

Senator Allen M. Christensen proposes the following substitute bill:

BLACKLISTING AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Allen M. Christensen

LONG TITLE

General Description:

This bill modifies provisions related to Labor In General to address blacklisting.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ modifies language prohibiting blacklisting or certain publications;
 - ▶ modifies criminal provisions related to blacklisting or certain publications;
 - ▶ provides for actual damages in a private right of action for blacklisting or publishing;
 - ▶ addresses ability to provide factual information if requested by a potential employer;
- and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34-24-1, as enacted by Chapter 85, Laws of Utah 1969



34-24-2, as enacted by Chapter 85, Laws of Utah 1969

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-24-1 is amended to read:

34-24-1. Blacklisting employees prohibited.

(1) As used in this chapter, "publish" means the communication of information to any one or more persons:

(a) orally:

(i) in person;

(ii) by telephone, radio, or television; or

(iii) electronic means; or

(b) in a writing of any kind.

~~[No]~~ (2) A person [shall] may not blacklist or publish information related to any individual, or cause to be published or blacklisted[;] information related to any [employee discharged or voluntarily leaving the service of any person, company or corporation] individual:

(a) with intent and for the purpose of preventing [such employee] the individual from engaging in or securing employment similar to the individual's current or former employment or other employment from any other person[; company or corporation.]; and

(b) if the information:

(i) is false or misleading; or

(ii) is rendered with malicious intent toward that individual.

Section 2. Section 34-24-2 is amended to read:

34-24-2. Violation -- Penalty.

~~[If any person]~~ (1) A person violates this chapter if that person:

(a) blacklists or publishes information related to any individual, or causes to be blacklisted or published[;] information related to any [employee discharged by any corporation, company or individual,] individual:

(i) with the intent and for the purpose of preventing [such employee] the individual from engaging in or securing employment similar to the individual's current or former employment or other employment from any other [corporation, company or individual, or

57 ~~shall]~~ person; and

58 (ii) if the information:

59 (A) is false or misleading; or

60 (B) is rendered with malicious intent toward that individual; or

61 (b) in any manner [~~conspire or contrive~~] conspires or contrives by correspondence or
62 otherwise to prevent [~~such discharged employee~~] the individual from securing employment[;
63 such person].

64 (2) This chapter may not be construed to prohibit a person from communicating factual
65 information regarding an individual or the individual's employment related performance when
66 requested by a potential employer of the individual.

67 (3) A person that violates this chapter:

68 (a) is guilty of a [~~felony and shall be fined not less than \$55 nor more than \$1000 and~~
69 ~~imprisoned in the state prison not less than sixty days nor more than one year.~~] class B
70 misdemeanor; and

71 (b) is liable to the individual who is blacklisted or the subject of a publication for
72 actual damages to be recovered by the individual in a civil action filed in a court of competent
73 jurisdiction.

State Impact
No fiscal impact.

Individual and Business Impact
No fiscal impact.