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HOUSE BILL NO. 1582

Offered January 14, 2009

Prefiled August 5, 2008

A *BILL to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 24.3, consisting of sections numbered 59.1-310.11 through 59.1-310.17, relating to standards for employment of individuals by home access businesses; penalty.*

Patron—Howell, A.T.

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 24.3, consisting of sections numbered 59.1-310.11 through 59.1-310.17, as follows:

CHAPTER 24.3.**HOME ACCESS BUSINESSES.****§ 59.1-310.11. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Employ" includes contracting with an independent contractor for the provision of services.

"Employee" includes, in addition to the definition ascribed thereto in § 40.1-2, an independent contractor, or an individual employee of an independent contractor, who contracts with a home access business to provide services that regularly require entry into the interior area of the residence of a home access business' customer.

"Employer" means the person owning or operating a home access business.

"Home access business" means a commercial establishment that provides a service that requires the establishment's employees regularly to enter the interior area of the residences of its customers. The term includes commercial establishments that engage in furniture and appliance delivery; appliance repair; home maintenance; home repair, including plumbing and painting; or home cleaning services, including carpet cleaning.

§ 59.1-310.12. Employment of individuals convicted of a felony; criminal background checks required.

A. An employer shall not, after September 1, 2009, employ an employee whose regular duties can reasonably be expected to require entering the interior area of the residences of its customers without the completion of a criminal records check. Nothing in this chapter shall be construed to prohibit an employer from hiring an individual as an employee solely on the basis of the results of the criminal records check.

B. For the purpose of conducting an investigation of an individual whose regular duties can reasonably be expected to require entering the homes of others, such individual shall consent to a national and state criminal history records check and submit to fingerprinting by a local or state law-enforcement agency. The individual shall pay for the cost of such fingerprinting and criminal records check. Upon receipt of the records check fees along with such individual's fingerprints and his personal descriptive information, the employer shall forward these items to the Central Criminal Records Exchange. The Central Criminal Records Exchange shall conduct a search of its own criminal history records and forward such individual's fingerprints and personal descriptive information to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such individual. The Central Criminal Records Exchange shall forward the results of the state and national records search to the employer.

§ 59.1-310.13. Fingerprinting of employees.

In addition to any fingerprinting required in connection with a records check conducted pursuant to § 59.1-310.12, an employer shall obtain the fingerprints of its employees.

§ 59.1-310.14. Record retention; access by law-enforcement officials.

A. Each employer shall retain, at the principal office of the home access business, the results of the records check conducted pursuant to § 59.1-310.12 and the fingerprints obtained pursuant to § 59.1-310.13 for each employee of the home access business whose regular duties are reasonably expected to require entering the homes of customers. Notwithstanding any provisions of § 59.1-478 to the contrary, such information shall be retained by the employer for a period of not less than one year following the cessation of such individual's employment.

B. An employer shall make the results of the criminal records check and fingerprints available upon request to any law-enforcement official in the performance of his duties who presents his credentials at

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HB1582

59 *the employer's place of business during regular business hours.*

60 *§ 59.1-310.15. Identification badges.*

61 *Each employer shall require each employee of the home access business to wear an identification*
62 *badge, to be provided by the employer, at all times that the employee is engaged in duties that may*
63 *reasonably be expected to require the employee to enter the homes of customers. The identification*
64 *badge shall include, in reasonably legible size and type, the following:*

65 *1. The individual's name;*

66 *2. The name, address, and telephone number of the home access business; and*

67 *3. A statement that the individual has been subjected to a national and state criminal history records*
68 *check and that the individual's fingerprints are on file at the principal office of the home access*
69 *business.*

70 *§ 59.1-310.16. Exemptions.*

71 *The provisions of this chapter shall not apply to any person engaged primarily in the business of*
72 *delivering envelopes, parcels, and packages to residences when the individuals who deliver items to a*
73 *residence do not in the regular course of business enter the interior living area of the residence.*

74 *§ 59.1-310.17. Violations of chapter; penalty.*

75 *Any employer who violates any provision of this chapter shall be guilty of a Class 3 misdemeanor.*