



Katie's Korner Q4 2019

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About Peopletrail

We are the leading provider of advanced background checks and pre-employment screening. We work hard every day to help you make an informed hiring decision. Our PBSA accreditation, Actionable Insight®, and human touch set us apart when it comes to comprehensive and accurate pre-employment screening solutions.

The Weight of Politics

"Just because you do not take an interest in politics doesn't mean politics won't take an interest in you," said Pericles, the influential Greek statesman, orator, and General of Athens.

Pericles may have lived in 494 BC Greece, but his words ring true for us still today. Especially for us within the background industry. Currently, our local, state and federal lawmakers are proposing and sometimes even passing laws that will affect our industry. These bills and laws are a wide net of proposals that could affect many different aspects of our processes. To go over all the bills I am watching would be time-consuming, the count of the bills I am following at the time of this writing is 382. Therefore, I will focus on one bill to illustrate my point to encourage your participation in politics.

Currently, Congress has been trying to find ways to amend the Fair Credit Reporting Act to ensure that those with a criminal background are able to be productive members of society. The Sentencing Project states that "More than 60 percent of formerly incarcerated individuals are unemployed one year after being released; those who do find jobs take home 40 percent less pay annually." Due to these statistics and others like it, it has led Congress to come up with a variety of bills to counter this.

At the time of this writing, the Restoring Unfairly Impaired Credit and Protecting Consumers Act (H.R. 3622) will, among other things, shortening the time period that most adverse information can stay on a consumer report. This bill includes limiting records of convictions to 7 years and civil judgments to 4 years. In theory, this bill will allow, in some states, for individuals who have been in prison for longer than seven years, to come out of prison with a clean background. This loophole is because some courts have defined the "start" time for adverse data to be by the filing date (*Mendoza v. ADP Screening & Selection Services Inc.*, 182 Cal. App. 4th 1644 (Cal. Ct. App. 2010)).

Currently, there is no foresight within the bill for those consumers that have committed egregious crimes. Therefore, these possibly dangerous consumers will be placed in the communities and organizations that we proudly serve.

At this time, the bill has been introduced to the House on July 5th by Congresswoman Rashida Tlaib. This bill will need to be passed in both the U.S. House of Representatives and the U.S. Senate. Once the bill has been approved by the President, or if a presidential veto has been overridden, the bill becomes a law and is enforced by the government. Once this bill moves into

the House and Senate, our representatives will be voting. Our industry must be involved in the political process because what our representatives do does affect our daily lives.

It's important to voice your concerns to your representatives on anything that will impact our industry. The members of the government services you. The U.S. Government provides a public database of contact info for your elected officials. Use it. Even if it's in support of certain bills or policies. They want to hear that you support ideas just as much as those you do not. Also, attend town hall meetings when your representative is holding them. If you are unsure who your representative is or how to register to vote, please reach out to the Compliance Department for assistance.

Another great way to get a hold of your state and federal representatives is through Resist Bot! Resist Bot will find out who represents you in Congress or your state legislature, turn your text into an email, fax, or postal letter, and deliver it to your officials. Resistbot is a free service, but standard messaging and data rates may apply through your carrier. Just text the word resist to Resist Bot on Messenger, Twitter, Telegram, or to 50409 on SMS.

There are not any state or federal candidates on the 2019 ballot for Utah. Therefore, these are your representatives until the 2020 election. This next year gives you a lot of time to research all the candidates that will be on 2020 primary and then the general ballot. That way you can know who will best align with your business and personal needs. Remember the declaration of the scholarly Athenian, you may not be currently interested in politics, but the politics are starting to be interested in you.

Nolle prosequi

Nolle prosequi or "nol pros," is a legal term of art and a Latin legal phrase meaning "be unwilling to pursue", a phrase amounting to "do not prosecute". It's typically used when the prosecution dismissed the charges. However, some states such as New York, do not use the nolle prosequi phrase and simply use the term dismissal.

