

Pre-Employment Background Checks

They ARE Important!

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The expression “buying a pig in a poke” is an old saying that translates to buying something, getting involved in something or committing to something without first gathering the necessary facts to ensure that you won’t get “burned” and receive something other than you thought you purchased.

In business, one of the most important decisions an owner makes is putting people he has never met, knows nothing about, and has no idea why they really want to work for him, in a position of trust. Once hired, he gives that associate access to his merchandise and cash, as well as store and other team members’ property. Let’s face it—when you put a new hire on your sales floor and/or behind a POS terminal, you’ve got your fingers crossed that everything will work out and that you’ve made the right decision.

Unfortunately, however, reality rears its ugly head every once in a while and that person, for whatever reason, decides that he or she is more interested in stealing from you than giving you a fair day’s labor for a fair day’s pay. Well, wouldn’t it be nice if there was a way you could hedge your bets, so to speak, and improve your odds that the “pig in a poke” you’re buying really is worth what you’re paying? And as you might expect, yes, there is—it’s called conducting a pre-employment background check. Study after study confirms that smart employers go a step beyond just using their “gut” in making hiring decisions.

In fact, the 2009 National Retail Security Survey reported that a full 87% of its respondents indicated that they always conduct a criminal history check as part of their pre-employment process; followed by 74% of respondents who indicated that they verify past employment history before hiring. Another interesting statistic is that 82% of respondents stated that they used multiple interviews of applicants before hiring; and 56% indicated that they require a drug screen before offering employment. These are four tried and true fundamental elements of an effective hiring process.

Before we start talking about specifics, it’s important to understand that not all states allow all of the checks we’ll discuss in this article. Business owners must know and understand not only the federal statutes addressing this matter, but also the state’s employment statutes. If your state allows criminal background checks as part of your pre-employment process, and you conduct one on an applicant and decide not to hire that person because of what was uncovered, you are required by federal law to so advise that applicant and provide him or her with a copy of that report, along with a statement of that applicant’s rights as specified in the Federal Trade Commission statute. (NOTE: There are varying requirements that depend on whether the applicant is notified in person or by mail. See the Fair Credit Reporting Act for details.)

Also, before we get into the actual background check discussion, let’s talk for a minute about the employment application.

- It is important that your application contain the question, “Have you been convicted of a crime?” (Do not limit the question to felonies unless your state requires you to limit the question to felonies.)
- Always provide the applicant with a release form that he/she signs, attesting to their understanding and permission to conduct a background check, to include the procurement of a consumer report that contains any criminal history uncovered, a credit check and an inquiry to all previous employers for employment information. (Again, you must ensure that your state allows all of these types of checks.) (NOTE: The release MAY NOT be an integral part of your employment application. It MUST be on a separate form.)

Announcements & Upcoming Events

Training:

- Join RLP at the Denver Convention for a full-day owner/manager workshop!
- New Ace LearningPlace Training Available
 - 14 — NRHA Loss Prevention: External Theft Prevention for Managers
 - 13 — NRHA Loss Prevention: Store Safety for Managers
- For a complete list of FREE webinar topics and dates, visit our website: www.ancelossprevention.com

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- Review the application closely before allowing the applicant to leave. Address all unanswered questions; pursue any obvious inaccuracy or error on the form. Pay attention to the reaction of the applicant when you bring an error to his or her attention. It could very well be that the applicant failed to answer a question or provided a confusing answer to a question on purpose.

Criminal History Checks

There is an axiom in the background checking business that states, "The best predictor of future behavior is past behavior." If you examine how a person has behaved in the past, you'll have an idea of what kind of employee they will be in the future. If they have been in trouble with the law, particularly if they have been convicted of larceny or theft, and it has been within the past few years, there's a legitimate probability that they will succumb to the temptation to steal again—and you definitely do not want it to be while they are working in your store.

Credit Checks

In these bad economic times, more and more people are finding it very difficult, if not impossible, to continue meeting their financial responsibilities, particularly if one or more family members are out of work. It is, therefore, not surprising that credit reports reflect much more "red ink" today than they did a few years ago. Nevertheless, it is prudent for employers to check the credit reports of applicants who will be handling cash (e.g., cashiers, back office, etc.) and thus be able to make a better informed hiring decision. That is not to say that you should not hire someone with bad credit; but on the other hand, if there is a long history of no-pays, slow-pays, collection actions and possibly even repossessions on an applicant's credit report, you need to know that being in dire financial straits is a proven motivation to steal. Be sure and check your state's rules, as there are states that prohibit the use of credit reports in the employment process.

Workers' Compensation History Checks

Every job requires some sort of exertion, even if the associate sits in a chair all day. The vast majority of jobs performed by associates in an Ace Hardware store will require lifting, to one degree or another, and if building materials are available for sale, the risk of injury is multiplied. It's always good to know whether the person you are hiring has had any work-related injuries that may make him or her more of a risk for injury in your store. Believe it or not, there are people out there who actually make a living off of workers' compensation claims. The workers' compensation history check will let you know exactly what types of work-related injuries your applicant has

experienced, if any. Note that there are restrictions regarding when you can run this type of check and what you can do with the results, particularly when the applicant is disabled, as defined by the Americans with Disabilities Act (ADA).

Driving History Check

Driving records can show arrests and convictions for driving while intoxicated, a history of reckless behavior, and whether the license is, in fact, valid. This check, by state, may uncover applicants with substance abuse and other behavioral problems. If your new associate will be driving a company vehicle or his/her own vehicle on company business, it is very important that a driving history check be conducted.

