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

5554--A

2013-2014 Regular Sessions

I N A S S E M B L Y

February 28, 2013

Introduced by M. of A. AUBRY -- Multi-Sponsored by -- M. of A. PERRY -- read once and referred to the Committee on Correction -- recommitted to the Committee on Correction in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, the executive law, the tax law, the vehicle and traffic law, the alcoholic beverage control law, the agriculture and markets law, the public health law, the general municipal law, the town law, the education law, the general business law, the insurance law, the banking law, the penal law, the civil rights law, the real property law and the administrative code of the city of New York, in relation to the issuance of certificates of restoration; and to repeal certain provisions of the correction law relating thereto

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

Section 1. Section 700 of the correction law, as amended by chapter 342 of the laws of 1972, is amended to read as follows:

S 700. Definitions [and rules of construction]. [1.] As used in this article the following terms have the following meanings:

[(a)] 1. "Eligible offender" shall mean a person who has been convicted of a crime or of an offense[, but who has not been convicted more than once of a felony].

[(b)] 2. "Felony" means a conviction of a felony in this state, or of an offense in any other jurisdiction for which a sentence to a term of imprisonment in excess of one year, or a sentence of death, was authorized.

[(c)] 3. "Revocable sentence" means a suspended sentence or a sentence upon which execution was suspended pursuant to the penal law in effect prior to September first, nineteen hundred sixty-seven; or a sentence of

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

LBD08879-05-4

probation or of conditional discharge imposed pursuant to the penal law in effect after September first, nineteen hundred sixty-seven.

[2. For the purposes of this article the following rules of construction shall apply:

(a) Two or more convictions of felonies charged in separate counts of one indictment or information shall be deemed to be one conviction;

(b) Two or more convictions of felonies charged in two or more indictments or informations, filed in the same court prior to entry of judgment under any of them, shall be deemed to be one conviction; and

(c) A plea or a verdict of gulity upon which sentence or the execution of sentence has been suspended or upon which a sentence of probation, conditional discharge, or unconditional discharge has been imposed shall be deemed to be a conviction.]

S 2. Section 701 of the correction law, as amended by chapter 342 of the laws of 1972, subdivision 2 as amended by chapter 235 of the laws of 2007, is amended to read as follows:

S 701. Certificate of [relief from disabilities] RESTORATION. 1. A certificate of [relief from disabilities] RESTORATION may be granted as provided in this article to relieve an eligible offender of any forfeiture or disability, or to remove any bar to his OR HER employment, automatically imposed by law by reason of his OR HER conviction of the crime or of the offense specified therein. Such certificate may be limited to one or more enumerated forfeitures, disabilities or bars, or may relieve the eligible offender of all forfeitures, disabilities and bars. Provided, however, that no such certificate shall apply, or be construed so as to apply, to the right of such person to retain or to be eligible for public office.

2. Notwithstanding any other provision of law, except subdivision five of section twenty-eight hundred six of the public health law or paragraph (b) of subdivision two of section eleven hundred ninety-three of the vehicle and traffic law, a conviction of a crime or of an offense specified in a certificate of [relief from disabilities] RESTORATION shall not cause automatic forfeiture of any license, other than a license issued pursuant to section 400.00 of the penal law to a person convicted of a class A-I felony or a violent felony offense, as defined in subdivision one of section 70.02 of the penal law, permit, employment, or franchise, including the right to register for or vote at an election, or automatic forfeiture of any other right or privilege, held by the eligible offender and covered by the certificate. Nor shall such conviction be deemed to be a conviction within the meaning of any provision of law that imposes, by reason of a conviction, a bar to any employment, a disability to exercise any right, or a disability to apply for or to receive any license, permit, or other authority or privilege covered by the certificate; provided, however, that a conviction for a second or subsequent violation of any subdivision of section eleven hundred ninety-two of the vehicle and traffic law committed within the preceding ten years shall impose a disability to apply for or receive an operator's license during the period provided in such law; and provided further, however, that a conviction for a class A-I felony or a violent felony offense, as defined in subdivision one of section 70.02 of the penal law, shall impose a disability to apply for or receive a license or permit issued pursuant to section 400.00 of the penal law. A certificate of [relief from a disability] RESTORATION imposed pursuant to subparagraph (v) of paragraph b of subdivision two and paragraphs i and j of subdivision six of section five hundred ten of the vehicle and

traffic law may only be issued upon a determination that compelling circumstances warrant such relief.

3. A certificate of [relief from disabilities] RESTORATION shall not, however, in any way prevent any judicial, administrative, licensing or other body, board or authority from [relying upon] CONSIDERING the conviction specified therein as the basis for the exercise of its discretionary power to suspend, revoke, refuse to issue or refuse to renew any license, permit or other authority or privilege IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE TWENTY-THREE-A OF THIS CHAPTER.

4. NOTWITHSTANDING ANY OTHER SECTION OF LAW, A CERTIFICATE OF GOOD CONDUCT OR A CERTIFICATE OF RELIEF FROM DISABILITIES SHALL BE CONSTRUED TO MEAN A CERTIFICATE OF RESTORATION. ANY CERTIFICATE OF RELIEF FROM DISABILITIES OR CERTIFICATE OF GOOD CONDUCT ISSUED PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN THAT ADDED THIS SUBDIVISION SHALL BE DEEMED THE EQUIVALENT OF A CERTIFICATE OF RESTORATION AND SHALL REMAIN IN FULL FORCE AND EFFECT ON AND AFTER SUCH EFFECTIVE DATE. NOTHING IN THE CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN THAT ADDED THIS SUBDIVISION SHALL BE READ TO INVALIDATE A CERTIFICATE OF RELIEF FROM DISABILITIES OR A CERTIFICATE OF GOOD CONDUCT ISSUED PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN THAT ADDED THIS SUBDIVISION ON OR AFTER SUCH EFFECTIVE DATE.

S 3. Section 702 of the correction law, as amended by chapter 342 of the laws of 1972, the section heading as amended by chapter 931 of the laws of 1976, subdivision 1 as amended by chapter 488 of the laws of 2011, subdivision 3 as amended by section 64 of part A of chapter 56 of the laws of 2010 and subdivisions 4 and 6 as amended by section 32 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

S 702. Certificates of [relief from disabilities] RESTORATION issued by courts. 1. Any court of this state may, in its discretion, issue a certificate of [relief from disabilities] RESTORATION to an eligible offender for a conviction that occurred in such court, if the court either (a) imposed a revocable sentence or (b) imposed a sentence other than one executed by commitment to an institution under the jurisdiction of the state department of corrections and community supervision. Such certificate may be issued (i) at the time sentence is pronounced, in which case it may grant relief from forfeitures, as well as from disabilities[,] or (ii) at any time thereafter, in which case it shall apply only to disabilities. Where such court either imposes a revocable sentence or imposes a sentence other than one executed by commitment to an institution under the jurisdiction of the state department of corrections and community supervision, the court, upon application and in accordance with subdivision two of this section, shall initially determine the fitness of an eligible offender for such certificate prior to or at the time sentence is pronounced.

