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:

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

20. (a) No employer, labor organization, employment agency or licensing agency, or employees or agent shall:

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

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

(iii) orally, or in writing, seek from any current or former employer the previous wages of any prospective employee; provided, however, that an employer may seek to confirm prior wage information only after an offer of employment with compensation has been made to the prospective employee and the prospective employee responds to the offer by providing prior wage information to support a wage higher than offered by the 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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confirm prior wages after obtaining written authorization by the prospective employee to do so.

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

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

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

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

(ii) An action to recover the liability described in clause (B) of subparagraph (i) of this paragraph may be maintained against any employer in any court of competent jurisdiction by any one or more employees or prospective employees for and in behalf of himself, herself or themselves and other employees similarly situated.

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

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