Justice Information System (CJIS) pursuant to section 943.0525, Fla. Stat., must the following minimum screening requirements:</p> <ul style="list-style-type: none"> • If a felony conviction of any kind exists, the hiring authority in the Interface Agency shall deny access to CJIS. However, the hiring authority may ask for a review by the CSO (CJI Security Officer) in extenuating circumstances where the severity of the offense and the time that has passed would support a possible variance. • If a record of any other kind exists, access to CJIS shall not be granted until the CSO or his/her designee reviews the matter to determine if access is appropriate. • If the person appears to be a fugitive or has an arrest history without conviction, the CSO or his/her designee shall review the matter to determine if access to CJI is appropriate. • If the person is employed by a Non-Criminal Justice Agency, the CSO or his/her designee, and, if applicable, the appropriate board maintaining management control, shall review the matter to determine if CJIS access is appropriate. This same procedure applies if this person is found to be a fugitive or has an arrest history without conviction. <p>A Level 2 background screening is used to determine whether the employee meets the minimum requirements.</p>	CJIS Certification requirements are included in the advertisement for these positions.	<p>Other non-CJIS positions may be available.</p> <p>Applicant may request an exemption or waiver from the CSO.</p>

B.	LICENSURE BY STATUTE OR RULE		
1.	<u>Rebuilt Motor Vehicle Inspection Program</u> §319.141(4)(d), Fla. Stat.: The owners, partners, and corporate officers and the inspectors employed by the rebuilt motor vehicle inspection facility must have criminal background checks which demonstrate that such persons have not been convicted of a felony, pled guilty or nolo contendere to a felony, or been incarcerated for a felony in previous 10 years.	DHSMV Website: provides a motor vehicle dealer handbook, requirements, and application.	Applicants who have a misdemeanor conviction, or a felony conviction older than 10 years, may be eligible.
2.	<u>Motor Vehicle Dealer</u> §320.27(9), Fla. Stat.: The Department may deny, suspend or revoke any license upon proof the applicant or licensee has been convicted of a felony.	DHSMV Website: provides a motor vehicle dealer handbook, requirements, and application.	Disqualification is not mandatory.
3.	<u>Mobile Home Dealer</u> §320.77(3)(j) Fla. Stat.: Each applicant must submit a set of fingerprints for the purpose of determining any prior criminal record or any outstanding warrants. The department may deny a license as provided in §320.27(9), Fla. Stat., for a conviction of a felony.	DHSMV Website: provides a mobile home dealer handbook, requirements, and application.	Disqualification is not mandatory.
4.	<u>Recreational Vehicle Dealer</u> §320.771(3)(l), Fla. Stat.: Each applicant must submit a set of fingerprints for the purpose of determining any prior criminal record or any outstanding warrants. The department may deny a license as provided in §320.27(9), Fla. Stat., for a conviction of a felony.	DHSMV Website: provides a recreational vehicle dealer handbook, requirements, and application.	Disqualification is not mandatory.
5.	<u>Mobile Home Installer</u> §320.8249(9)(b), Fla. Stat.: A licensed person or license applicant may not be convicted or found guilty of, or enter a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of mobile home installation or the ability to practice.	DHSMV Website: Mobile Home Installer application which references §320.8249, Fla. Stat.	An applicant may qualify if conviction is not directly related to the practice of mobile home installation or the ability to practice.
6.	<u>Wrecker Rotation List</u> §321.051, Fla. Stat., and rule 15B-9.007(4)(a) and (b), F.A.C.: A wrecker operator shall be removed from a wrecker rotation list for the conviction of any felony without restoration of the person's civil rights, or conviction of any felony or first degree misdemeanor directly related to the business of operating a wrecker,	DHSMV Website: provides a link to an FHP Policy Manual regarding rotation wreckers which references Ch. 15B-9, F.A.C.	Applicants who have a conviction not directly related to the business of operating a wrecker may be eligible if civil rights were restored.

	regardless of whether civil rights have been restored. Any offense involving perjury or false statement shall be considered directly related to the business of operation a wrecker.		
7.	<p><u>Commercial Driving School (CDS) License</u> Rule 15A-11.003, F.A.C.: Every owner, officer, or partner of the school shall provide one set of fingerprints for a fingerprint-based criminal background check.</p> <p>Rule 15A-11.011(1)(b), F.A.C.: Any license, certificate, or agent identification card of a CDS License will be denied by the Department for the conviction of, the plea of no contest to, or the adjudication withheld for any felony or misdemeanor offense as shown by a fingerprint-based criminal background check conducted by the Department. Applicants with convictions must wait at least 5 years after the conviction date to be considered. Applicants with convictions that directly relate to the business of conducting a commercial driver training school, including convictions that directly relate to the personal safety of a student will not be considered. DUI convictions or personal use drug convictions outside the five-year period will not automatically disqualify an applicant if the applicant has served their revocation period and has a full unrestricted driver's license.</p> <p>§488.06, Fla. Stat.: The Department may suspend or revoke any license or certificate issued if the holder of the license or certificate is an instructor, agent, or employee of the commercial driving school and has been convicted of, pled no contest to, or had adjudication withheld, for any felony or misdemeanor offense, as shown by a fingerprint-based criminal background check.</p>	DHSMV Website: provides guidelines and requirements for applying to open a commercial driving school which references submitting fingerprints for a criminal background check.	Consideration given to applicants with convictions older than five years if not related to business of conducting a commercial driving training school. DUI convictions or personal use drug convictions outside the five-year period will not automatically disqualify applicants if the applicants have served their revocation period and have a full unrestricted driver's license.
8.	<p><u>Commercial Driver's License</u> Section 322.61(3) through (6), Fla. Stat., contains provisions for the disqualification of drivers from operating a commercial motor vehicle for certain offenses, including the use of a motor vehicle in the commission of a felony.</p>	DHSMV Website: provides a link to the CDL Handbook, which contains references to disqualifying offenses.	Disqualification for some offenses is limited to one (1) year or three (3) years, depending on the offense.
9.	<p><u>CDL (Commercial Driver's License) Third-Party Tester License</u> Section 322.56, Fla. Stat, and 49 CFR 384.228: A CDL Third-Party Tester must complete a nationwide criminal background check and will not pass a criminal background check for any felony conviction within the previous 10 years or any conviction involving fraudulent activities.</p> <p>The CDL Third-Party Tester Agreement provides that in order to qualify the applicant must have no history of criminal conviction of offenses bearing on his or her ability to fill a position of trust as a CDL Third-Party Tester, including, but not limited to, crimes of fraud, sexual offense and/or moral turpitude at any time, or other felonies or first degree misdemeanor within the past ten years.</p>	DHSMV Website: Application is available online which references submitting fingerprints.	Applicants who have convictions older than 10 years, that do not involve fraud or crimes of sexual offense or moral turpitude, may be eligible.

