Legislation Details (With Text)

File #:	Res 0283-2004	**Version:**	*	**Name:**	NYS Legislature to ensure that people with convictions are not automatically barred from a wide range of jobs for which they may be qualified and for which they would not endanger the public.
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				In control:	Committee on Fire and Criminal Justice Services
On agenda:	4/21/2004				
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Title: Resolution calling upon the New York State Legislature to ensure that people with convictions are not automatically barred from a wide range of jobs for which they may be qualified and for which they would not endanger the public.

Sponsors:

Indexes:

Attachments: 1. Memo In Support, 2. Committee Report 5/3, 3. Hearing Transcript 5/3, 4. Committee Report 11/22, 5. Hearing Transcript 11/22, 6. Hearing Transcript - Stated Meeting 11/23/04

Date	Ver.	Action By	Action	Result
4/21/2004	*	City Council	Introduced by Council	
4/21/2004	*	City Council	Referred to Comm by Council	
5/3/2004	*	Committee on Fire and Criminal Justice Services	Laid Over by Committee	
5/3/2004	*	Committee on Fire and Criminal Justice Services	Hearing Held by Committee	
11/22/2004	*	Committee on Fire and Criminal Justice Services	Hearing Held by Committee	
11/22/2004	*	Committee on Fire and Criminal Justice Services	Approved by Committee	Pass
11/23/2004	*	City Council	Approved, by Council	Pass

Res. No. 283

Resolution calling upon the New York State Legislature to ensure that people with convictions are not automatically barred from a wide range of jobs for which they may be qualified and for which they would not endanger the public.

By Council Members Clarke, Barron, Brewer, Foster, James, Jennings, Lopez, Sanders, Stewart, Comrie, Liu, McMahon and Reyna

Whereas, Bars to licensure for certain types of employment exist to protect the public from those individuals who may reasonably pose a public safety threat; and

Whereas, In practice, these bars have been extended to certain individuals who may not warrant the denial of a state license; and

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Whereas, The State of New York has the duty to facilitate the re-entry to society of those who have served their time in jail or prison; and

Whereas, When being considered for particular employment, each person should be assessed for their appropriateness based upon his/her merits; and

Whereas, In New York State, more than one hundred occupations require some type of license, registration, or certification by a state agency prior to practicing in that field; and

Whereas, Several New York State statutes automatically bar ex-offenders from licensure solely on the basis of past convictions; and

Whereas, Although some statutes provide for lifting the automatic bar when an individual is granted a certain type of certificate by the state which highlights the ex-offenders effort to reform (Certificate of Relief from Disabilities, a Certificate of Good Conduct, or Executive Clemency), ex-offenders with these certificates may still be denied licenses based on their conviction record; and

Whereas, Article 23-A of New York Correction Law prohibits licensing agencies from denying an ex-offender a license because of his or her conviction record unless the individual's conviction(s) is (are) "directly related" to the specific license sought or the issuance of the license would create "an unreasonable risk to property or to the safety" of people; and

Whereas, Licensing agencies must consider the following factors in determining job-fitness: specific duties and responsibilities related to the license; criminal history; time elapsed since the ex-offender's criminal conduct and the ex-offender's age at the time of its occurrence; the seriousness of the ex-offender's offense; licensing agency's interest in protecting property, specific persons and the public; and any evidence of rehabilitation an ex-offender presents, including a certificate of good conduct; and

Whereas, Even if the state statute governing the restriction for an occupational license does not mandate the restriction, the practice of many state agencies is that of denying many ex-offenders with criminal histories from licensure; and

Whereas, Although the state license for a barber, for example, has a discretionary restriction, licensure restriction for this occupation has been treated as mandatory, despite the fact that offenders are trained for this profession in state prison; and

Whereas, Many other occupational licenses with discretionary restrictions have been treated as mandatory including an appearance enhancer (cosmetologist and nail technician, etc.), dental hygienist, licensed electrician, nurse, physician assistant, sanitation worker, radiologist/x-ray technician; and

Whereas, Several New York State statutes do not contain an automatic bar for people with criminal histories but do restrict licensure or certification to persons of "good moral character;" and

Whereas, The "good moral character" restriction is listed for almost every occupational license, and the meaning of this requirement may vary depending upon the licensing agency and the occupation or profession involved; and

Whereas, An applicant's criminal history is taken into account as reflecting on his or her moral character, and again, has *in practice* become a mandatory prohibition to state licensure; and

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Whereas, The state of Illinois addressed the aforementioned problems in their certificate legislation (Public Act 93-0207), which states that no applicant shall be denied licensure who has obtained a certificate of relief from disabilities; and

Whereas, The Illinois legislation states that no applicant can be denied a license solely because the applicant has been previously convicted on one or more criminal offenses, or by a finding of lack of 'good moral character' when the finding is based upon the fact that the applicant has previously been convicted of one or more criminal offenses unless the conviction is "directly related" to the specific license sought or the issuance of the license would create an unreasonable public safety threat; and

Whereas, In order for ex-offenders to become productive members of society, we must ensure that they have the opportunity to obtain licenses for occupations which would increase their economic and social viability; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to enact legislation to ensure that people with convictions are not automatically barred from a wide range of jobs for which they may be qualified and for which they would not endanger the public.

MK
LS#912
4/15/04

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