

# STATE OF NEW YORK

S. 5233

A. 6707

2017-2018 Regular Sessions

## SENATE - ASSEMBLY

March 16, 2017

IN SENATE -- Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

IN ASSEMBLY -- Introduced by M. of A. GALEF -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to prohibiting employers from seeking salary history from prospective employees

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

1 Section 1. Section 296 of the executive law is amended by adding a new  
2 subdivision 20 to read as follows:

3 20. (a) No employer, labor organization, employment agency or licens-  
4 ing agency, or employees or agent shall:

5 (i) rely on the wage history of a prospective employee from any  
6 current or former employer of the individual in determining the wages  
7 for such individual; provided that an employer may rely on prior wage  
8 history when it is voluntarily provided by a prospective employee to  
9 support a wage higher than the wage offered by the employer;

10 (ii) orally, or in writing, request or require as a condition of being  
11 interviewed, or as a condition of continuing to be considered for an  
12 offer of employment, or as a condition of employment, that a prospective  
13 employee disclose information about the employee's own wages from any  
14 current or former employer; and

15 (iii) orally, or in writing, seek from any current or former employer  
16 the previous wages of any prospective employee; provided, however, that  
17 an employer may seek to confirm prior wage information only after an  
18 offer of employment with compensation has been made to the prospective  
19 employee and the prospective employee responds to the offer by providing  
20 prior wage information to support a wage higher than offered by the  
21 employer. Under these circumstances, the employer may only seek to

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

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1 confirm prior wages after obtaining written authorization by the  
2 prospective employee to do so.

3 The employer shall not refuse to hire or otherwise retaliate against  
4 an employee or prospective employee based upon prior wage or salary  
5 history or because the employee or prospective employee has opposed any  
6 act or practice made unlawful by this subdivision.

7 (b) (i) Any person who violates the provisions of this section shall:

8 (A) be subject to a civil penalty of five thousand dollars for a first  
9 offense, increased by an additional one thousand dollars for each subse-  
10 quent offense, not to exceed ten thousand dollars; and

11 (B) be liable to each employee or prospective employee who was the  
12 subject of the violation for special damages not to exceed ten thousand  
13 dollars plus attorneys' fees, and shall be subject to such injunctive  
14 relief, or lost wages, as may be appropriate.

15 (ii) An action to recover the liability described in clause (B) of  
16 subparagraph (i) of this paragraph may be maintained against any employ-  
17 er in any court of competent jurisdiction by any one or more employees  
18 or prospective employees for and in behalf of himself, herself or them-  
19 selves and other employees similarly situated.

20 (c) The department of labor, in conjunction with the New York state  
21 division of human rights, shall establish a public awareness campaign,  
22 to be publicly posted on their respective websites, informing employers  
23 in the state that it is illegal to seek salary information from prospec-  
24 tive employees. Every employer shall notify prospective employees, in  
25 writing, of their rights provided under this section.

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