

# STATE OF NEW YORK

859--A

2017-2018 Regular Sessions

## IN ASSEMBLY

January 9, 2017

Introduced by M. of A. BRAUNSTEIN, ABINANTI, GUNTHER, MOSLEY, GOTTFRIED, WEPRIN, MONTESANO, ROSENTHAL, COLTON, JAFFEE, CAHILL, O'DONNELL, PEOPLES-STOKES, STECK, RAIA, PERRY, HOOPER, MOYA, SKOUFIS, SIMOTAS, OTIS, RODRIGUEZ, BLAKE -- Multi-Sponsored by -- M. of A. ARROYO, COOK, CROUCH, GALEF, GLICK, McDONOUGH, SIMANOWITZ, STEC, TITONE -- read once and referred to the Committee on Consumer Affairs and Protection -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to the sale and use of employment information

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 380-v of the general business law, as relettered  
2 by chapter 441 of the laws of 2014, is relettered section 380-w and a  
3 new section 380-v is added to read as follows:

4 § 380-v. Sale and use of employment information. (a) No consumer  
5 reporting agency or any subsidiary thereof shall sell or resell, or  
6 offer for sale or resale or distribute employment information to any  
7 principal creditor, as that term is defined in subdivision three of  
8 section six hundred of this chapter, or other debt collector without  
9 verifying that such sale, resale, or distribution was disclosed to the  
10 consumer to whom such employment information pertains in a separate  
11 stand-alone document, and that written consent from such consumer was  
12 obtained. Employment information shall include, but not be limited to,  
13 payroll and earnings information, hours worked, consumer history and  
14 health insurance information.

15 (b) Such disclosure and consumer consent shall be given in a separate,  
16 stand-alone document and consent shall be limited to the particular use  
17 or transaction for which consent is given.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (c) Wherever there shall be a violation of this section, an applica-  
2 tion may be made by the attorney general in the name of the people of  
3 the state of New York to a court or justice having jurisdiction by a  
4 special proceeding to issue an injunction, and upon notice to the  
5 defendant of not less than five days, to enjoin or restrain the contin-  
6 uance of such violation; and if it shall appear to the satisfaction of  
7 the court or justice that the defendant has, in fact, violated this  
8 section, an injunction may be issued by such court or justice, enjoining  
9 and restraining any further violation, without requiring proof that any  
10 person has, in fact, been injured or damaged thereby. In any such  
11 proceeding, the court may make allowances to the attorney general as  
12 provided in paragraph six of subdivision (a) of section eighty-three  
13 hundred three of the civil practice law and rules, and direct restitu-  
14 tion. Whenever the court shall determine that a violation of this  
15 section has occurred, the court may impose a civil penalty of not more  
16 than two thousand dollars for each violation. In connection with any  
17 such proposed application, the attorney general is authorized to take  
18 proof and make a determination of the relevant facts and to issue  
19 subpoenas in accordance with the civil practice law and rules.

20 (d) In addition to any right of action granted to the attorney general  
21 pursuant to this section, any person who has been injured by reason of  
22 any violation of this section may bring an action in his or her own name  
23 to enjoin such unlawful act or practice, an action to recover his or her  
24 compensatory damages and one thousand dollars, or both such actions. The  
25 court may, in its discretion, award the prevailing plaintiff in such  
26 action an additional award not to exceed five thousand dollars, if the  
27 court finds the defendant willfully violated the provisions of this  
28 section. The court may award reasonable attorneys' fees to a prevailing  
29 plaintiff.

30 (e) Nothing in this section shall in any way limit the rights, reme-  
31 dies or privileges that are otherwise available to a consumer at law or  
32 equity.

33 § 2. This act shall take effect on the one hundred eightieth day after  
34 it shall have become a law.