In criminal cases, prosecutors will be likely to nolle prosequi a case if; there is a fatal flaw in the case against the defendant; the prosecutors know that they cannot prove the charges, or the prosecutor believes that the defendant is not guilty.

Now with a Nolle prosequi, this is not an acquittal, and this does not mean that the defendant was found not guilty of the crime. In a criminal matter, this has the same effect as dropping the charges without prejudice. Discontinuing the criminal case in such a way allows the prosecutor

to be able to re-filling the same charges at a later date. The double jeopardy rule does not apply because the charges were never tried.

Amended Charges

Usually, an amended charge simply means that the charge was wrongly chosen or else a plea agreement has been reached that requires a different charge to be completed (for instance, sometimes phone harassment is charged as domestic assault). It doesn't normally change the fact that the defendant is in danger of some sort of conviction, just that the original charge was in some way improper.

Department of Transportation

President Lyndon B. Johnson created the fourth largest federal agency, called the Department of Transportation.

The Department of Transportation Act ([Public Law 89-670](#)) brought 31 previously scattered Federal elements under the wing of one Cabinet Department. The legislation provided for five initial major operating elements within the Department. Four of these organizations were headed by an Administrator: The Federal Aviation Administration; the Federal Highway Administration; the Federal Railroad Administration; and the Saint Lawrence Seaway Development Corporation. The new Department also contained the U.S. Coast Guard, which was headed by a Commandant and had previously been part of the Treasury Department.

These agencies all have different compliance requirements to their lieges, and the following is a sample of those requirement or information from these agencies.

Disclaimer: Peopletrail and their representatives are not lawyers; nothing in this PowerPoint or provided by Peopletrail should be deemed as legal guidance or advice. Users are solely responsible for complying with all local, state, and federal laws as they may relate to any information provided in this article. Peopletrail recommends utilization of a competent legal representative for any legal issues.

Federal Motor Carrier Safety Administration (FMCSA)

[49 CFR 391](#) explains the minimum requirements for commercial motor vehicle drivers. Motor carriers are required to maintain a qualification file for each of their drivers. The following checklist will help you ensure that each driver qualification file is complete.

Initial Driver Qualifications:

- Driver's Application for Employment – 49 CFR 391.21
 - A driver must not drive a CMV unless an application for employment is completed and signed.
 - Must Retain Document For: Life of employment + 3 years after termination
 - Driver's Road Test Certificate or Equivalent – 49 CFR 391.31(e)
- A person must not drive a commercial motor vehicle until he/she has successfully completed a road test and has been issued a certificate.
 - Must Retain Document For: Life of employment + 3 years after termination

· Inquiry to Previous Employers: Safety Performance History Records Request – 49 CFR 391.23(a)(1)and(b)

- Carriers must investigate the driver's employment record during the preceding three years. This investigation must be completed within 30 days of the date employment begins. Carrier must retain a record of the request and all response documentation.
- Must Retain Document For: Life of employment + 3 years after termination

· Safety Performance History Records: Driver Correction or Rebuttal (if applicable) – 49 CFR 391.23(i)(2) and 49 CFR 391.23(j)(3)

- Carriers must maintain a record of both the request for a driver's safety performance history and any related documentation, for example if a driver documents that information in the history is inaccurate.
- Must Retain Document For: Life of employment + 3 years after termination

· Inquiry To State Agencies for 3-Year Driving Record – 49 CFR 391.23(a)(1)and(b)

- Carriers must contact State agencies for the driver's MVR for the past three years. Request must be made within 30 days of hire. MVR must be kept in the driver's personnel file, and updated annually. See "Review of Driving Record" entry above.
- Must Retain Document For: Life of employment + 3 years after termination

- Pre-Employment Drug and Alcohol Documents – [49 CFR 40.25\(j\)](#); [49 CFR 382.301](#)
 - Employers must ask potential employees if they have tested positive or refused to test, on any pre-employment drug or alcohol test within the past three years. If the potential employee admits to having a positive test or refused to test, that individual must not perform safety sensitive functions until the successful completion of the return-to-duty process. Documentation demonstrating completion of return-to-duty process must be retained in the driver qualification file.
 - See Controlled Substances and Alcohol chapter for recordkeeping requirements.

