STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

SENATE BILL 1936

By: Burrage

AS INTRODUCED

An Act relating to employment; defining terms; prohibiting use of credit report in hiring; providing exceptions; authoring civil action for violation; setting court authority for violations; construing provisions; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160 of Title 40, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Consumer reporting agency" has the meaning set forth by the federal Fair Credit Reporting Act for "consumer reporting agency that complies and maintains files on consumers on a nationwide basis" in 15 U.S.C. 1681a(p);

2. "Credit report" means a written, oral, or other communication of information by a consumer reporting agency concerning the:

   a. creditworthiness of a consumer,
b. credit standing of a consumer, or

c. credit capacity of a consumer; and

3. "Trade secret" has the meaning set forth in IC 24-2-3-2.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.1 of Title 40, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsections B and C of this section, an employer shall not use a credit report in:

1. The process of hiring a prospective employee; or

2. Determining whether to continue the employment of an employee.

B. An employer may use a credit report for employment purposes if:

1. The information contained in the credit report is substantially job related in that the employment position or prospective employment position of the individual for whom the credit report is sought has access to:

   a. money,

   b. other assets, or

   c. trade secrets or other confidential information; or

2. The employment position of the individual for whom the report is sought is a:

   a. managerial position,

   b. position in the Office of the Attorney General,
c. sworn law enforcement position, or
d. position for which the information contained in the
   report is required to be:
   (1) disclosed by law; or
   (2) obtained by the employer.

C. This section shall not apply to a person or business subject
to:

1. Sections 6801 through 6809 of the Fair Credit Reporting Act,
   15 U.S.C. 1681 et seq.; or

2. State or federal statutes or regulations implementing the
   provisions referred to in subsection B of this section;
   if the person or business is subject to compliance oversight by a
   state or federal regulatory agency with respect to the referenced
   provisions in subsection B.

SECTION 3. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 160.2 of Title 40, unless there
is created a duplication in numbering, reads as follows:

A. An employee or prospective employee may bring a civil action
against an employer to enforce the provisions of this act.

B. In an action brought under Section 4 of this act in which an
employer is found to have violated the provisions of Section 4 of
this act, the court may do the following to the prevailing employee
or prospective employee:

1. Award actual damages;
2. Award court costs and reasonable attorney's fees; and

3. Enjoin the employer from committing further violations of
Section 4 of this act.

SECTION 4.     NEW LAW     A new section of law to be codified
in the Oklahoma Statutes as Section 160.3 of Title 40, unless there
is created a duplication in numbering, reads as follows:

This act does not limit an employee's or prospective employee's
rights or remedies under any other state or federal law.

SECTION 5. This act shall become effective July 1, 2014.

SECTION 6. It being immediately necessary for the preservation
of the public peace, health and safety, an emergency is hereby
declared to exist, by reason whereof this act shall take effect and
be in full force from and after its passage and approval.

54-2-2202    NP    1/16/2014 6:34:46 PM