2. Such certificate shall [not] be issued by the court [unless] WHEN the court is satisfied that:

(a) The person to whom it is to be granted is an eligible offender, as defined in section seven hundred;

(b) The relief to be granted by the certificate is consistent with the rehabilitation of the eligible offender; and

(c) The relief to be granted by the certificate is consistent with the public interest.

3. Where a certificate of [relief from disabilities] RESTORATION is not issued at the time sentence is pronounced it shall only be issued

thereafter upon verified application to the court. The court may, for the purpose of determining whether such certificate shall be issued, request its probation service to conduct an investigation of the applicant, or if the court has no probation service it may request the probation service of the county court for the county in which the court is located to conduct such investigation. Any probation officer requested to make an investigation pursuant to this section shall prepare and submit to the court a written report in accordance with such request.

4. Where the court has imposed a revocable sentence and the certificate of [relief from disabilities] RESTORATION is issued prior to the expiration or termination of the time which the court may revoke such sentence, the certificate shall be deemed to be a temporary certificate until such time as the court's authority to revoke the sentence has expired or is terminated. While temporary, such certificate (a) may be revoked by the court for violation of the conditions of the sentence, and (b) shall be revoked by the court if it revokes the sentence and commits the person to an institution under the jurisdiction of the state department of corrections and community supervision. Any such revocation shall be upon notice and after an opportunity to be heard. If the certificate is not so revoked, it shall become a permanent certificate upon expiration or termination of the court's authority to revoke the sentence.

5. Any court that has issued a certificate of [relief from disabilities] RESTORATION may at any time issue a new certificate to enlarge the relief previously granted, provided, however, that the provisions of subdivisions one through four of this section shall apply to the issuance of any such new certificate.

6. Any written report submitted to the court pursuant to this section is confidential and may not be made available to any person or public or private agency except where specifically required or permitted by statute or upon specific authorization of the court. However, upon the court's receipt of such report, the court shall provide a copy of such report, or direct that such report be provided to the applicant's attorney, or the applicant himself, if he or she has no attorney. In its discretion, the court may except from disclosure a part or parts of the report which are not relevant to the granting of a certificate, or sources of information which have been obtained on a promise of confidentiality, or any other portion thereof, disclosure of which would not be in the interest of justice. The action of the court excepting information from disclosure shall be subject to appellate review. The court, in its discretion, may hold a conference in open court or in chambers to afford an applicant an opportunity to controvert or to comment upon any portions of the report. The court may also conduct a summary hearing at the conference on any matter relevant to the granting of the application and may take testimony under oath.

S 4. Section 703 of the correction law, as amended by section 34 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

S 703. Certificates of [relief from disabilities] RESTORATION issued by the department of corrections and community supervision. 1. The department of corrections and community supervision shall have the power to issue a certificate of [relief from disabilities] RESTORATION to:

(a) any eligible offender who has been committed to an institution under the jurisdiction of the state department of corrections and community supervision. Such certificate may be issued by the department at

the time the offender is released from such institution under the department's supervision or otherwise or at any time thereafter, UPON APPLICATION OF THE OFFENDER;

(b) any eligible offender who resides within this state and whose judgment of conviction was rendered by a court in any other jurisdiction.

2. Where the department has issued a certificate of [relief from disabilities] RESTORATION, the department may at any time issue a new certificate enlarging the relief previously granted.

3. The department shall [not] issue [any] A certificate of [relief from disabilities pursuant to subdivisions one or two, unless] RESTORATION WHEN the department is satisfied that:

(a) The person to whom it is to be granted is an eligible offender, as defined in section seven hundred OF THIS ARTICLE;

(b) The relief to be granted by the certificate is consistent with the rehabilitation of the eligible offender; [and]

(c) The relief to be granted by the certificate is consistent with the public interest[.]; AND

(D) TWO YEARS HAVE ELAPSED SINCE RELEASE FROM CUSTODY FOR PERSONS WITH A PRIOR FELONY CONVICTION SENTENCED PURSUANT TO SECTION 70.04, 70.06, 70.07, 70.08 OR 70.10 OF THE PENAL LAW.

4. Any certificate of relief from disabilities issued by the department to an eligible offender who at time of the issuance of the certificate is under the department's supervision, shall be deemed to be a temporary certificate until such time as the eligible offender is discharged from the department's supervision, and, while temporary, such certificate may be revoked by the department for violation of the conditions of community supervision. Revocation shall be upon notice to the releasee, who shall be accorded an opportunity to explain the violation prior to decision thereon. If the certificate is not so revoked, it shall become a permanent certificate upon expiration or termination of the department's jurisdiction over the individual.

5. In granting or revoking a certificate of [relief from disabilities] RESTORATION the action of the department shall be deemed a judicial function and shall not be reviewable if done according to law.

6. For the purpose of determining whether such certificate shall be issued, the department may conduct an investigation of the applicant.

7. Presumption based on federal recommendation. Where a certificate of [relief from disabilities] RESTORATION is sought pursuant to paragraph (b) of subdivision one of this section on a judgment of conviction rendered by a federal district court in this state and the department is in receipt of a written recommendation in favor of the issuance of such certificate from the chief probation officer of the district, the department shall issue the requested certificate, unless it finds that the requirements of paragraphs (a), (b) and (c) of subdivision three of this section have not been satisfied; or that the interests of justice would not be advanced by the issuance of the certificate.

S 5. Sections 703-a and 703-b of the correction law are REPEALED.

S 6. Section 704 of the correction law, as added by chapter 654 of the laws of 1966, is amended to read as follows:

S 704. Effect of revocation; use of revoked certificate. 1. Where a certificate of [relief from disabilities] RESTORATION is deemed to be temporary and such certificate is revoked, disabilities and forfeitures thereby relieved shall be reinstated as of the date upon which the person to whom the certificate was issued receives written notice of

such revocation. Any such person shall upon receipt of such notice surrender the certificate to the issuing court or board.

2. A person who knowingly uses or attempts to use, a revoked certificate of [relief from disabilities] RESTORATION in order to obtain or to exercise any right or privilege that he would not be entitled to obtain or to exercise without a valid certificate shall be guilty of a misdemeanor.