10.	<p><u>Third-Party Administrator for Class E Knowledge and Driving Skills Exams</u> Section 322.56, Fla. Stat.: The Department’s contract states that, in order to qualify as an examiner working for the administrator, he or she must have no criminal convictions for offenses bearing on his or her ability to fill a position of trust, including but not limited to alcohol or drug-related offenses within the ten (10) years immediately prior to the date of the agreement, and any misdemeanor involving dishonesty or false statement or a felony at any time. The Third-Party Administrator must have a fingerprint-based background check performed on every owner, general partner, corporate officer, test proctor or administrator affiliated with the Third-Party Administrator via a Live Scan provider.</p>	DHSMV Website: Blank version of the contract is available for review.	Applicants who have a misdemeanor conviction not involving dishonesty or false statement, or alcohol and drug-related offenses older than 10 years, may be eligible.
11.	<p><u>Driver Education Specialist (DELAP)</u> Section 322.56, Fla. Stat.: Applicants must have no criminal convictions for offenses within the previous 10 years which on his or her ability to fill a position of trust as a Driver Education Specialist, including but not limited to: 1) alcohol or drug related offenses; 2) any felony, or 3.) any misdemeanor involving dishonesty or false statement.</p>	DELAP application provides information on disqualifying crimes.	Applicants who have convictions older than 10 years, or misdemeanors not involving dishonesty or false statement, may be eligible.
12.	<p><u>Electronic Temporary Registration (ETR) Provider</u> Rule 15C-16.004, F.A.C: An authorized ETR provider shall ensure all principals and prospective users have had a criminal history check conducted by the Florida Department of Law Enforcement and maintain lists of authorized users.</p> <p>Rule 15C-16.006, F.A.C.: Every Motor Vehicle Dealer must provide verification to the ETR provider that criminal history checks are performed on all principals or prospective users; principals or prospective users must have no convictions involving a felony for the last 7 years. Regardless of the passage of time, anyone convicted of felonies involving dishonesty, including but not limited to, identity fraud, embezzlement or other economic crimes are not eligible to be granted authorization to use the ETR system.</p> <p>Licenses may be denied pursuant to §112.011, Fla. Stat.</p>	<p>DHSMV Website: ETR Criminal History Affidavit is available online as well as links to the ETR rules and FAC Codes.</p> <p>ETR Frequently Asked Questions provides information regarding requirements for a criminal history check.</p>	Applicants with some felony convictions older than 7 years may be eligible.
13.	<p><u>EFS (Electronic Filing System) Agents</u> Rule 15C-16.011, FAC: An EFS service provider shall ensure all EFS agent principals or prospective users have had a criminal history check conducted by the Florida Department of Law Enforcement and maintain lists of authorized users.</p>	DHSMV Website: EFS Criminal History Affidavit is available online as well as links to the	Applicants with some felony convictions older than 7 years may be eligible.

	<p>Rule 15C-16.010, FAC: Entities requesting EFS agent participation requires that its principal and all prospective users of the system have no convictions involving a felony for the last 7 years. Regardless of the passage of time since the conviction, and notwithstanding restoration of civil rights, anyone convicted of a felony involving dishonesty, including but not limited to identity theft, embezzlement or other economic crimes is not eligible to become an EFS agent or have access to an EFS agent's system.</p> <p>Licenses may be denied pursuant to §112.011, Fla. Stat.</p>	<p>EFS rules and FAC Codes.</p> <p>EFS Frequently Asked Questions provides information regarding requirements for a criminal history check.</p>	
14.	<p><u>TLSAE (Traffic Law and Substance Abuse Education Program)</u> Section 322.095(13)(b), Fla. Stat.: The Department may deny, suspend or revoke TLSAE course provider approval upon conviction of a crime involving drug-related or DUI-related offenses, a felony, fraud or crime directly related to the personal safety of a student. Course providers are monitored through the Driver Education Process Improvement and Accountability (DEPIA) program.</p>	None.	Applicants may be eligible if convicted of some misdemeanors or if they do not have access to protected driver information.

