

10/11/11- Special Announcement to all State of California Employers:

The State of California has passed AB 22, which limits the use of credit reports in the hiring process.

The law states the following:

1024.5. (a) An employer or prospective employer shall not use a consumer credit report for employment purposes unless the position of the person for whom the report is sought is any of the following:

- (1) A managerial position.
- (2) A position in the state Department of Justice.
- (3) That of a sworn peace officer or other law enforcement position.
- (4) A position for which the information contained in the report is required by law to be disclosed or obtained.
- (5) A position that involves regular access, for any purpose other than the routine solicitation and processing of credit card applications in a retail establishment, to all of the following types of information of any one person:
 - (A) Bank or credit card account information.
 - (B) Social security number.
 - (C) Date of birth.
- (6) A position in which the person is, or would be, any of the following:
 - (A) A named signatory on the bank or credit card account of the employer.
 - (B) Authorized to transfer money on behalf of the employer.
 - (C) Authorized to enter into financial contracts on behalf of the employer.
- (7) A position that involves access to confidential or proprietary information, including a formula, pattern, compilation, program, device, method, technique, process or trade secret that (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who may obtain economic value from the disclosure or use of the information, and (ii) is the subject of an effort that is reasonable under the circumstances to maintain secrecy of the information.
- (8) A position that involves regular access to cash totaling ten thousand dollars (\$10,000) or more of the employer, a customer, or client, during the workday.

Additionally, the written notice to applicants will need to be modified to include the specific basis under subdivision (a) of Section 1024.5 of the Labor Code for use of the report.

This law will require a review of the hiring process in place, including the waiver that all applicants must complete, and may require changes to that process.

The complete text can be found here:

<http://e-lobbyist.com/gaits/text/353460>

Justifacts recommends that you consult with your legal department to determine what changes, if any, need to be made to your hiring process in order to comply with this law.

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