The following additional documents are only required for certain types of drivers, or in specific situations.

- Entry-Level Driver Training Certificate – [49 CFR 380.509\(b\)](#)
 - All CDL drivers with less than one year experience must provide this certificate.
 - Must Retain Document For: 3 years from date of execution
- Longer Combination Vehicle (LCV) Driver Training Certificate – [49 CFR 380.401](#)
 - A driver must not operate an LCV unless the driver can produce an LCV Driver Training Certificate or an LCV Driver Training Certificate of Grandfathering.
 - Must Retain Document For: Life of employment + 3 years after termination
- Longer Combination Vehicle (LCV) Certificate of Grandfathering - [49 CFR 380.111](#)
 - Must Retain Document For: Life of employment + 3 years after termination
- Multiple-Employer Drivers – [49 CFR 391.63](#)
 - Must Retain Document For: Life of employment + 3 years after termination
- Skill Performance Evaluation Certificate – [49 CFR 391.49](#)
 - Must Retain Document For: 3 years from date of execution

Ongoing Updates on Driver Qualifications:

- Inquiry To State Agencies for Driving Record – Annual – 49 CFR 391.25 (a) and (c)
 - Motor carriers must contact State agencies annually for an updated copy of each driver's MVR.
 - Must Retain Document For: 3 years from date of execution
- Review of Driving Record – Annual – 49 CFR 391.25 (c) (2)
 - At least once every 12 months, the carrier must collect a current motor vehicle record (MVR) from the State issuing a driver's license, and review the MVR to determine whether the driver still meets the minimum requirements for safe driving, and to confirm they are not disqualified pursuant to 49 CFR 391.15. A note including the name of the person who performed this review and the date must be retained in the file with the MVR.
 - Must Retain Document For: 3 years from date of execution
- Driver's Certification of Violations – Annual – 49 CFR 391.27
 - At least once every 12 months, drivers must submit a list of all convicted violations of motor vehicle traffic laws and ordinances during the previous 12 months. Carrier must review this and compare it with the driver's annual MVR. Note: Drivers who have provided information required by 49 CFR 383.31 need not repeat information in this annual list of violations.
 - Must Retain Document For: 3 years from date of execution
- Medical Examination Report and Medical Examiner's Certificate – 49 CFR 391.43
 - All commercial drivers are required to pass a physical exam conducted by a licensed medical examiner at least once every 24 months. The carrier must retain a copy of this certificate. For CDL drivers; the carrier must retain a copy of the CDLIS motor vehicle record, which contains the examination information.
 - Must Retain Document For: 3 years from date of execution

· Employer note verifying that medical examiner is listed on National Registry of Certified Medical Examiners – Non-CDL drivers: [49 CFR 391.51\(b\)\(9\)\(i\)](#); CDL drivers: [49 CFR 391.51\(b\)\(9\)\(ii\)](#);

- A note must be included in the driver’s qualification file to verify that the medical examiner is listed on the [National Registry of Certified Medical Examiners](#).
- Must Retain Document For: 3 years from date of execution

Federal Aviation Administration (FAA)

FAA Requirements to obtain the following:

Student Pilot Certificate

This is likely the first certificate you’ll obtain on your quest to become a pilot, acting as a “learners permit” for flying a plane. A student pilot is defined as an individual who is learning to fly under a flight instructor and who is permitted to fly alone under limited circumstances, however they don’t need one in order to start training.

To be eligible for a student pilot certificate, these are the main requirements you must meet:

1. Be at least 16 years old. If you plan to pilot a glider or balloon, you must be at least 14 years old.
2. Read, speak, and understand English.
3. Have proof of identity, such as government-issued photo ID.
4. Complete an application through [the Integrated Airman Certification and Rating Application \(IACRA\)](#) website or by paper using [FAA form 8710-1](#) and submit it to a [Flight Standards District Office \(FSDO\)](#) an [FAA-designated pilot examiner](#), an airman certification representative associated with a [part 141 flight school](#), or a certificated flight instructor.