S 7. Section 705 of the correction law, as amended by section 36 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

S 705. Forms and filing. 1. All applications, certificates and orders of revocation necessary for the purposes of this article shall be upon forms prescribed pursuant to agreement among the state commissioner of corrections and community supervision, the chairman of the state board of parole and the administrator of the state judicial conference. Such forms relating to [certificates of relief from disabilities] CERTIFICATES OF RESTORATION shall be distributed by the office of probation and correctional alternatives [and forms relating to certificates of good conduct shall be distributed] AND by the [commissioner of the] department of corrections and community supervision.

2. Any court or department issuing or revoking any certificate pursuant to this article shall immediately file a copy of the certificate, or of the order of revocation, with the New York state identification and intelligence system.

S 8. Paragraph (h) of subdivision 1 of section 130 of the executive law, as amended by section 1 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(h) vagrancy or prostitution, and who has not subsequent to such conviction received an executive pardon therefor or a CERTIFICATE OF RESTORATION, A certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law to remove the disability under this section because of such conviction.

S 9. Subdivision 3 of section 175 of the executive law, as amended by section 2 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

3. Upon a showing by the attorney general in an application for an injunction that any person engaged in solicitation has been convicted in this state or elsewhere of a felony or of a misdemeanor involving the misappropriation, misapplication or misuse of the money or property of another, and who has not, subsequent to such conviction, received executive pardon therefor or a certificate of [relief from disabilities] RESTORATION or a certificate of good conduct pursuant to article twenty-three of the correction law, the supreme court, after a hearing, may enjoin such person from engaging in any solicitation.

S 10. Clause 1 of paragraph (c) of subdivision 2 of section 435 of the executive law, as amended by chapter 371 of the laws of 1974, is amended to read as follows:

(1) a person convicted of a crime who has not received a pardon, [a certificate of] OR A CERTIFICATE OF RESTORATION, good conduct, or [a certificate of] relief from disabilities;

S 11. Paragraph (c) of subdivision 8 of section 283 of the tax law, as amended by section 24 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(c) If a person convicted of a felony or crime deemed hereby to be a felony is subsequently pardoned by the governor of the state where such conviction was had, or by the president of the United States, or shall

receive a CERTIFICATE OF RESTORATION, A certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law for the purpose of removing the disability under this section because of such conviction, the tax commission may, in its discretion, on application of such person and compliance with subdivision two of this section, and on the submission to it of satisfactory evidence of good moral character and suitability, again register such person as a distributor under this article.

S 12. Paragraph (a) of subdivision 1 of section 509-c of the vehicle and traffic law, as amended by section 25 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(a) permanently, if that person has been convicted of or forfeited bond or collateral which forfeiture order has not been vacated or the subject of an order of remission upon a violation of section 130.30, 130.35, 130.45, 130.50, 130.60, or 130.65 of the penal law, or an offense committed under a former section of the penal law which would constitute a violation of the aforesaid sections of the penal law or any offense committed outside of this state which would constitute a violation of the aforesaid sections of the penal law, provided, however, the provisions of this paragraph shall not apply to convictions, suspensions or revocations or forfeitures of bonds for collateral upon any of the charges listed in this paragraph for violations which occurred prior to September first, nineteen hundred seventy-four committed by a person employed as a bus driver on September first, nineteen hundred seventy-four. However, such disqualification may be waived provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a CERTIFICATE OF RESTORATION, A certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law.

S 13. Subparagraph (i) of paragraph (a) of subdivision 1 of section 509-cc of the vehicle and traffic law, as amended by section 27 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(i) has been convicted of or forfeited bond or collateral which forfeiture order has not been vacated or the subject of an order of remission upon a violation committed prior to September fifteenth, nineteen hundred eighty-five, of section 130.30, 130.35, 130.45, 130.50, 130.60, or 130.65 of the penal law, or an offense committed under a former section of the penal law which would constitute a violation of the aforesaid sections of the penal law or any offense committed outside of this state which would constitute a violation of the aforesaid sections of the penal law, provided, however, the provisions of this subparagraph shall not apply to convictions, suspensions or revocations or forfeitures of bonds for collateral upon any of the charges listed in this subparagraph for violations which occurred prior to September first, nineteen hundred seventy-four committed by a person employed as a bus driver on September first, nineteen hundred seventy-four. However, such disqualification may be waived provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a CERTIFICATE OF RESTORATION, A certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it

shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children to the applicant's prospective employment, prior to granting such a certificate; or

S 14. Subparagraph (iii) of paragraph d of subdivision 6 of section 510 of the vehicle and traffic law, as amended by section 29 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(iii) after such documentation, if required, is accepted, that such person is granted a CERTIFICATE OF RESTORATION, A certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law by the court in which such person was last penalized.

S 15. Subparagraph (iii) of paragraph c of subdivision 2 of section 510-a of the vehicle and traffic law, as amended by section 30 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(iii) after such documentation, if required, is accepted, that such person is granted a CERTIFICATE OF RESTORATION, A certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law by the court in which such person was last penalized.

S 16. Subdivision 2 of section 102 of the alcoholic beverage control law, as amended by section 1 of part OO of chapter 56 of the laws of 2010, the opening paragraph and paragraph (g) as separately amended by section 3 of part LL of chapter 56 and chapter 232 of the laws of 2010, is amended to read as follows:

2. No person holding any license hereunder, other than a license to sell an alcoholic beverage at retail for off-premises consumption or a license or special license to sell an alcoholic beverage at retail for consumption on the premises where such license authorizes the sale of liquor, beer and/or wine on the premises of a catering establishment, hotel, restaurant, club, or recreational facility, shall knowingly employ in connection with his OR HER business in any capacity whatsoever, any person, who has been convicted of a felony, or any of the following offenses, who has not subsequent to such conviction received an executive pardon therefor removing any civil disabilities incurred thereby, a CERTIFICATE OF RESTORATION, A certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law, or other relief from disabilities provided by law, or the written approval of the state liquor authority permitting such employment, to wit:

(a) Illegally using, carrying or possessing a pistol or other dangerous weapon;

(b) Making or possessing burglar's instruments;

(c) Buying or receiving or criminally possessing stolen property;

(d) Unlawful entry of a building;

(e) Aiding escape from prison;

(f) Unlawfully possessing or distributing habit forming narcotic drugs;

(g) Violating subdivisions six, ten or eleven of section seven hundred twenty-two of the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or violating [sections] SECTION 165.25 or 165.30 of the penal law;

(h) Vagrancy or prostitution; or

(i) Ownership, operation, possession, custody or control of a still subsequent to July first, nineteen hundred fifty-four.

