

Salary History Ban

# SALARY HISTORY BANS

BY STATE AND LOCALITY

The issue of pay was traditionally an inevitable topic of discussion in job interviews. However, in a growing number of places throughout the country, an employer may not ask an applicant about his or her salary history. The locations listed in this chart have enacted laws impacting private employers. More bans are expected at both the state and local level.

While the provisions of each law vary, they generally make it unlawful for employers to ask applicants about their current or past compensation. These laws are designed to bolster equal pay under the premise that compensation should be based on the value of the job to the organization, not the pay an applicant might be willing to accept. These laws are also designed to reverse the pattern of wage inequality that resulted from past gender bias or discrimination.

For employers, this means:

- Establishing compensation ranges for open positions and asking applicants if the salary range for the position would meet their expectations;
- Updating employment applications to remove salary history information inquiries; and
- Training hiring managers and interviewers to avoid asking questions about salary history.

This chart covers private employers. Some of the laws may be applicable to public employers or public contractors; however, that aspect of the law is not discussed. Additionally, the laws represented here are only the basic salary history ban provisions. For simplification purposes, the laws' definitions, exceptions, and exemptions are not included in this chart.

JURISDICTION	EFFECTIVE DATE	COVERED EMPLOYERS	REQUIREMENTS
Alabama	September 1, 2019	All employers	<p>According to the Clarke-Figures Equal Pay Act, employers are prohibited from paying any employee a wage less than that paid to an employee of another sex or race for equal work within the same establishment on jobs that require equal skill, effort, education, experience, and responsibility, and performance under similar working conditions, except when pursuant to a seniority system, merit system, a system that measures earnings by quantity or quality of production, or a differential based on any factor other than sex or race.</p> <p>Employers may not refuse to interview, hire, promote, or employ an applicant, or retaliate against an applicant, because the applicant does not provide wage history. <b>Wage history</b> is the wage paid to an applicant by his or her current or former employer.</p>
California	January 1, 2018	All employers	<p>According to Cal. Labor Code § 432.3, all employers are prohibited from:</p> <ul style="list-style-type: none"> <li>• Relying on an applicant's salary history information as a determining factor in hiring or salary.</li> <li>• Seeking an applicant's salary history information, verbally or in writing, personally or through an agent, including compensation and benefits.</li> </ul>

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<b>San Francisco, California</b>	July 1, 2018	All employers required to be registered to do business in the City of San Francisco	<p>According to the San Francisco Pay Parity Ordinance, employers are prohibited from:</p> <ul style="list-style-type: none"> <li>• Considering or relying on an applicant's current or past salary as a factor in determining whether to extend a job offer or the salary to offer;</li> <li>• Inquiring about an applicant's salary history;</li> <li>• Refusing to hire, or otherwise disfavoring, injuring, or retaliating against an applicant for not disclosing his or her salary history to the employer; and</li> <li>• Releasing a current or former employee's salary history to that person's prospective employer without written authorization from the current or former employee (unless the release is required by law, is part of a publicly available record, or is subject to a collective-bargaining agreement).</li> </ul>
<b>Colorado</b>	January 1, 2021	All employers employing a person in Colorado	<p>According to Colo. Rev. Stat. §§ 8-5-101 – 8-5-203, employers may not discriminate by paying an employee of one sex a lesser wage rate than that paid to an employee of a different sex (wage differential). However, an employer may impose a wage differential if it can demonstrate that:</p> <ul style="list-style-type: none"> <li>• The wage differential is based on a seniority system; merit system; system that measures earnings by quantity or quality of production, a geographic location where the work is performed, education, training, or experience to the extent that they are reasonably related to the work in question, or travel, if it is a regular and necessary condition of the work performed.</li> <li>• Each factor relied on is applied reasonably.</li> <li>• Each factor relied on accounts for the entire wage rate differential.</li> <li>• Prior wage rate history was not relied on to justify a disparity in current wage rates.</li> </ul> <p>Under the Equal Pay for Equal Work Act, employers are also prohibited from:</p> <ul style="list-style-type: none"> <li>• Seeking the wage rate history of a prospective employee or relying on the wage rate history of a prospective employee to determine a wage rate.</li> <li>• Discriminating or retaliating against a prospective employee for his or her failure to disclose wage rate history.</li> <li>• Discharging, or in any manner discriminating or retaliating against, an employee for invoking the act's protections on behalf of anyone or assisting in the act's enforcement.</li> </ul>