Drug Testing

Hiring someone who uses drugs, whether it be marijuana, cocaine, methamphetamines, heroin or any of the long list of other illegal substances that permeate our society, puts you, your business and your other associates at risk. It is only good business to take the cost-effective step of requiring the applicant to be screened for drugs before you hire him or her. We also recommend that it be a short-notice test. In other words, call the applicant and let him or her know that you would like them to report to the designated drug screening location today, or at the latest, tomorrow, to be tested. If the applicant makes excuses about not being available for a few days to be screened, that would be a red flag that they want to wait until whatever drug is currently in their system is gone. It is further advised that random drug screens continue for all employees, as well as for any employee who is involved in an accident that requires anything beyond local first aid.

I-9 Verification

Considering the number of illegal aliens in this country, it is important to know not only the name of the person you're hiring, but also whether they are in the country legally or illegally. In fact, it's not only a good idea—it's the law that you confirm the citizenship of the person you're hiring—and that you do it before you hire him or her. The only way you can do that is through the I-9 process, a process that is time-consuming.

Previous Employer Checks

While there may be a perception that calling previous employers is not particularly useful (because of their reluctance to say anything derogatory about a previous employee), it is indeed a practical part of the pre-employment process that should not be ignored. There

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are three questions that you may ask a previous employer, and that they may answer, which do not violate any law or privacy statute. They are:

1. "DID JOHN JONES WORK FOR YOU?"

This question is self-explanatory and there should be no reason for a previous employer to refuse to answer it.

2. "WHAT WERE HIS DATES OF EMPLOYMENT?"

This question is also one that should not cause any concern on the part of the previous employer. The answer to this question can be very telling. If the dates provided do not match what the applicant entered on the employment application, it is a matter that should not be overlooked or presumed to be just a case of bad memory. It could be that the dates that don't jibe are an intentional act by the applicant to attempt to hide something. For example, if John worked for ABC Hardware Store from January 2009 to April 2009, at which time he was fired for theft; and he worked for DEF Hardware Store from May 2009 to May 2010; he may list the employment dates for DEF Hardware as January 2009 to May 2010. All dates provided by previous employers that do not correspond to the dates provided by the applicant should be a matter of inquiry when the applicant is interviewed. Look for verbal and non-verbal signs of nervousness when you ask about the dates—it could very well be that you have caught the applicant in a lie.

3. "IS HE ELIGIBLE FOR REHIRE?"

A quick answer of "yes" or "absolutely" is what you want to hear. If the previous employer says "no" or hesitates and doesn't provide a simple yes or no, that is a red flag that cannot be ignored. If the answer is "no," you can ask why, but they may not be forthcoming with the answer. If you ask, "Is it because he was caught doing something wrong?" and they hesitate, this is a red flag that cannot be ignored.

THE SOLUTION

Ace Hardware has partnered with ACXIOM INFORMATION SECURITY SERVICES as its preferred background screening vendor since 1998. Providing a single-source solution to meet Ace retailers' drug testing and background screening needs, Acxiom assists nearly 600 Ace retailers in their efforts to keep their workplaces safe, productive and drug-free. Achieving an average background check report turnaround time of 1.39 days and an average overall "hit" rate of 10.99%, Acxiom offers specially

discounted, customized screening packages to Ace retailers, as well as individual services on an a-la-carte basis.

Ace retailers enjoy Acxiom's proprietary website, which allows easy submission of background check requests and convenient retrieval of secure results. A fully-staffed Compliance Department affords Ace retailers ongoing guidance and support in keeping abreast of ever-changing legislation as it pertains to the hiring process and use of reported background information. For 13 years, Acxiom has helped Ace Hardware remain on the pulse of its employees and has shown dedication to helping us manage the complexities inherent in general background screening and the drug testing process.

Applicable Federal Statutes

- Fair Credit Reporting Act
(<http://www.ftc.gov/os/statutes/031224fcra.pdf>)
- Federal Equal Employment Opportunity Laws
(<http://www.eeoc.gov/facts/qanda.html>)
- Civil Rights Act of 1866
(http://www.law.cornell.edu/uscode/html/uscode42/usc_sec_42_00001981---000-.html)
- Civil Rights Act of 1964
(<http://www.eeoc.gov/laws/statutes/titlevii.cfm>)
- Pregnancy Discrimination Act of 1978
(<http://www.eeoc.gov/laws/types/pregnancy.cfm>)
- Age Discrimination Act of 1967
(<http://www.eeoc.gov/laws/types/age.cfm>)
- Americans with Disabilities Act of 1990
(<http://www.eeoc.gov/laws/types/disability.cfm>)
- Genetic Information Discrimination Act of 2009
(<http://www.eeoc.gov/laws/types/genetic.cfm>)
- Immigration Control and Reform Act of 1986
(<http://www.uscis.gov/ilink/docView/PUBLAW/HTML/PUBLAW/0-0-0-15.html#0-0-0-343>)
- Form I-9, Employment Eligibility Verification Handbook
(http://www.osha.gov/pls/epub/wageindex.download?p_file=F6844/I9_Handbook.pdf)
- U.S. Bankruptcy Code, Section 525
(http://www.law.cornell.edu/uscode/html/uscode11/usc_sec_11_00000525---000-.html)

NOTE: Certain laws cited above apply only to employers with 15 or more employees.

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