If, as hereinabove provided, the state liquor authority issues its written approval for the employment by a licensee, in a specified capacity, of a person previously convicted of a felony or any of the offenses above enumerated, such person, may, unless he OR SHE is subsequently convicted of a felony or any of such offenses, thereafter be employed in the same capacity by any other licensee without the further written approval of the authority unless the prior approval given by the authority is terminated.

The liquor authority may make such rules as it deems necessary to carry out the purpose and intent of this subdivision.

As used in this subdivision, "recreational facility" shall mean: (i) premises that are part of a facility the principal business of which shall be the providing of recreation in the form of golf, tennis, swimming, skiing or boating; and (ii) premises in which the principal business shall be the operation of a theatre, concert hall, opera house, bowling establishment, excursion and sightseeing vessel, or accommodation of athletic events, sporting events, expositions and other similar events or occasions requiring the accommodation of large gatherings of persons.

S 17. Paragraph (d) of subdivision 1 of section 110 of the alcoholic beverage control law, as amended by chapter 114 of the laws of 2000, is amended to read as follows:

(d) A statement that such applicant or the applicant's spouse has not been convicted of a crime addressed by the provisions of section one hundred twenty-six of this article which would forbid the applicant (including any officers, directors, shareholders or partners listed in the statement of identity under paragraph (a) of this subdivision or the spouse of such person) or the applicant's spouse to traffic in alcoholic beverages, a statement whether or not the applicant (including any officers, directors, shareholders or partners listed in the statement of identity under paragraph (a) of this subdivision or the spouse of any such person) or the applicant's spouse is an official described in section one hundred twenty-eight of this article, and a description of any crime that the applicant (including any officers, directors, shareholders or partners listed under paragraph (a) of this subdivision or the spouse of any such person) or the applicant's spouse has been convicted of and whether such person has received a pardon, CERTIFICATE OF RESTORATION, certificate of good conduct or certificate of relief from disabilities; provided, however, that no person shall be denied any license solely on the grounds that such person is the spouse of a person otherwise disqualified from holding a license under this chapter.

S 18. Subdivisions 1, 1-a and 4 of section 126 of the alcoholic beverage control law, as amended by section 50 of subpart B of part C of chapter 62 of the laws of 2011, are amended to read as follows:

1. Except as provided in subdivision one-a of this section, a person who has been convicted of a felony or any of the misdemeanors mentioned in section eleven hundred forty-six of the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or of an offense defined in section 230.20 or 230.40 of the penal law, unless subsequent to such conviction such person shall have received an executive pardon therefor removing this disability, a certificate of RESTORATION OR good conduct granted by the department of corrections and community supervision, or a certificate of relief from disabilities granted by the department of corrections and community

supervision or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction.

1-a. Notwithstanding the provision of subdivision one of this section, a corporation holding a license to traffic in alcoholic beverages shall not, upon conviction of a felony or any of the misdemeanors or offenses described in subdivision one of this section, be automatically forbidden to traffic in alcoholic beverages, but the application for a license by such a corporation shall be subject to denial, and the license of such a corporation shall be subject to revocation or suspension by the authority pursuant to section one hundred eighteen of this chapter, consistent with the provisions of article twenty-three-A of the correction law. For any felony conviction by a court other than a court of this state, the authority may request the department of corrections and community supervision to investigate and review the facts and circumstances concerning such a conviction, and such department shall, if so requested, submit its findings to the authority as to whether the corporation has conducted itself in a manner such that discretionary review by the authority would not be inconsistent with the public interest. The department of corrections and community supervision may charge the licensee or applicant a fee equivalent to the expenses of an appropriate investigation under this subdivision. For any conviction rendered by a court of this state, the authority may request the corporation, if the corporation is eligible for a certificate of RESTORATION, A CERTIFICATE OF relief from disabilities, to seek such a certificate from the court which rendered the conviction IN ACCORDANCE WITH ARTICLE TWENTY-THREE OF THE CORRECTION LAW and to submit such a certificate as part of the authority's discretionary review process.

4. A copartnership or a corporation, unless each member of the partnership, or each of the principal officers and directors of the corporation, is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, not less than twenty-one years of age, and has not been convicted of any felony or any of the misdemeanors, specified in section eleven hundred forty-six of the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or of an offense defined in section 230.20 or 230.40 of the penal law, or if so convicted has received, subsequent to such conviction, an executive pardon therefor removing this disability, a certificate of RESTORATION OR good conduct granted by the department of corrections and community supervision, or a certificate of relief from disabilities granted by the department of corrections and community supervision or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction; provided however that a corporation which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; and provided further that a corporation organized under the not-for-profit corporation law or the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are not less than twenty-one years of age and none of its directors are less than eighteen years of age; and provided further that a corporation organized under the not-for-profit corporation law or the education law and located on the premises of a college as defined by

section two of the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and each of its directors are not less than eighteen years of age.

S 19. Subdivision 4 of section 96-z-3 of the agriculture and markets law, as amended by section 4 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(4) applicant, an officer, director, partner, or holder of ten per centum or more of the voting stock of an applicant has been convicted of a felony by a court of the United States or any state or territory thereof, without subsequent pardon by the governor or other appropriate authority of the state or jurisdiction in which such conviction occurred, or the receipt of a certificate of RESTORATION, A CERTIFICATE OF relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law,

S 20. Paragraph (d) of subdivision 4 of section 129 of the agriculture and markets law, as amended by section 5 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(d) The applicant or registrant, or an officer, director, partner or holder of ten per centum or more of the voting stock of the applicant or registrant, has been convicted of a felony by a court of the United States or any state or territory thereof, without subsequent pardon by the governor or other appropriate authority of the state or jurisdiction in which such conviction occurred, or receipt of a certificate of RESTORATION, A CERTIFICATE OF relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law;

S 21. Paragraph (c) of subdivision 2 of section 2897 of the public health law, as amended by section 21 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(c) If a person convicted of a felony or crime deemed hereby to be a felony is subsequently pardoned by the governor of the state where such conviction was had, or by the president of the United States, or shall receive a certificate of RESTORATION, A CERTIFICATE OF relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law for the purpose of removing the disability under this section because of such conviction, the board may, in its discretion, on application of such person, and on the submission to it of satisfactory evidence, restore to such person the right to practice nursing home administration in this state.

S 22. Section 3454 of the public health law, as amended by section 22 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

S 3454. Restoration of licenses after conviction of a felony. If a person convicted of a felony or crime deemed to be a felony is subsequently pardoned by the governor of the state where such conviction was had or by the president of the United States, or shall receive a certificate of RESTORATION, A CERTIFICATE OF relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law to remove the disability under this section because of such conviction, the commissioner may, in his OR HER discretion, on application of such person, and on the submission to him OR HER of satisfactory evidence, restore to such person the right to practice in this state.

