



To Ban or Not To Ban The Box

What are Ban The Box Laws?

“Ban The Box” laws are criminal background check laws that prohibit employers from requesting a potential employee’s criminal history on a job application. Depending on the jurisdiction, they may regulate when an employer can ask about criminal history, provide disclosure and authorization forms, and conduct a background check. These laws are meant to protect applicants convicted of a crime from automatic disqualification during the selection process.

Hawaii was the first state to enact these laws in 1998, and since then 33 states have adopted some form of the law. However, these laws get confusing because individual jurisdictions can still decide against them, even in a Ban The Box state.

For example, New York is not a Ban The Box state, but some municipalities have Ban The Box Laws. Buffalo and Rochester were the first NY cities to adopt the laws in 2014, followed closely behind by New York City in 2015. Most recently in New York, Suffolk County filed Ban The Box laws for businesses over 15 people, and NYC made sweeping adjustments to their Ban The Box and Fair Chance Act Laws.

Effect on Employers

Ban The Box laws don’t necessarily mean an employer can never ask about criminal history, but it does mean they have to wait longer to ask. They differ in small ways, like the number of employees required for a business to have required compliance for the law. In some counties, a conditional offer is required to even ask about criminal history at all.

That doesn’t mean an employer has to hire that person or be scared about facing a discrimination lawsuit if the applicant does have a criminal history. If a past criminal conviction interferes with the applicant’s potential job in any way, that applicant can be denied that position based on the FCRA requirements. For example, if a school is hiring a bus driver, a recent drunk driving conviction would be in direct conflict with that person’s ability to perform the job. In that case, the school has a valid reason to not hire that person.

Best Practices

The safest way to navigate these new laws is to conduct a background check after a conditional offer of employment has been made. Doing this procedure ensures that you are giving the candidates a fair and equal opportunity at the position.



Also, you need to inform the applicant if they were rejected due to their record. If an applicant has adverse information in their file and you decide not to hire them, the applicant needs to receive a Preadverse Action Letter.

Give the applicant at least five business days to dispute any of the information in their file and after that time, send them an Adverse Action Letter. If you have any questions about compliance, investigations, or your current processes, please reach out to (800) 284-0906 or email info@commercialinvestigationsllc.com to speak with our knowledgeable staff.

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Due Diligence: A Wild Honeymoon

Meet Due Diligence... *Last Scene From Due*

Justin and Sue were taken by surprise when learning about Michigan's court redactions, which have slowed things down for a standout applicant of theirs. Duey and Prue continue to enjoy their time on their honeymoon, trying not to think of Coco....

A Wild Honeymoon

Prue hung up the phone from an overly enthusiastic Sue.

"Who was that, Prue?" asked Duey loudly over the sounds of various animals. "It was just Sue," Prue shouted back as Duey walked closer.

"They want to hire a new employee but Michigan's court redactions are holding them back. She yelled at us for being in the same state." They both laughed together.

"Okay Duey, if you could be any animal in the world... GO!" Prue asked excitedly.

"Well, only one? Okay, hmm, let's see. Maybe a giraffe because they're so tall they can see, I mean, practically everything," Duey said.

"Yeahhhh, but giraffes have a difficult time drinking water, and you LOVE water," argued Prue.



"Oh, okay well how about an owl? They can see all around AND stay up all night!" Duey exclaimed.

"Well yeah, but you're usually asleep by 8pm most nights..." Prue returned.

"New topic. What's for dinner?" Duey asked with a blank expression.

Prue and Duey headed back to their hotel and discussed where they should go for dinner. The first that came to Duey's mind was Backyard Bowls, but he remembered Coco recommended it, which caused him to stay away.

After some time thinking of options, Duey and Prue decided to eat at The Appetizing Bird, one that Prue recalled hearing great things about.

In the middle of enjoying drinks, Prue and Duey were interrupted by the sound of one of their phones ringing. They feared it may be Coco on the other end.

Prue looked down to realize it was her phone, "It's Sue, let me just tell her we're busy" Prue said.

Prue picked up the phone, "Hi Sue, what's going on?"

"Let me tell ya Prue, I hear new terms every day. Last time I called you with court redactions remember?" Sue asked with frustration.

"I do, yes, but Sue..." Prue tried to cut off Sue from going on any longer but with no luck.

