

NYC EMPLOYERS WILL SOON BE BANNED FROM INQUIRING ABOUT SALARY HISTORY

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Labor, Employment and Workplace Safety Alert

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On Thursday, May 4, 2017, New York City Mayor Bill de Blasio signed a bill prohibiting New York City employers, both public and private, from asking job applicants about their salary history. This legislation, amending the New York City Human Rights Law, will go into effect October 31, 2017, 180 days following its enactment.

Under the new law, City employers are barred from making inquiries about salary history not only to applicants, but also to applicants' past or present employers, or to past or present employees or agents of such employers. In addition, employers may not run searches of publicly available records for purposes of learning applicants' salary history. The law makes it an unlawful discriminatory practice for City employers to ask about applicants' salary history or to set their compensation during the hiring process based on their salary history.

Nonetheless, in certain situations, the law allows employers to discuss with applicants their expectations about salary as well as to consider and verify salary history if applicants voluntarily disclose it. The new law also has certain exemptions, including for internal transfers or promotions, and for certain positions with public employers determined through collective bargaining.

Individuals can bring a complaint with the New York City Commission on Human Rights and the Commission itself can bring a complaint against employers for alleged violations of this law. Among other remedies, the Commission can award compensatory damages as well as impose civil penalties of up to \$250,000 in certain circumstances against non-compliant employers. Aggrieved applicants can also bring a complaint in court (unless they have already filed a complaint with the Commission regarding the challenged practice), and the court can award a range of remedies, including attorney's fees and costs to the prevailing party as well as punitive damages.

Covered employers should carefully review their hiring procedures and documents, including job application forms, to ensure compliance with the law. They should likewise assess any internal policies regarding compensation and benefits for new hires.

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