Sport Pilot Certificate

Sport pilot certificate is next up and is relatively easy to obtain, compared to others on this list. Requiring only 20 hours of training, minimum, a pilot with a sport certificate is

authorized to fly only light-sport aircraft (LSA). LSAs have limitations such as only two seats, no night flight and altitude limitations.

If you plan on flying an LSA, you will need to meet the following training requirements:

- Complete 20 hours of flight time:
 - 15 hours of flight training from an authorized instructor.
 - 5 hours of solo flight.
- Complete an FAA knowledge test on applicable aeronautical knowledge areas.
- Complete an FAA practical test for the applicable light-sport aircraft privilege.

Recreational Pilot Certificate

Introduced in late 2014, a recreational pilot license (RPL) is a relatively new alternative to a private and sport pilot license. It allows pilots to fly light, single-engine aircraft as the pilot in command, independently of a flying school, without supervision. In addition, the pilot can only fly during daytime, must remain within 50 nautical miles (NM) from the origination airport and cannot fly into controlled (A, B C or D) airspace or towered airports. For some farmers or enthusiasts who simply want to go for an airplane ride every so often, the RPL is a good choice, as recreational pilots may fly larger aircraft than sport pilots, but they have more limitations on where they may fly.

To obtain a recreational pilot certificate, you must meet the following training requirements:

- Pass a required knowledge test
- Pass a required oral and practical flight test administered by an FAA designated examiner
- Hold either a student or sport pilot certificate.
- Complete 30 hours of flight time:
 - 15 hours of flight training
 - 3 hours of solo time

- 2 hours of cross-country flight, greater than 25NM

Private Pilot Certificate

Next on our list is the private pilot certificate – perhaps the most common type of license that most pilots obtain. If a student pilot license is the “learning permit” of the sky, a private pilot license is the “driver’s license”. A private pilot license allows you to fly in most airplanes (some additional instrument rating tests may be required for more advanced aircraft) alone or with other people, almost anywhere inside the U.S., as well as outside the country (as long as regulations of that country are followed). However, there are restrictions; for example, you may not receive compensation for flying or fly in certain weather conditions.

Those trying to obtain a private pilot license must meet the following training requirements:

40 hours minimum which consists of at least:

· 20 hours minimum of flight training with an instructor on areas of operation, including:

- 3 hours of cross country flight training in a single-engine airplane.
- 3 hours of night flight training in a single-engine airplane.
- 3 hours of flight training by reference to instruments in a single-engine airplane.
- 3 hours of flight training in a single-engine airplane within the 60 days prior to the practical test.

· 10 hours minimum of solo flying in a single-engine airplane on areas of operation, including:

- 5 hours of solo cross country flying.
- 1 solo cross-country flight of at least 150NM total distance with full stop landings at 3 points and one segment of at least 50NM between takeoff and landings.

- 3 takeoffs and landings to a full stop at an airport with an operating control tower.

Commercial Pilot Certificate

1. Be able to read, write, and converse fluently in English
2. Be at least 18 years of age
3. Hold at least a current third-class FAA medical certificate. Later, if your flying requires a commercial pilot certificate, you must hold a second-class medical certificate.
 - a. You must undergo a routine medical examination which may be administered only by an FAA-designated doctor called an Aviation Medical Examiner (AME)
 - b. Even if you have a physical handicap, medical certificates can be issued in many cases. Operating limitation may be imposed depending on the nature of the disability.
 - c. Your FAA-Certificated Flight Instructor (CFI) or Fixed-Base Operator (FBO) will be able to recommend an AME. [NOTE: An FBO is an airport business that gives flight lessons, sells aviation fuel, repairs airplanes, etc.]
4. Receive and log ground training from an authorized instructor or complete a home-study course
 - a. Applicable Federal Aviation Regulations (FARs) that relate to commercial pilot privileges, limitations, and flight operations
 - b. Accident reporting requirements of the National Transportation Safety Board
 - c. Basic aerodynamics and principles of flight
 - d. Meteorology to include recognition of critical weather situations, windshear recognition and avoidance, and the use of automated weather reports and forecasts
 - e. Safe and efficient operation of the aircraft
 - f. Weight and balance computations

