

# STATE OF NEW YORK

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2040--A

2017-2018 Regular Sessions

## IN ASSEMBLY

January 17, 2017

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Introduced by M. of A. CRESPO, MORELLE, SEPULVEDA, ARROYO, GLICK, JAFFEE, GALEF, HOOPER, SIMON, RIVERA, MONTESANO, JOYNER, LIFTON, HEVE-SI, ROSENTHAL, McDONOUGH, GOTTFRIED, M. G. MILLER -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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. Legislative intent. The legislature hereby finds that New  
2 York should lead the nation in preventing wage discrimination.  
3 The wage gap between men and women is one of the oldest and most  
4 persistent effects of inequality between the sexes in the United States.  
5 The 1963 Equal Pay Act and the 1964 Civil Rights Act in the United  
6 States established the legal right to equal pay for equal work and equal  
7 opportunity. Yet half a century later, women are still subjected to wage  
8 gaps and paid less than men.  
9 The concept of comparable worth attacks the problem of gender-based  
10 wage discrimination by mandating that jobs characterized by similar  
11 levels of education, skill, effort, responsibilities, and working condi-  
12 tions be compensated at similar wage levels regardless of the gender of  
13 the worker holding the job.  
14 The goal of pay equity is to raise the wages for undervalued jobs held  
15 predominantly by women. Today, women make only 77 cents per every  
16 dollar earned by a man for a comparable job, a gender wage gap of 23  
17 percent.  
18 This translates into thousands of dollars of lost wages each year for  
19 each female worker, money that helps them feed their families, save for  
20 a college education and afford decent and safe housing.

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

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1 Pay disparities affect women of all ages, races, and education levels,  
2 but are more pronounced for women of color. Minority women make as  
3 little as 54 cents per dollar for a comparable job held by a man.

4 Female-dominated jobs pay twenty to thirty percent less than male-do-  
5 minated jobs classified as comparable in worth and more than one half of  
6 all women work in jobs that are over seventy percent female.

7 Women are more likely to enter poverty in old age for several reasons:  
8 A lifetime of lower wages means women have less income to save for  
9 retirement, and less income that counts in their Social Security or  
10 pension benefit formula.

11 The current life expectancy for women means they will, on an average  
12 of three years, outlive men. Yet they will have to stretch their retire-  
13 ment savings, which are less to begin with, over a longer period of  
14 time.

15 The existence of pay inequity is a manifestation of deep-seated sex  
16 discrimination that prevents both equality of pay for women and equality  
17 of opportunity for both sexes.

18 More women in the United States are obtaining college degrees and  
19 increasing their participation in the labor force and family-friendly  
20 legislation, including the Equal Pay Act, Family and Medical Leave Act,  
21 and Pregnancy Discrimination Act, and policies such as flex time and  
22 telecommuting, have increased options to create a win-win situation for  
23 women and their employers.

24 Despite the progress, women continue to suffer the consequences of  
25 inequitable pay differentials: in 2010, the average college-educated  
26 woman working full-time earned \$47,000 a year compared to \$64,000 for a  
27 college-educated man.

28 During 2012, median weekly earnings for female full-time workers were  
29 \$691, compared with \$854 per week for men, a gender wage gap of 19  
30 percent.

31 Fair pay strengthens the security of families and eases future retire-  
32 ment costs while also strengthening the American economy. In order to  
33 achieve fair pay, policymakers must enact laws that prevent gender based  
34 wage discrimination from when women enter the labor force.

35 In order to do so, it is necessary to prevent employers to base a  
36 woman's pay based on her previous pay history. Because the pay is  
37 already based on gender discrimination, allowing pay history to be  
38 requested by employers is equivalent to maintaining a standard of lower  
39 pay for women performing similar jobs as men. This practice of asking  
40 for pay history must be outlawed.

41 § 2. Section 296 of the executive law is amended by adding a new  
42 subdivision 19-a to read as follows:

43 19-a. (a) It shall be an unlawful discriminatory practice of any  
44 employer, prospective employer, labor organization, employment agency or  
45 licensing agency, or employees or agents thereof, to seek a salary  
46 history from a prospective employee for an interview or as a condition  
47 for employment.

48 (b) An employee or prospective employee may provide a salary history  
49 only for the purposes of negotiating an advanced salary.

50 (c) A prospective employer may only confirm a salary history after  
51 obtaining written authorization by the prospective employee and such  
52 prospective employer must preserve proof of that authorization.

53 § 3. The department of labor, in conjunction with the New York state  
54 division of human rights, shall (a) establish a public awareness  
55 campaign, available on their respective websites, informing employers in  
56 the state that it is illegal to seek salary information from prospective

1 employees; and (b) collect complaints of violations of section two  
2 hundred ninety-six of the executive law through their toll free tele-  
3 phone number and provide data regarding the number of complaints and the  
4 regions of the state where the complaints originate in an annual  
5 required reporting on labor and human rights law violations.

6 § 4. This act shall take effect on the ninetieth day after it shall  
7 have become a law.