STATE OF NEW YORK

1326

2023-2024 Regular Sessions

IN SENATE

January 11, 2023

Introduced by Sen. RAMOS -- 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 disclosure and advertisement of a job, promotion, or transfer opportunity

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 194-b of the labor law, as added by a chapter of the laws of 2022 amending the labor law relating to requiring employers to disclose compensation or range of compensation to applicants and employees, as proposed in legislative bills numbers S. 9427-A and A. 10477, is amended 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 **physically** be performed, at least in part, in the state of New York, **including a job, promotion, or transfer opportunity that will physically be performed outside of New York but reports to a supervisor, office, or other work site in New York** without disclosing the following:

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

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

b. [~~Advertisements~~] **An employer, employment agency, employee, or agent thereof advertising** for [~~jobs~~] **a job**, [~~promotions~~] **promotion**, or transfer [~~opportunities~~] **opportunity** paid solely on commission shall maintain compliance with subparagraph (i) of 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.

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

LBD04316-01-3

3. The commissioner shall 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.

c. "advertise" shall mean to make available to a pool of potential applicants for internal or public viewing, including electronically, a written description of an employment opportunity.

[~~**8**~~] **7**. 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 same date and in the same manner as a chapter of the laws of 2022 amending the labor law relating to requiring employers to disclose compensation or range of compensation to applicants and employees, as proposed in legislative bills numbers S. 9427-A and A. 10477, takes effect.