S 23. Paragraph (a) of subdivision 2 of section 3510 of the public health law, as added by chapter 175 of the laws of 2006, is amended to read as follows:

(a) No person convicted of a felony shall continue to hold a license to practice radiologic technology, unless he or she has been granted an executive pardon, a certificate of RESTORATION, A CERTIFICATE OF relief from disabilities or a certificate of good conduct for such felony and, the commissioner, in his or her discretion, restores the license after determining that the individual does not pose a threat to patient health and safety.

S 24. Paragraph 1 of subdivision (a) of section 189-a of the general municipal law, as added by chapter 574 of the laws of 1978, is amended to read as follows:

(1) a person convicted of a crime who has not received a pardon, a certificate of RESTORATION, A CERTIFICATE OF good conduct or a certificate of relief from disabilities;

S 25. Paragraph (a) of subdivision 1 of section 191 of the general municipal law, as amended by section 15 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(a) Issuance of licenses to conduct games of chance. If such clerk or department shall determine that the applicant is duly qualified to be licensed to conduct games of chance under this article; that the member or members of the applicant designated in the application to manage games of chance are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime, or, if convicted, have received a pardon, a certificate of RESTORATION, A CERTIFICATE OF good conduct or a certificate of relief from disabilities pursuant to article twenty-three of the correction law; that such games are to be conducted in accordance with the provisions of this article and in accordance with the rules and regulations of the board and applicable local laws or ordinances and that the proceeds thereof are to be disposed of as provided by this article, and if such clerk or department is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person managing, operating or assisting therein except as in this article otherwise provided; it shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee of twenty-five dollars for each license period.

S 26. Paragraph (a) of subdivision 1 of section 481 of the general municipal law, as amended by section 17 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(a) Issuance of licenses to conduct bingo. If the governing body of the municipality shall determine that the applicant is duly qualified to be licensed to conduct bingo under this article; that the member or members of the applicant designated in the application to conduct bingo are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime or, if convicted, have received a pardon [or], A CERTIFICATE OF RESTORATION, a certificate of good conduct or a certificate of relief from disabilities pursuant to article twenty-three of the correction law; that such games are to be conducted in accordance with the provisions of this article and in accordance with the rules and regulations of the commission, and that the proceeds thereof are to be disposed of as provided by this article, and if the governing body is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person holding, operating or conducting or assisting in the holding, operation and conduct of any such games except as in this article otherwise provided; and that no prize will be offered and given in excess of the sum or value of one thousand dollars in any single game

and that the aggregate of all prizes offered and given in all of such games conducted on a single occasion, under said license shall not exceed the sum or value of three thousand dollars, it shall issue a license to the applicant for the conduct of bingo upon payment of a license fee of eighteen dollars and seventy-five cents for each bingo occasion; provided, however, that the governing body shall refuse to issue a license to an applicant seeking to conduct bingo in premises of a licensed commercial lessor where it determines that the premises presently owned or occupied by said applicant are in every respect adequate and suitable for conducting bingo games.

S 27. Paragraph (a) of subdivision 9 of section 476 of the general municipal law, as amended by section 16 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(a) a person convicted of a crime who has not received a pardon or a certificate of RESTORATION, good conduct or a certificate of relief from disabilities pursuant to article twenty-three of the correction law;

S 28. Paragraph b of subdivision 5 of section 84-a of the town law, as amended by section 10 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

b. On the reverse side of such envelope shall be printed the following statement:

STATEMENT OF ABSENTEE VOTER

I do declare that I will have been a citizen of the United States for thirty days, and will be at least eighteen years of age, on the date of the special town election; that I will have been a resident of this state and of the town shown on the reverse side of this envelope for thirty days next preceding the said election; that I am or on such date will be, a registered voter of said town; that I will be unable to appear personally on the day of said special town election at the polling place of the election district in which I am or will be a qualified voter because of the reason stated on my application heretofore submitted; that I have not qualified, or do I intend to vote, elsewhere than as set forth on the reverse side of this envelope; that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this special town election, and have not made any promise to influence the giving or withholding of any such votes; that I have not made or become directly or indirectly interested in any bet or wager depending upon the result of this special town election; and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned or restored to all the rights of a citizen, without restriction as to the right of suffrage, or received a certificate of RESTORATION, A CERTIFICATE OF relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law removing my disability to register and vote OR MY MAXIMUM SENTENCE OF IMPRISONMENT HAS EXPIRED.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of absentee voter, I shall be guilty of a misdemeanor.

Date..... Signature of Voter.....

S 29. Paragraph b of subdivision 5 of section 175-b of the town law, as amended by section 11 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

b. On the reverse side of such envelope shall be printed the following statement:

STATEMENT OF ABSENTEE VOTER

I do declare that I will have been a citizen of the United States for thirty days, and will be at least eighteen years of age, on the date of the district election; that I will have been a resident of this state and of the district if any, shown on the reverse side of this envelope for thirty days next preceding the said election and that I am or on such date will be, a registered voter of said district; that I will be unable to appear personally on the day of said district election at the polling place of the said district in which I am or will be a qualified voter because of the reason stated on my application heretofore submitted; that I have not qualified, or do I intend to vote, elsewhere than as set forth on the reverse side of this envelope; that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this district election, and have not made any promise to influence the giving or withholding of any such votes; that I have not made or become directly or indirectly interested in any bet or wager depending upon the result of this district election; and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned or restored to all the rights of a citizen, without restriction as to the right of suffrage, or received a certificate of RESTORATION, A CERTIFICATE OF relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law removing my disability to register and vote OR MY MAXIMUM SENTENCE OF IMPRISONMENT HAS EXPIRED.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of absentee voter, I shall be guilty of a misdemeanor.

Date.....Signature of Voter.....

S 30. Paragraph b of subdivision 5 of section 213-b of the town law, as amended by section 12 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

b. On the reverse side of such envelope shall be printed the following statement:

STATEMENT OF ABSENTEE VOTER

I do declare that I will have been a citizen of the United States for thirty days, and will be at least eighteen years of age, on the date of the district election; that I will have been a resident of this state and of the district if any, shown on the reverse side of this envelope for thirty days next preceding the said election and that I am or on such date will be, a registered voter of said district; that I will be unable to appear personally on the day of said district election at the polling place of the said district in which I am or will be a qualified voter because of the reason stated on my application heretofore submitted; that I have not qualified, or do I intend to vote, elsewhere than as set forth on the reverse side of this envelope; that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this

district election, and have not made any promise to influence the giving or withholding of any such votes; that I have not made or become directly or indirectly interested in any bet or wager depending upon the result of this district election; and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned or restored to all the rights of a citizen, without restriction as to the right of suffrage, or received a certificate of RESTORATION, A CERTIFICATE OF relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law removing my disability to register and vote OR MY MAXIMUM SENTENCE OF IMPRISONMENT HAS EXPIRED.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of absentee voter, I shall be guilty of a misdemeanor.

