STATE OF NEW YORK

6549

2019-2020 Regular Sessions

IN SENATE

June 15, 2019

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the labor law, in relation to prohibiting wage or salary history inquiries

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

Section 1. The labor law is amended by adding a new section 194-a to read as follows:

§ 194-a. Wage or salary history inquiries prohibited. 1. No employer shall:

a. rely on the wage or salary history of an applicant in determining whether to offer employment to such individual or in determining the wages or salary for such individual.

b. orally or in writing seek, request, or require the wage or salary history from an applicant or current employee as a condition to be interviewed, or as a condition of continuing to be considered for an offer of employment, or as a condition of employment or promotion.

c. orally or in writing seek, request, or require the wage or salary history of an applicant or current employee from a current or former employer, current or former employee, or agent of the applicant or current employee's current or former employer, except as provided in subdivision three of this section.

d. refuse to interview, hire, promote, otherwise employ, or otherwise retaliate against an applicant or current employee based upon prior wage or salary history.

e. refuse to interview, hire, promote, otherwise employ, or otherwise retaliate against an applicant or current employee because such applicant or current employee did not provide wage or salary history in accordance with this section.

f. refuse to interview, hire, promote, otherwise employ, or otherwise retaliate against an applicant or current or former employee because the

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

LBD13411-01-9

applicant or current or former employee filed a complaint with the department alleging a violation of this section.

2. Nothing in this section shall prevent an applicant or current employee from voluntarily, and without prompting, disclosing or verifying wage or salary history, including but not limited to for the purposes of negotiating wages or salary.

3. An employer may confirm wage or salary history only if at the time an offer of employment with compensation is made, the applicant or current employee responds to the offer by providing prior wage or salary information to support a wage or salary higher than offered by the employer.

4. For the purposes of this section, "employer" shall include but not be limited to any person, corporation, limited liability company, association, labor organization, or entity employing any individual in any occupation, industry, trade, business or service, or any agent thereof. For the purposes of this section, the term "employer" shall also include the state, any political subdivision thereof, any public authority or any other governmental entity or instrumentality thereof, and any person, corporation, limited liability company, association or entity acting as an employment agent, recruiter, or otherwise connecting applicants with employers.

5. An applicant or current or former employee aggrieved by a violation of this section may bring a civil action for compensation for any damages sustained as a result of such violation on behalf of such applicant, employee, or other persons similarly situated in any court of competent jurisdiction. The court may award injunctive relief as well as reasonable attorneys' fees to a plaintiff who prevails in a civil action brought under this paragraph.

6. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any applicant or current or former employee under any other law or regulation or under any collective bargaining agreement or employment contract.

7. This section shall not supersede any federal, state or local law enacted prior to the effective date of this section that requires the disclosure or verification of salary history information to determine an employee's compensation.

8. The department shall conduct a public awareness outreach campaign, which shall include making information available on its website, and otherwise informing employers of the provisions of this section.

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