S T A T E O F N E W Y O R K

5790--A

2011-2012 Regular Sessions

I N A S S E M B L Y

March 1, 2011

Introduced by M. of A. CAMARA, STEVENSON, ROBERTS, M. MILLER, J. MILLER, CASTRO -- Multi-Sponsored by -- M. of A. GALEF, MARKEY, McDONOUGH, SCHIMEL -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to requiring utility companies to conduct criminal history background checks of employees and contractors whose employment on behalf of the public utility involves entering customer's homes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public service law is amended by adding a new article 10 to read as follows:

ARTICLE 10

BACKGROUND CHECK FOR PUBLIC UTILITY EMPLOYEES AND CONTRACTORS WHO ENTER CUSTOMER HOMES

SECTION 175. DEFINITIONS.

176. BACKGROUND CHECKS FOR EMPLOYEES.

S 175. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL MEAN:

1. "EMPLOYEE" MEANS ANY PERSON, CONTRACTOR OR EMPLOYEE OF A CONTRACTOR EMPLOYED BY A PUBLIC UTILITY, WHO AS PART OF HIS OR HER EMPLOYMENT IS REQUIRED TO ENTER THE HOMES OF CUSTOMERS OF THE PUBLIC UTILITY. PROVIDED, THAT SUCH TERM SHALL NOT INCLUDE ANY PERSON THAT IS A MEMBER OF A COLLECTIVE BARGAINING UNIT HAVING A COLLECTIVE BARGAINING AGREEMENT WITH SUCH PERSON'S EMPLOYER.

2. "PUBLIC UTILITY" MEANS ANY GAS CORPORATION, ELECTRIC CORPORATION, TELEPHONE CORPORATION, STEAM CORPORATION, WATER-WORKS CORPORATION, CABLE TELEVISION COMPANY, INTERNET ACCESS PROVIDER OR SATELLITE TELEVISION COMPANY.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 176. BACKGROUND CHECKS FOR EMPLOYEES. 1. EVERY PUBLIC UTILITY SHALL PROVIDE FOR THE CONDUCTING OF CRIMINAL HISTORY BACKGROUND CHECKS ON EMPLOYEES WHO COMMENCE EMPLOYMENT BY SUCH UTILITY ON OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE. EACH PROSPECTIVE EMPLOYER AND EMPLOYEE, SHALL BE FINGERPRINTED BY THE PUBLIC UTILITY FOR THE PURPOSE OF SECURING CRIMINAL HISTORY RECORDS, RELATING TO LARCENY AND SEX OFFENSES, FROM BOTH THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION. THE SUBMISSION OF SUCH FINGERPRINTS AND THE CONDUCTING OF CRIMINAL HISTORY BACKGROUND CHECKS PURSUANT TO THIS ARTICLE SHALL BE SUBJECT TO THE RULES AND REGULATIONS OF THE DIVISION OF CRIMINAL JUSTICE SERVICES.

2. PRIOR TO THE TAKING OF THE FINGERPRINTS OF ANY PROSPECTIVE EMPLOYEE OR EMPLOYEE, THE PUBLIC UTILITY SHALL PROVIDE SUCH EMPLOYEE WITH A DOCUMENT PROVIDING THE PROSPECTIVE EMPLOYEE OR EMPLOYEE WITH INFORMATION ON THE REQUIREMENT FOR AND USE OF SUCH FINGERPRINTS. ONLY UPON THE INFORMED CONSENT OF AND THE PAYMENT BY THE PROSPECTIVE EMPLOYEE OR EMPLOYEE OF ANY FEES NECESSARY FOR THE CONDUCTING OF A CRIMINAL HISTORY BACKGROUND CHECK, SHALL THE FINGERPRINTS OF SUCH EMPLOYEE BE TAKEN AND SUBMITTED BY THE PUBLIC UTILITY.

3. UPON RECEIPT OF THE CRIMINAL HISTORY RECORDS OF ANY PROSPECTIVE EMPLOYEE OR EMPLOYEE, A PUBLIC UTILITY SHALL SECURE SUCH RECORDS IN SUCH A MANNER AS TO ENSURE THEIR CONFIDENTIALITY. ANY ADVERSE INFORMATION MAY BE USED AS A CONSIDERATION IN THE DECISION OF WHETHER TO HIRE ANY PROSPECTIVE EMPLOYEE ON THE EMPLOYEE'S CONTINUED EMPLOYMENT.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, provided that, effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.