

STATE OF NEW YORK

5308--B

2019-2020 Regular Sessions

IN ASSEMBLY

February 8, 2019

Introduced by M. of A. CRESPO, DE LA ROSA, RIVERA, GALEF, D'URSO, PICHARDO, WALLACE, REYES, COLTON, LAVINE, ORTIZ, QUART, BLAKE, LIPE-TRI, DeSTEFANO, STECK, BURKE, RYAN, FALL, FRONTUS, RAYNOR, CRUZ -- Multi-Sponsored by -- M. of A. ABINANTI, ARROYO, BRONSON, DAVILA, DenDEKKER, DINOWITZ, ENGLEBRIGHT, EPSTEIN, GARBARINO, GLICK, GOTTFRIED, HEVESI, HUNTER, JAFFEE, JEAN-PIERRE, JOYNER, KOLB, LENTOL, LIFTON, McDONOUGH, M. G. MILLER, MONTESANO, MOSLEY, NIOU, OTIS, PEOPLES-STOKES, RAIA, L. ROSENTHAL, SEAWRIGHT, SIMON, STIRPE, TAYLOR, THIELE, TITUS, WALKER, WEPRIN, WILLIAMS, WOERNER -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted 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:

1 Section 1. The labor law is amended by adding a new section 194-a to
2 read as follows:
3 § 194-a. Wage or salary history inquiries prohibited. 1. No employer
4 shall:
5 a. rely on the wage or salary history of an applicant in determining
6 whether to offer employment to such individual or in determining the
7 wages or salary for such individual.
8 b. orally or in writing seek, request, or require the wage or salary
9 history from an applicant or current employee as a condition to be
10 interviewed, or as a condition of continuing to be considered for an
11 offer of employment, or as a condition of employment or promotion.

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

LBD03224-07-9

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

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

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

13 f. refuse to interview, hire, promote, otherwise employ, or otherwise
14 retaliate against an applicant or current or former employee because the
15 applicant or current or former employee filed a complaint with the
16 department alleging a violation of this section.

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

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

26 4. For the purposes of this section, "employer" shall include but not
27 be limited to any person, corporation, limited liability company, asso-
28 ciation, labor organization, or entity employing any individual in any
29 occupation, industry, trade, business or service, or any agent thereof.
30 For the purposes of this section, the term "employer" shall also include
31 the state, any political subdivision thereof, any public authority or
32 any other governmental entity or instrumentality thereof, and any
33 person, corporation, limited liability company, association or entity
34 acting as an employment agent, recruiter, or otherwise connecting appli-
35 cants with employers.

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

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

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

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

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