

STATE OF NEW YORK

5598--D

Cal. No. 1287

2021-2022 Regular Sessions

IN SENATE

March 11, 2021

Introduced by Sens. RAMOS, BIAGGI, BROUK, COONEY, JACKSON, KRUEGER, MAYER, MYRIE, RIVERA, SALAZAR, SANDERS, SAVINO, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in 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:

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

3 § 194-b. Mandatory disclosure of compensation or range of compen-
4 sation. 1. a. No employer, employment agency, employee, or agent there-
5 of shall advertise a job, promotion, or transfer opportunity that can or
6 will be performed, at least in part, in the state of New York, without
7 disclosing the following:

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

10 (ii) the job description for such job, promotion, or transfer opportu-
11 nity, if such description exists; and

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

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

LBD10037-06-2

1 b. Advertisements for jobs, promotions, or transfer opportunities paid
2 solely on commission shall maintain compliance with subparagraph (i) of
3 paragraph a of this subdivision by disclosing in writing in a general
4 statement that compensation shall be based on commission.

5 2. No employer shall refuse to interview, hire, promote, employ or
6 otherwise retaliate against an applicant or current employee for exer-
7 cising any rights under this section.

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

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

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

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

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

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

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

33 b. "employer" shall mean:

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

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

43 8. The provisions of this section shall not be construed or interpret-
44 ed to supersede or preempt any provisions of local law, rules, or regu-
45 lations.

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