Date..... Signature of Voter .....

S 31. Paragraph b of subdivision 5 of section 2018-a of the education law, as amended by section 8 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

b. On the reverse side of such envelope shall be printed the following statement:

STATEMENT OF ABSENTEE VOTER

I do declare that I am a citizen of the United States, and will be at least eighteen years of age, on the date of the school district election; that I will have been a resident of this state and of the school district and school election district, if any, shown on the reverse side of this envelope for thirty days next preceding the said election and duly registered in the school district and school election district, if any, shown on the reverse side of this envelope and that I am or on such date will be, a qualified voter of said school district; that I will be unable to appear personally on the day of said school district election at the polling place of the said district in which I am or will be a qualified voter because of the reason stated on my application heretofore submitted; that I have not qualified, or do I intend to vote, elsewhere than as set forth on the reverse side of this envelope; that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this school district election, and have not made any promise to influence the giving or withholding of any such votes; that I have not made or become directly or indirectly interested in any bet or wager depending upon the result of this school district election; and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned or restored to all the rights of a citizen, without restriction as to the right of suffrage, or received a certificate of RESTORATION, A CERTIFICATE OF relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law removing my disability to register and vote OR MY MAXIMUM SENTENCE OF IMPRISONMENT HAS EXPIRED.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of absentee voter, I shall be guilty of a misdemeanor.

Date.....Signature of Voter .....

S 32. Paragraph b of subdivision 6 of section 2018-b of the education law, as amended by section 9 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

b. On the reverse side of such envelope shall be printed the following statement:

STATEMENT OF ABSENTEE VOTER

I do declare that I am a citizen of the United States, and will be at least eighteen years of age on the date of the school district election; that I will have been a resident of this state and of the school district and school election district, if any, shown on the reverse side of this envelope for thirty days next preceding the said election and that I am or on such date will be, a qualified voter of said school district; that I will be unable to appear personally on the day of said school district election at the polling place of the said district in which I am or will be a qualified voter because of the reason stated on my application heretofore submitted; that I have not qualified, or do I intend to vote, elsewhere than as set forth on the reverse side of this envelope; that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this school district election, and have not made any promise to influence the giving or withholding of any such votes; that I have not made or become directly or indirectly interested in any bet or wager depending upon the result of this school district election; and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned or restored to all the rights of a citizen, without restriction as to the right of suffrage, or have received a certificate of RESTORATION, A CERTIFICATE OF relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law removing my disability to vote OR MY MAXIMUM SENTENCE OF IMPRISONMENT HAS EXPIRED.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of absentee voter, I shall be guilty of a misdemeanor.

Date.....Signature of Voter .....

S 33. Subdivision 2 of section 69-o of the general business law, as amended by chapter 575 of the laws of 1993, is amended to read as follows:

2. (A) After the filing of an applicant's fingerprint cards, the secretary of state shall forward such fingerprints to the division of criminal justice services to be compared with the fingerprints on file with the division of criminal justice services in order to ascertain whether the applicant has been convicted of a felony involving fraud, bribery, perjury or theft pursuant to article one hundred forty, one hundred fifty-five, one hundred sixty, one hundred sixty-five, one hundred seventy, one hundred seventy-five, one hundred seventy-six, one hundred eighty, one hundred eighty-five, one hundred ninety, one hundred

ninety-five, two hundred or two hundred ten of the penal law; or has a criminal action which has been pending for such a felony for under one year without a final disposition unless adjourned in contemplation of dismissal; provided, however, that for the purposes of this article, none of the following shall be considered criminal convictions or reported as such:

[(a)] (I) A conviction which has been vacated and replaced by a youthful offender finding pursuant to article seven hundred twenty of the criminal procedure law, or the applicable provisions of law of any other jurisdiction; or

[(b)] (II) A conviction the records of which have been expunged or sealed pursuant to the applicable provisions of the laws of this state or of any other jurisdiction; or

[(c)] (III) A conviction for which a certificate of RESTORATION, A CERTIFICATE OF relief from disabilities or a certificate of good conduct has been issued pursuant to ARTICLE TWENTY-THREE OF the correction law.

(B) The division of criminal justice services shall retain the fingerprint cards and return the report of such convictions or pending cases, if any, to the secretary of state who shall retain them in a confidential file for no more than one year, after which time such report shall be destroyed.

(C) The secretary of state shall deny the application of any individual convicted of a felony involving fraud, bribery, perjury or theft pursuant to article one hundred forty, one hundred fifty-five, one hundred sixty, one hundred sixty-five, one hundred seventy, one hundred seventy-five, one hundred seventy-six, one hundred eighty, one hundred eighty-five, one hundred ninety, one hundred ninety-five, two hundred or two hundred ten of the penal law; or has a criminal action which has been pending for such a felony for under one year without a final disposition unless adjourned in contemplation of dismissal; provided, however, that for the purposes of this article, none of the following shall be considered criminal convictions or reported as such:

(i) A conviction which has been vacated and replaced by a youthful offender finding pursuant to article seven hundred twenty of the criminal procedure law, or the applicable provisions of law of any other jurisdiction; or

(ii) A conviction the records of which have been expunged or sealed pursuant to the applicable provisions of the laws of this state or of any other jurisdiction; or

(iii) A conviction for which a certificate of RESTORATION, relief from disabilities or a certificate of good conduct has been issued pursuant to ARTICLE TWENTY-THREE OF the correction law.

S 34. Subdivision 2 of section 74 of the general business law, as amended by chapter 680 of the laws of 1967, paragraph (g) as amended by chapter 232 of the laws of 2010 and paragraph (h) as amended by section 13 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

2. Except as hereinafter in this subdivision provided, no such license shall be issued to any person who has been convicted in this state or any other state or territory of a felony, or any of the following offenses, to wit: (a) illegally using, carrying or possessing a pistol or other dangerous weapon; (b) making or possessing burglar's instruments; (c) buying or receiving or criminally possessing stolen property; (d) unlawful entry of a building; (e) aiding escape from prison; (f) unlawfully possessing or distributing habit forming narcotic drugs; (g) violating subdivision six of section seven hundred twenty-two of the

former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or violating section 165.25 or 165.30 of the penal law; (h) violating section seven hundred forty-two, section seven hundred forty-three, or section seven hundred forty-five of the said former penal law, or violating any section contained in article two hundred fifty of the penal law. Except as hereinafter in this subdivision provided, no license shall be issued to any person whose license has been previously revoked by the department of state or the authorities of any other state or territory because of conviction of any of the offenses specified in this section. The provisions of this subdivision shall not prevent the issuance of a license to any person who, subsequent to his conviction, shall have received executive pardon therefor removing this disability, or who has received a CERTIFICATE OF RESTORATION, A certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law to remove the disability under this section because of such conviction or previous license revocation occasioned thereby.