- g. Use of performance charts
- h. Significance and effects of exceeding aircraft performance limitations
- i. Use of aeronautical charts and a magnetic compass for pilotage and dead reckoning
- j. Use of air navigation facilities
- k. Aeronautical decision making and judgment
- l. Principles and functions of aircraft systems
- m. Maneuvers, procedures, and emergency operations appropriate to the aircraft
- n. Night and high-altitude operations
- o. Procedures for operating in the National Airspace System (NAS)

5. Pass a knowledge test with a score of 70% or better. The instrument rating knowledge test consists of 100 multiple-choice questions selected from the airplane-related questions in the FAA's commercial pilot test bank.

6. Accumulate appropriate flight experience and instruction (see [FAR 61.129](#))

- a. 100 hours in powered aircraft, of which 50 hours must be in airplanes
- b. 100 hours as Pilot-In-Command (PIC) flight time, which includes at least:
 - i. 50 hours in airplanes
 - ii. 50 hours in cross-country flight of which at least 10 hours must be in airplanes
- c. 20 hours of training in the areas of operation required for single-engine or multiengine rating that includes at least:

i. 10 hours of instrument training of which at least 5 hours must be in single engine or multi-engine airplane, as appropriate

ii. 10 hours of training in an airplane that has a retractable landing gear, flaps, and controllable-pitch propeller, or that is turbine-powered

iii.

One cross-country flight of at least 2 hours in a single-engine or multiengine airplane (as appropriate) in day-VRF condition, consisting of a total straight-line distance of more than 100nm from the original point of departure

iv.

One cross-country flight of at least 2 hours in a single-engine or multiengine airplane (as appropriate) in night-VRF condition, consisting of a total straight-line distance of more than 100nm from the original point of departure

v. 3 hours in a single-engine or multi-engine airplane (as appropriate) in preparation for the practical test within the 60 days preceding the test

d. 10 hours of solo flight (sole occupant of the airplane) in a single-engine airplane, or 10 hours of flight time performing the duties of Pilot-In-Command (PIC) in a multiengine airplane with an authorized instructor, training in the areas of operations required for the single-engine or multi-engine rating (as appropriate), which includes at least:

i. One cross-country flight of not less than 300nm total distance, with landings at a minimum of three points, one of

which is a straight-line distance of at least 250nm from the original departure point

ii. 5 hours in night-VFR conditions with 10 takeoffs and landings (with each landing involving a flight in the traffic pattern) at an airport with an operating control tower

e. The 250 hours of flight time as a pilot may include 50 hours in an approved flight simulator or training device that is representative of the single-engine or multiengine airplane (as appropriate)

7. Hold an instrument rating. A commercial pilot is presumed to have an instrument rating. If not, his/her commercial pilot certificate will be endorsed with a prohibition against carrying passengers for hire on day VFR flights beyond 50 NM or at night.

8. Demonstrate flight proficiency (FAR 61.127). Receive and log ground and flight training from an authorized instructor in the following areas of operations for an airplane category rating with a single-engine or multi-engine class rating:

a. Preflight preparation

b. Preflight procedures

c. Airport operations

d. Takeoffs, landings, and go-arounds

e. Performance maneuvers

f. Ground reference maneuvers

g. Navigation

h. Slow flight and (aerodynamic) stalls

i. Emergency operations

J. High-altitude operations

k. Post-flight procedures

9. Successfully complete a practical (flight) test given as a final exam by an FAA inspector or designated pilot examiner and conducted as specified in the FAA's Commercial Pilot Practical Test Standards.

Commercial Pilot Privileges and Limitations

- As a commercial pilot, you may act as pilot in command of an aircraft that is carrying passengers or property for compensation or hire and may be paid to act as pilot in command.