"Well here's another one for you, Ban The Box. A box? What do they mean by that? I just want to be sure I'm following the rules and staying compliant."

"Yes, Sue, I have heard of that. Banning the box contributes to a fair hiring process, and it has many benefits like evaluating candidates on the job's qualifications rather than criminal history, and allowing applicants with a history to get further along in the process. It eliminates bias and discriminatory hiring, not to mention some candidates with a past criminal history could see the box and decide not to even apply."

"I have so many questions!!!" Exclaimed Sue.

"Well not now Sue. That was your mini lesson. My food is going to be here soon so gotta go, bye!" Prue hung up before Sue could say another word and Duey laughed, shaking his head.

Just as Duey and Prue's food arrived another phone rang. Prue was surprised to realize it was her phone again, until she looked down and saw, much to her dismay, Coco's name appear on her screen.

Prue looked to Duey in terror.

Why is Coco calling Prue from jail?

Will Sue be able to figure out Ban The Box?

Can Duey and Prue enjoy their honeymoon in peace?

Find out in the next Issue!

**To Learn more on about Ban the Box
Laws Scan The QR Code Below**



Guardian Dives Into The Box

"Let's go, Guardians! Let's go! Let's go, Guardians! Let's go!"

"Guardian, I said you could use the extra ticket. I didn't say you could cheer. We're at Yankee Stadium."

"But I'm so excited, Michelle. I can't help myself. Ooh, wait. My down feathers are tingling. Someone is talking about background investigations."

From the seats behind Michelle and Guardian. "I don't like this whole Ban The Box rule. We cannot be put in the position of hiring someone with a criminal background. I mean, what if we hire someone with a history of embezzlement and they end up stealing from us? Or, worse, hire someone who served time for manslaughter?!"

"I hear you, sister! And if you DO end up hiring someone without knowing all that history, the big THEY will come after you. You can't win. If you ask about criminal history, you violate their rights ... If you don't ask about criminal history, you jeopardize the public and your business. They should have just left well enough alone."

"Excuse me, fair ladies", Guardian interrupted, "I couldn't help but eavesdrop. Allow me to set your minds at ease. Ban The Box does not forbid you to ask applicants about criminal backgrounds. It only states that you cannot do so until after a specific point in the interview process like a conditional offer. It is to give people with past convictions a fair chance to gain employment and set their paths straight. Once you've gone through the process of searching resumes, interviewing qualified candidates, and discussing the finalists with your hiring team, you have every right to inquire about criminal backgrounds," Guardian explained.

"Who, or what, ARE you?!" They exclaimed.

"Guardian's the name, background investigations is my game. The government does not want you to blindly hire people with past convictions. The government simply wants qualified candidates to get a fair shot. If you are hiring someone to deal with money, embezzlement is a bona fide reason to not hire. If you are hiring someone to drive a bus, drunk driving is the same."



"HOT DOGS!! GET YOUR HOT DOGS HERE!!"

"Gotta go, ladies. Hope I set your minds at ease. Michelle, Michelle! They're selling hot dogs! I never had a hot dog. Had a beagle once, not heated up. Can I get a hot dog? PLEASE!!"

"You ATE a beagle?! Thanks a lot for sharing that, Guardian. Vendor, this guy wants to eat someone's puppy. Can you get someone to take care of that?"

Up walks stadium security. "Hey, bird! Get in the box! You're outta here!"

"NO!! BAN THE BOX! BAN THE BOX! Come one, everyone! BAN THE ..."

Spotlight: The World's Greatest

Have you ever wanted to live life like a movie star? Even for just a day? Not everyone can be so lucky, but our staff here at CI are one of the exceptions! For one brief but memorable day this past October, our staff had the opportunity to feel like movie stars when the national television series *World's Greatest* visited our Latham, NY headquarters.



Part of How2Media Productions, *World's Greatest* has aired over 300 episodes showcasing the people that provide us with the services and products we use almost every day. In this episode, viewers can see the many faces of our team who strive to provide exceptional service aimed at protecting the interests of our clients and their businesses. Our president, Michelle Pyan, speaks about the customizable packages we offer to our clients, the specialized customer service we provide, and the innovative approaches we take in our background investigations.

In the end, we were able to show what it is that makes Commercial Investigations LLC such a unique company in our industry as well as one of the world's greatest. If you haven't had the chance to view this episode yet, scan the QR Code below to see our team in action!





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