

By: Canales

H.B. No. 1515

A BILL TO BE ENTITLED

AN ACT

relating to the consideration by employers of the consumer credit reports or other credit information of employees and applicants for employment; providing civil and administrative penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 52, Labor Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. CONSIDERATION OF CONSUMER CREDIT REPORTS

Sec. 52.081. DEFINITIONS. In this subchapter:

(1) "Applicant" means a person who has made an oral or written application with an employer, or has sent a resume or other correspondence to an employer, indicating an interest in employment.

(2) "Commission" means the Texas Workforce Commission.

(3) "Consumer" means an individual whose credit information is used or whose credit score is computed.

(4) "Consumer reporting agency" means any person that, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(5) "Credit information" means any credit-related information derived from a credit report or found in a credit

1 report. The term does not include information that is not
2 credit-related, regardless of whether that information is
3 contained in a credit report.

4 (6) "Credit report" means any written, oral, or other
5 communication of information by a consumer reporting agency that
6 bears on a consumer's creditworthiness, credit standing, or credit
7 capacity.

8 (7) "Employee" and "employer" have the meanings
9 assigned by Section 21.002.

10 Sec. 52.082. RULES. The commission may adopt rules as
11 necessary to implement this subchapter.

12 Sec. 52.083. EFFECT ON OTHER LAW. This subchapter does not
13 limit or affect the rights, remedies, or procedures available to an
14 individual who alleges an unlawful employment practice prohibited
15 under federal law, another state law, or an order or ordinance of a
16 political subdivision of this state.

17 Sec. 52.084. PROHIBITED ACTS BY EMPLOYER. An employer may
18 not:

19 (1) directly or indirectly require, request, suggest,
20 or cause an employee or applicant, as a condition of employment, to:

21 (A) submit a credit report or other credit
22 information; or

23 (B) authorize the employer's access to the
24 employee's or applicant's credit report or other credit
25 information;

26 (2) use, accept, refer to, or inquire concerning the
27 employee's or applicant's credit report or other credit

1 information; or

2 (3) discharge, discipline, discriminate against, or
3 deny employment or promotion to an employee or applicant:

4 (A) on the basis of the employee's or applicant's
5 credit report or other credit information; or

6 (B) because the employee or applicant:

7 (i) refuses, declines, or fails to submit a
8 credit report or other credit information; or

9 (ii) refuses, declines, or fails to
10 authorize the employer access to the employee's or applicant's
11 credit report or other credit information.

12 Sec. 52.085. RETALIATION AND COERCION PROHIBITED. (a) An
13 employer may not discriminate against an employee or applicant
14 because the individual:

15 (1) opposes any act or practice prohibited by this
16 subchapter;

17 (2) makes or files a charge in connection with an act
18 or practice prohibited by this subchapter; or

19 (3) assists, testifies, or participates in any manner
20 in an investigation, proceeding, or hearing conducted under this
21 subchapter.

22 (b) An employer may not coerce, intimidate, threaten, or
23 interfere with an employee or applicant in the exercise or
24 enjoyment of, or because the employee or applicant for employment
25 has exercised, enjoyed, assisted, or encouraged the exercise or
26 enjoyment of, a right granted or protected by this subchapter.

27 Sec. 52.086. ADMINISTRATIVE PENALTY. (a) An employer

1 commits an administrative violation if the employer violates this
2 subchapter.

3 (b) The penalty for a violation under this section may not
4 exceed \$9,000. In assessing a penalty under this section, the
5 commission shall consider:

6 (1) prior violations of this subchapter by the
7 employer;

8 (2) the severity of the violation; and

9 (3) any other factor the commission determines to be
10 relevant.

11 Sec. 52.087. CIVIL ACTION BY EMPLOYEE OR APPLICANT. (a) An
12 employee or applicant aggrieved by a violation of this subchapter
13 may bring a civil action to enforce rights protected by this
14 subchapter, including an action for appropriate injunctive relief,
15 in the district court in the county in which the alleged violation
16 occurred or in which the alleged violator's residence or principal
17 place of business is located.

18 (b) An action under this section must be brought not later
19 than the third anniversary of the date of the violation.

20 (c) The employer of an employee or applicant who prevails in
21 a civil action under this section is liable to the affected employee
22 or applicant for damages equal to the amount of any wages, salary,
23 employment benefits, or other compensation denied or lost to the
24 employee or applicant by reason of the violation or, if wages,
25 salary, employment benefits, or other compensation has not been
26 denied or lost, any actual monetary losses sustained by the
27 employee or applicant as a direct result of the violation.

1 (d) An employer described by Subsection (c) is also liable
2 for equitable relief as appropriate, including employment,
3 reinstatement, and promotion.

4 (e) In addition to any judgment awarded to an employee or
5 applicant, the court may require the employer to pay reasonable
6 attorney's fees, reasonable expert witness fees, and other costs.

7 Sec. 52.088. CIVIL ACTION BY COMMISSION. (a) The
8 commission may bring an action to restrain violations of this
9 subchapter.

10 (b) In an action brought under this section, the court may:

11 (1) issue a temporary or permanent restraining order
12 or injunction to require compliance with this subchapter; and

13 (2) order any equitable relief as appropriate,
14 including employment, reinstatement, and promotion.

15 SECTION 2. This Act applies only to an adverse employment
16 action that is taken by an employer against an employee or applicant
17 for employment or other employer conduct that occurs on or after
18 January 1, 2016. Action taken by an employer or other conduct that
19 occurs before January 1, 2016, is governed by the law in effect
20 immediately before the effective date of this Act, and the former
21 law is continued in effect for that purpose.

22 SECTION 3. This Act takes effect September 1, 2015.