S 35. Subdivision 1 of section 81 of the general business law, as amended by section 14 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

1. The holder of any license certificate issued pursuant to this article may employ to assist him in his work of private detective or investigator or bail enforcement agent as described in section seventy-one of this article and in the conduct of such business as many persons as he may deem necessary, and shall at all times during such employment be legally responsible for the good conduct in the business of each and every person so employed.

No holder of any unexpired license certificate issued pursuant to this article shall knowingly employ in connection with his or its business in any capacity whatsoever, any person who has been convicted of a felony or any of the offenses specified in subdivision two of section seventy-four of this article, and who has not subsequent to such conviction received executive pardon therefor removing this disability, or received a certificate of RESTORATION, relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law to remove the disability under this section because of such a conviction, or any person whose private detective or investigator's license or bail enforcement agent's license was revoked or application for such license was denied by the department of state or by the authorities of any other state or territory because of conviction of any of such offenses. Should the holder of an unexpired license certificate falsely state or represent that a person is or has been in his employ, such false statement or misrepresentation shall be sufficient cause for the revocation of such license. Any person falsely stating or representing that he is or has been a detective or employed by a detective agency or that he is or has been a bail enforcement agent or employed by a bail enforcement agency shall be guilty of a misdemeanor.

S 36. Paragraph 4 of subsection (d) of section 2108 of the insurance law, as amended by section 18 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(4) This subsection shall not prevent the employment of or the issuance of a license to any person who, subsequent to his conviction, shall have received executive pardon therefor removing this disability, or who has received a certificate of RESTORATION, relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the

correction law to remove the disability under this section because of such conviction or previous license revocation occasioned thereby.

S 37. Subdivision 6 of section 369 of the banking law, as amended by chapter 164 of the laws of 2003 and paragraph (b) as amended by section 6 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

6. The superintendent may refuse to issue a license pursuant to this article if he shall find that the applicant, or any person who is a director, officer, partner, agent, employee or substantial stockholder of the applicant, (a) has been convicted of a crime in any jurisdiction or (b) is associating or consorting with any person who has, or persons who have, been convicted of a crime or crimes in any jurisdiction or jurisdictions; provided, however, that the superintendent shall not issue such a license if he shall find that the applicant, or any person who is a director, officer, partner, agent, employee or substantial stockholder of the applicant, has been convicted of a felony in any jurisdiction or of a crime which, if committed within this state, would constitute a felony under the laws thereof. For the purposes of this article, a person shall be deemed to have been convicted of a crime if such person shall have pleaded guilty to a charge thereof before a court or magistrate, or shall have been found guilty thereof by the decision or judgment of a court or magistrate or by the verdict of a jury, irrespective of the pronouncement of sentence or the suspension thereof, unless such plea of guilty, or such decision, judgment or verdict, shall have been set aside, reversed or otherwise abrogated by lawful judicial process or unless the person convicted of the crime shall have received a pardon therefor from the president of the United States or the governor or other pardoning authority in the jurisdiction where the conviction was had, or shall have received a certificate of RESTORATION, relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law to remove the disability under this article because of such conviction. The term "substantial stockholder," as used in this subdivision, shall be deemed to refer to a person owning or controlling ten per centum or more of the total outstanding stock of the corporation in which such person is a stockholder. In making a determination pursuant to this subdivision, the superintendent shall require fingerprinting of the applicant. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

S 38. Paragraph 5 of subdivision a of section 265.20 of the penal law, as amended by chapter 235 of the laws of 2007, is amended to read as follows:

5. Possession of a rifle or shotgun by a person other than a person who has been convicted of a class A-I felony or a violent felony offense, as defined in subdivision one of section 70.02 of this chapter, who has been convicted as specified in subdivision four of section 265.01 OF THIS ARTICLE to whom a certificate of RESTORATION OR good conduct has been issued [pursuant to section seven hundred three-b of the correction law].

S 39. Section 751 of the correction law, as amended by chapter 284 of the laws of 2007, is amended to read as follows:

S 751. Applicability. The provisions of this article shall apply to any application by any person for a license or employment at any public

or private employer, who has previously been convicted of one or more criminal offenses in this state or in any other jurisdiction, and to any license or employment held by any person whose conviction of one or more criminal offenses in this state or in any other jurisdiction preceded such employment or granting of a license, except where a mandatory forfeiture, disability or bar to employment is imposed by law, and has not been removed by an executive pardon, OR A certificate of RESTORATION, relief from disabilities or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to an intentional misrepresentation in connection with an application for employment made by a prospective employee or previously made by a current employee.

S 40. Subdivision 2 of section 753 of the correction law, as added by chapter 931 of the laws of 1976, is amended to read as follows:

2. In making a determination pursuant to section seven hundred fifty-two of this [chapter] ARTICLE, the public agency or private employer shall also give consideration to a certificate of RESTORATION, relief from disabilities or a certificate of good conduct issued to the applicant, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.

S 41. The closing paragraph of subdivision 4 of section 79-a of the civil rights law, as amended by section 7 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

5. Nothing in this section shall be deemed to preclude the issuance of a certificate of relief from disabilities, CERTIFICATE OF RESTORATION or a certificate of good conduct pursuant to article twenty-three of the correction law to a person who previously has been sentenced to imprisonment for life.

S 42. The first undesignated paragraph of section 440-a of the real property law, as amended by section 23 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

No person, co-partnership, limited liability company or corporation shall engage in or follow the business or occupation of, or hold himself or itself out or act temporarily or otherwise as a real estate broker or real estate salesman in this state without first procuring a license therefor as provided in this article. No person shall be entitled to a license as a real estate broker under this article, either as an individual or as a member of a co-partnership, or as a member or manager of a limited liability company or as an officer of a corporation, unless he or she is twenty years of age or over, a citizen of the United States or an alien lawfully admitted for permanent residence in the United States. No person shall be entitled to a license as a real estate salesman under this article unless he or she is over the age of eighteen years. No person shall be entitled to a license as a real estate broker or real estate salesman under this article who has been convicted in this state or elsewhere of a felony, of a sex offense, as defined in subdivision two of section one hundred sixty-eight-a of the correction law or any offense committed outside of this state which would constitute a sex offense, or a sexually violent offense, as defined in subdivision three of section one hundred sixty-eight-a of the correction law or any offense committed outside this state which would constitute a sexually violent offense, and who has not subsequent to such conviction received executive pardon therefor or a certificate of RESTORATION, relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law, to remove the disability under this section because of such conviction. No person shall be entitled to a

license as a real estate broker or real estate salesman under this article who does not meet the requirements of section 3-503 of the general obligations law.

