STATE OF NEW YORK

7434

2021-2022 Regular Sessions

IN SENATE

October 13, 2021

Introduced by Sen. SEPULVEDA -- 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 employers from asking job applicants about salary expectations and allowing job applicants to request the wage scale and included benefits for the position they are applying for

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 three new sections 194-b, 194-c and 194-d to read as follows:

§ 194-b. Salary expectation inquiries prohibited. 1. No employer shall:

a. rely on the salary expectations 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 an applicant or current employee to disclose salary expectations 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. refuse to interview, hire, promote, otherwise employ, or otherwise retaliate against an applicant or current employee based upon stated salary expectations.

d. 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 salary expectations in accordance with this section.

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

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

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

3. An employer may confirm salary expectations only if at the time an offer of employment with compensation is made, the applicant or current employee responds to the offer by providing salary expectations 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 section.

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.

§ 194-c. Job postings to include salary range or wage scale. 1. An employer shall include in any job posting it makes available to an applicant information regarding the applicable wage scale or salary range for such position.

2. Any current employee who is offered an internal transfer or promotion with their current employer shall have the right to request and be provided with the wage scale or salary range for such employee's prospective new position.

§ 194-d. Applicant request for benefit information. An applicant shall be permitted to request and shall be provided with information regarding employment benefits to be included with a job that an applicant is applying for with a prospective or current employer.

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