

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1013

Amendment Number: H2

Bill Subtitle: TO ESTABLISH A PATH TO RESTORATION OF THE RIGHT TO POSSESS A FIREARM; AND TO PROVIDE FOR THE DISCHARGE, DISMISSAL, AND SEALING OF A NONVIOLENT FELONY CONVICTION.

Basic Change :

Sponsors: Reps. V. Flowers, F. Allen, Crawford, Duffield, K. Ferguson, Hudson, Milligan, Nicks, J. Richardson, Scott, Tosh, Vaught, Watson, and L. Johnson

Sens. G. Stubblefield, Caldwell, A. Clark, Gilmore, Hester, Irvin, G. Leding, M. McKee, and R. Murdock

House Amendment No. 2 --- HB1013-H2 (engrossed H3/16/23) adds a felony traffic offense committed by a holder of a commercial driver's license or commercial learner's permit to the list of specific felony convictions that would not be eligible for sealing under HB1013.

Original Bill --- HB1013 creates the Firearm Right Restoration Act of 2023, to be codified at § 16-90-1601 *et seq.*, and would permit a person convicted of certain offenses to have a felony conviction discharged, dismissed, and sealed in order to restore the right to possess a firearm. This bill provides for the discharge, dismissal, and sealing of certain felony convictions after ten years or more from the completion of the person's sentence and adopts a uniform procedure. This bill excludes certain felony convictions that are not eligible for discharge, dismissal, and sealing. This bill would be separate and distinct from the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 *et seq.*, and would be applied retroactively to convictions occurring before, on, or after the effective date of the bill.

Revenue Impact :

None.

Taxpayer Impact :

None.

Resources Required :

None.

Time Required :

None.

Procedural Changes :

Procedures will need to be developed and employees trained to comply with this bill.

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1013

Amendment Number: H2

Bill Subtitle: TO ESTABLISH A PATH TO RESTORATION OF THE RIGHT TO POSSESS A FIREARM; AND TO PROVIDE FOR THE DISCHARGE, DISMISSAL, AND SEALING OF A NONVIOLENT FELONY CONVICTION.

Other Comments :

None.

Legal Analysis :

House Amendment No. 2 --- HB1013-H2 (engrossed H3/16/23) adds a felony traffic offense committed by a holder of a commercial driver's license or commercial learner's permit to the list of specific felony convictions that would not be eligible for sealing, resolving the issue noted below.

Original Bill --- HB1013 amends current law to permit the restoration of the lawful ownership or possession of a firearm if a person's felony conviction is discharged, dismissed, and sealed under § 16-90-1601 *et seq.* The bill provides a list of specific felony convictions that would not be eligible for sealing under the new law. The list of ineligible offenses does not include felony traffic offenses committed by a holder of a commercial driver's license (CDL) or commercial learner's permit (CLP).

49 C.F.R. § 384.226 prohibits states from masking a CDL or CLP holder's conviction for any traffic violation committed while operating either a commercial or non-commercial vehicle. *See also* § 27-23-128. The federal regulations further provide that federal highway funds may be withheld from any state for non-compliance with the regulations. *See* § 384.401.

Arkansas prohibits the sealing of a conviction of a felony traffic offense (excluding a parking violation, vehicle weight violation, or vehicle defect violation) committed in any type of motor vehicle if the person was a holder of a CDL or CLP at the time the felony offense was committed. *See* § 16-90-1408(b).

HB1013 would conflict with § 16-90-1408 because it would authorize the sealing of a CDL or CLP holder's felony traffic offense for purposes of restoring the right to own or possess a firearm. It is recommended that HB1013 be amended to resolve the conflict with Arkansas and federal law.