S 43. Paragraph (a) of subdivision 1 of section 20-438 of the administrative code of the city of New York is amended to read as follows:

(a) Issuance of licenses to conduct games of chance. If such department shall determine that the applicant is duly qualified to be licensed to conduct games of chance under this subchapter; that the members of the applicant designated in the application to conduct games of chance are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime, or, if convicted, have received a pardon or a certificate of RESTORATION OR A CERTIFICATE OF good conduct; that such games are to be conducted in accordance with the provisions of this subchapter and in accordance with the rules and regulations of the board and that the proceeds thereof are to be disposed of as provided by this subchapter; and if such department is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person holding, operating or conducting or assisting in the holding, operation and conduct of any such games except as in this subchapter otherwise provided; and that no prize will be given in excess of the sum or value of one hundred dollars in any single game and that the aggregate of all prizes given on one occasion, under said license shall not exceed the sum or value of one thousand dollars, the department shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee of twenty-five dollars for each license period.

S 44. Paragraph (a) of subdivision 5 of section 2806 of the public health law, as amended by section 20 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(a) Except as provided in paragraphs (b) and (d) of this subdivision, anything contained in this section or in a certificate of RESTORATION, relief from disabilities or a certificate of good conduct issued pursuant to article twenty-three of the correction law to the contrary notwithstanding, a hospital operating certificate of a hospital under control of a controlling person as defined in paragraph (a) of subdivision twelve of section twenty-eight hundred one-a of this article, or under control of any other entity, shall be revoked upon a finding by the department that such controlling person or any individual, member of a partnership or shareholder of a corporation to whom or to which an operating certificate has been issued, has been convicted of a class A, B or C felony, or a felony related in any way to any activity or program subject to the regulations, supervision, or administration of the department or of the office of temporary and disability assistance or in violation of the public officers law in a court of competent jurisdiction in the state, or of a crime outside the state which, if committed within the state, would have been a class A, B or C felony or a felony related in any way to any activity or program subject to the regulations, supervision, or administration of the department or of the office of temporary and disability assistance or in violation of the public officers law.

S 45. Subdivision 5 of section 530 of the vehicle and traffic law, as amended by section 31 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(5) A restricted use license or privilege shall be valid for the operation of any motor vehicle, except a vehicle for hire as a taxicab, livery, coach, limousine, van or wheelchair accessible van or tow truck

as defined in this chapter subject to the conditions set forth herein, which the holder would otherwise be entitled to operate had his drivers license or privilege not been suspended or revoked. Notwithstanding anything to the contrary in a certificate of RESTORATION, relief from disabilities or a certificate of good conduct issued pursuant to article twenty-three of the correction law, a restricted use license shall not be valid for the operation of a commercial motor vehicle. A restricted use license shall not be valid for the operation of a vehicle for hire as a taxicab, livery, coach, limousine, van or wheelchair accessible van or tow truck where the holder thereof had his or her drivers license suspended or revoked and (i) such suspension or revocation is mandatory pursuant to the provisions of subdivision two or two-a of section five hundred ten of this title; or (ii) any such suspension is permissive for habitual or persistent violations of this chapter or any local law relating to traffic as set forth in paragraph d or i of subdivision three of section five hundred ten of this title; or (iii) any such suspension is permissive and has been imposed by a magistrate, justice or judge of any city, town or village, any supreme court justice, any county judge, or judge of a district court. Except for a commercial motor vehicle as defined in subdivision four of section five hundred one-a of this title, the restrictions on types of vehicles which may be operated with a restricted license contained in this subdivision shall not be applicable to a restricted license issued to a person whose license has been suspended pursuant to paragraph three of subdivision four-e of section five hundred ten of this title.

S 46. Item (ii) of clause (b) of subparagraph 12 of paragraph (b) of subdivision 2 of section 1193 of the vehicle and traffic law, as amended by section 32 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(ii) that such person is granted a certificate of RESTORATION, relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law.

Provided, however, that the commissioner may, on a case by case basis, refuse to restore a license which otherwise would be restored pursuant to this item, in the interest of the public safety and welfare.

S 47. Subparagraph 1 of paragraph (d) of subdivision 2 of section 1193 of the vehicle and traffic law, as amended by section 34 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(1) Notwithstanding anything to the contrary contained in a certificate of RESTORATION, relief from disabilities or a certificate of good conduct issued pursuant to article twenty-three of the correction law, where a suspension or revocation, other than a revocation required to be issued by the commissioner, is mandatory pursuant to paragraph (a) or (b) of this subdivision, the magistrate, justice or judge shall issue an order suspending or revoking such license upon sentencing, and the license holder shall surrender such license to the court. Except as hereinafter provided, such suspension or revocation shall take effect immediately.

S 48. Item (iii) of clause (e) of subparagraph 12 of paragraph (b) of subdivision 2 of section 1193 of the vehicle and traffic law, as amended by section 33 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(iii) after such documentation is accepted, that such person is granted a certificate of RESTORATION, relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law.

S 49. Item (iii) of clause a of subparagraph 3 of paragraph (e) of subdivision 2 of section 1193 of the vehicle and traffic law, as amended by section 35 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(iii) after such documentation is accepted, that such person is granted a certificate of RESTORATION, relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law.

S 50. Item (iii) of clause c of subparagraph 1 of paragraph (d) of subdivision 2 of section 1194 of the vehicle and traffic law, as amended by section 37 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(iii) after such documentation is accepted, that such person is granted a certificate of RESTORATION, relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law by the court in which such person was last penalized.

S 51. Paragraph (g) of subdivision 7 of section 1196 of the vehicle and traffic law, as amended by section 38 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(g) Notwithstanding anything to the contrary contained in a certificate of RESTORATION, relief from disabilities or a certificate of good conduct issued pursuant to article twenty-three of the correction law, any conditional license or privilege issued to a person convicted of a violation of any subdivision of section eleven hundred ninety-two of this article shall not be valid for the operation of any commercial motor vehicle. In addition, no such conditional license or privilege shall be valid for the operation of a taxicab as defined in this chapter.

S 52. This act shall take effect on the one hundred eightieth day after it shall have become a law provided, however, that the amendments to subdivision 5 of section 530 of the vehicle and traffic law made by section forty-five of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith.