

BILL ANALYSIS

S.B. 549
By: Carona
Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Department of Public Safety (DPS) is required by law to issue permits involving various industry practices, including permits relating to the production and sale of controlled substances and the inspection of motor vehicles. When DPS receives an application for a permit in connection with controlled substances or the inspection of motor vehicles, it generally performs a criminal history background check on the applicant. In performing the background check, DPS uses its database of criminal history record information, which is maintained by the crime records service in DPS. Current law gives DPS statutory authority to access the information database under these circumstances. The Federal Bureau of Investigation (FBI) also maintains a database of information. However, DPS does not have the necessary authority to access the FBI database, which must be specifically conferred by statute. Access to FBI information would increase DPS's ability to effectively screen permit applicants.

S.B. 549 authorizes DPS to access the FBI's criminal history record information relating to certain persons who are applicants or holders of certain registrations, certificates, or permits.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 549 amends the Government Code to authorize the Department of Public Safety (DPS), subject to state law relating to access to criminal history record information maintained by the Federal Bureau of Investigation (FBI) or a local criminal justice agency, to obtain and use criminal history record information maintained by the FBI or DPS that relates to a person who:

- is an applicant for or holds a DPS issued registration that authorizes the person to manufacture, distribute, analyze, or conduct research with a controlled substance;
- is an applicant for or holds a DPS issued chemical precursor transfer permit;
- is an applicant for or holds a DPS issued chemical laboratory apparatus transfer permit;
- is an applicant for certification by DPS as a vehicle inspection station or vehicle inspector, holds a DPS issued vehicle inspection station or vehicle inspector certificate, or is the owner of such an inspection station; or
- is an applicant for approval or has been approved as a motorcycle operator training and safety program sponsor by DPS, is an applicant for DPS certification as an instructor for the program, or holds such an instructor certificate.

The bill authorizes DPS to release or disclose criminal history record information obtained or used by DPS relating to such a person to another person or agency only in a criminal proceeding, in a hearing conducted by DPS, under an order from a court, or with the consent of the person who is the subject of the criminal history record information. The bill prohibits its provisions from being construed to limit the authority of DPS to disseminate criminal history record

information as provided by other state law.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.