

STATE OF NEW YORK

3692

2019-2020 Regular Sessions

IN SENATE

February 12, 2019

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

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 a prospective employee in
6 determining the wages or salary for such individual.

7 b. orally or in writing seek, request, or require the wage or salary
8 history from a prospective employee or current or former employee as a
9 condition to be interviewed, or as a condition of continuing to be
10 considered for an offer of employment, or as a condition of employment
11 or promotion.

12 c. orally or in writing seek, request, or require the wage or salary
13 history of a prospective employee or current or former employee from a
14 current or former employer except as provided in subdivision three of
15 this section.

16 d. refuse to interview, hire, promote, otherwise employ, or otherwise
17 retaliate against a prospective employee or current or former employee
18 based upon prior wage or salary history.

19 e. refuse to interview, hire, promote, otherwise employ, or otherwise
20 retaliate against a prospective employee because the prospective employ-
21 ee or current or former employee did not provide wage or salary history
22 in accordance with this section.

23 f. refuse to interview, hire, promote, otherwise employ, or otherwise
24 retaliate against a prospective employee or current or former employee

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

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1 because the prospective employee or current or former employee filed a
2 complaint with the department alleging a violation of this section.

3 2. Nothing in this section shall prevent a prospective employee or
4 current or former employee from voluntarily disclosing wage or salary
5 history, including but not limited to for the purposes of negotiating
6 wages or salary.

7 3. A prospective employer may confirm wage or salary history only if
8 at the time an offer of employment with compensation is made, the
9 prospective employee or current or former employee responds to the offer
10 by providing prior wage information to support a wage higher than
11 offered by the employer.

12 4. For the purposes of this section, "employer" shall include but not
13 be limited to any person, corporation, limited liability company, asso-
14 ciation, labor organization, or entity employing any individual in any
15 occupation, industry, trade, business or service. For the purposes of
16 this section, the term "employer" shall include the state, any political
17 subdivision thereof, any public authority or any other governmental
18 entity or instrumentality thereof, and any person, corporation, limited
19 liability company, association or entity acting as an employment agent,
20 recruiter, or otherwise connecting prospective employees and with
21 employers.

22 5. (a) If the commissioner finds, after notice and an opportunity to
23 be heard, that an employer has violated the provisions of this section,
24 the commissioner may by an order which shall describe particularly the
25 nature of the violation, assess a civil penalty of not more than one
26 thousand dollars for the first such violation, not more than two thou-
27 sand dollars for a second violation and not more than three thousand
28 dollars for a third or subsequent violation. Such penalty shall be paid
29 to the commissioner for deposit in the treasury of the state. In assess-
30 ing the amount of the penalty, the commissioner shall give due consider-
31 ation to the size of the employer's business, the good faith of the
32 employer, the gravity of the violation, and the history of previous
33 violations.

34 (b) A prospective employee or current or former employee aggrieved by
35 a violation of this section may bring a civil action for compensation
36 for any damages sustained as a result of such violation on behalf of
37 such employee, other persons similarly situated, or both, in any court
38 of competent jurisdiction. The court may award injunctive relief as well
39 as reasonable attorneys' fees to a plaintiff who prevails in a civil
40 action brought under this paragraph.

41 6. Prospective employees, or current or former employees, may seek
42 enforcement of the provisions of this section, including pursuant to
43 section one hundred ninety-eight of this article.

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

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