STATE OF NEW YORK

6529--B

Cal. No. 430

2021-2022 Regular Sessions

IN ASSEMBLY

March 19, 2021

Introduced by M. of A. JOYNER, JACKSON, STECK, JACOBSON, SIMON, DINOWITZ, SEAWRIGHT, LUNSFORD, CLARK, BRONSON, CRUZ, REYES, GONZALEZ-ROJAS, BURGOS, EPSTEIN, MEEKS, MAMDANI, GALLAGHER, GOTTFRIED, DAVILA, SAYEGH, JEAN-PIERRE, WALLACE, GALEF, L. ROSENTHAL, NIOU -- read once and referred to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the labor law, in relation to requiring employers to disclose compensation or range of compensation to applicants and employees

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-b to read as follows:

§ 194-b. Mandatory disclosure of compensation or range of compensation. 1. a. No employer, employment agency, employee, or agent thereof shall advertise a job, promotion, or transfer opportunity that can or will be performed, at least in part, in the state of New York, without disclosing the following:

(i) the compensation or a range of compensation for such job, promotion, or transfer opportunity;

(ii) the job description for such job, promotion, or transfer opportunity, if such description exists; and

(iii) a general description of other forms of compensation to be offered if applicable, including but not limited to fringe benefits, bonuses, stock options, or commissions.

b. Advertisements for jobs, promotions, or transfer opportunities paid solely on commission shall maintain compliance with subparagraph (i) of

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

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paragraph a of this subdivision by disclosing in writing in a general statement that compensation shall be based on commission.

2. No employer shall refuse to interview, hire, promote, employ or otherwise retaliate against an applicant or current employee for exercising any rights under this section.

3. The commissioner may promulgate rules and regulations to effectuate the provisions of this section.

4. 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.

5. a. Any person claiming to be aggrieved by a violation of this section may file with the commissioner a complaint regarding such alleged violation for an investigation of such complaint and statement setting the appropriate remedy, if any, pursuant to the provisions of section one hundred ninety-six-a of this article.

b. An employer who fails to comply with any requirement of this section or any regulation published thereunder shall be deemed in violation of this section and shall be subject to a civil penalty in accordance with section two hundred eighteen of this chapter.

6. An employer shall keep and maintain necessary records to comply with the requirements of this section including, but not limited to, the history of compensation ranges for each job, promotion, or transfer opportunity and the job descriptions for such positions, if such descriptions exist.

7. For the purposes of this section the following terms shall have the following meanings:

a. "range of compensation" shall mean the minimum and maximum annual salary or hourly range of compensation for a job, promotion, or transfer opportunity that the employer in good faith believes to be accurate at the time of the posting of an advertisement for such opportunity.

b. "employer" shall mean:

(i) any person, corporation, limited liability company, association, labor organization or entity employing four or more employees in any occupation, industry, trade, business or service, or any agent thereof; and

(ii) any person, corporation, limited liability company, association or entity acting as an employment agent or recruiter, or otherwise connecting applicants with employers, provided that "employer" shall not include a temporary help firm as such term is defined by subdivision five of section nine hundred sixteen of this chapter.

8. The provisions of this section shall not be construed or interpreted to supersede or preempt any provisions of local law, rules, or regulations.

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