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<b>Colorado (cont'd)</b>			<ul style="list-style-type: none"> <li>Discharging, disciplining, discriminating against, coercing, intimidating, threatening, or interfering with an employee or other person because the employee or person inquired about, disclosed, compared, or otherwise discussed his or her wage rate.</li> <li>Prohibiting an employee from disclosing his or her wage rate as a condition of employment.</li> <li>Requiring an employee to sign a waiver or other document that prohibits the employee from disclosing wage rate information, or purports to deny the employee the right to disclose his or her wage rate information.</li> </ul>
<b>Connecticut</b>	January 1, 2019	All employers with one or more employees for pay	According to Conn. Gen. Stat. § 31-40z, employers are prohibited from inquiring about, or directing a third party to inquire about, a prospective employee's wage and salary history.
<b>Delaware</b>	December 14, 2017	All employers	<p>According to Del. Code Ann. tit. 19, § 709B, it is an unlawful employment practice for an employer or an employer's agent to:</p> <ul style="list-style-type: none"> <li>Screen applicants based on their compensation histories, including requiring an applicant's prior compensation satisfy minimum or maximum criteria.</li> <li>Seek an applicant's compensation history from the applicant or a current or former employer.</li> </ul>
<b>Hawaii</b>	January 1, 2019	All employers	<p>According to Haw. Rev. Stat. § 378-2.4, prospective employers are prohibited from:</p> <ul style="list-style-type: none"> <li>Inquiring about an applicant's salary history; or</li> <li>Relying on an applicant's salary history in determining salary, benefits, or other compensation during the hiring process, including during employment contract negotiations.</li> </ul>
<b>Illinois</b>	September 29, 2019	All employers with one or more workers in Illinois	<p>According to 820 Ill. Comp. Stat. §§ 112/10, it is unlawful for an employer to:</p> <ul style="list-style-type: none"> <li>Screen job applicants based on their current or prior wages or salary histories, including benefits or other compensation, by requiring that the wage or salary history of an applicant satisfy minimum or maximum criteria.</li> <li>Request or require a wage or salary history as a condition of: <ul style="list-style-type: none"> <li>Being considered for employment;</li> <li>Being interviewed;</li> </ul> </li> </ul>

JURISDICTION	EFFECTIVE DATE	COVERED EMPLOYERS	REQUIREMENTS
<b>Illinois (cont'd)</b>			<ul style="list-style-type: none"> <li>o Continuing to be considered for a job offer; or</li> <li>o An employment offer or compensation offer.</li> <li>• Request or require that an applicant disclose wage or salary history as a condition of employment.</li> <li>• Seek an applicant's wage or salary history, including benefits or other compensation, from any current or former employer.</li> </ul>
<b>Maine</b>	September 19, 2019	All employers	<p>According to 5 Me. Rev. Stat. Ann. § 4577 and 26 Me. Rev. Stat. Ann. § 628-A, employers are prohibited from:</p> <ul style="list-style-type: none"> <li>• Inquiring, either directly or indirectly, about an applicant's compensation history from the applicant, the applicant's current or former employer, or otherwise seeking the applicant's compensation history; or</li> <li>• Using, or inquiring about, an applicant's compensation history unless the employer first negotiates and extends an employment offer, with all compensation terms included, to the applicant.</li> </ul>
<b>Massachusetts</b>	July 1, 2018	All employers	<p>According to Mass. Gen. Laws ch. 149 § 105A, employers are prohibited from:</p> <ul style="list-style-type: none"> <li>• Seeking the wage or salary history of a prospective employee from a current or former employer; or</li> <li>• Requiring a prospective employee's prior wage or salary history meet certain criteria.</li> </ul>
<b>Kansas City, Missouri</b>	October 31, 2019	All employers with six or more employees	<p>According to KCMO § 38-101, it is unlawful to:</p> <ul style="list-style-type: none"> <li>• Inquire about an applicant's salary history;</li> <li>• Screen applicants based on their current or prior wages, benefits, or other compensation, or salary histories, including requiring that an applicant's prior wages, benefits, other compensation, or salary history satisfy minimum or maximum criteria;</li> <li>• Rely on an applicant's salary history in deciding whether to extend a job offer, or in determining the salary, benefits, or other compensation for such applicant during the hiring process, including employment contract negotiation; or</li> </ul>

JURISDICTION	EFFECTIVE DATE	COVERED EMPLOYERS	REQUIREMENTS
<b>Kansas City, Missouri (cont'd)</b>			<ul style="list-style-type: none"> <li>• Refuse to hire or otherwise disfavor, injure, or retaliate against an applicant for not disclosing his or her salary history to an employer.</li> </ul>
<b>New Jersey</b>	January 1, 2020	All employers	<p>According to New Jersey law, enacted by 2019 NJ A.B. 1094, it is unlawful for an employer to:</p> <ul style="list-style-type: none"> <li>• Screen a job applicant based on the applicant's salary history, including, but not limited to, the applicant's prior wages, salaries, or benefits.</li> <li>• Require that the applicant's salary history satisfy any minimum or maximum criteria.</li> <li>• Consider an applicant's refusal to volunteer compensation information in any employment decision.</li> <li>• Ask an applicant about their experience with prior incentive and commission plans, unless the position includes an incentive or commission component as part of the total compensation.</li> <li>• Ask an applicant the amount of their earnings under a prior incentive and commission plan.</li> </ul>
<b>New York</b>	January 6, 2020	All employers	<p>According to N.Y. Lab. Law § 194-a, employers may not:</p> <ul style="list-style-type: none"> <li>• Rely on an applicant's wage or salary history to determine whether to extend a job offer or the amount of wages or salary.</li> <li>• Verbally or in writing seek, request, or require an applicant's or current employee's wage or salary history as a condition to be interviewed, continue to be considered for a job offer, or for employment or promotion.</li> <li>• Verbally or in writing seek, request, or require the wage or salary history of an applicant or current employee from a current or former employer, current or former employee, or agent of either.</li> <li>• Refuse to interview, hire, promote, otherwise employ, or otherwise retaliate against an applicant or current employee based upon prior wage or salary history, because the individual did not provide wage or salary history, or because the individual filed a complaint with the New York State Department of Labor.</li> </ul>

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<b>Albany County, New York</b>	December 17, 2017	All employers with at least four employees	<p>According to the Albany Omnibus Human Rights Law, employers are prohibited from:</p> <ul style="list-style-type: none"> <li>• Screening applicants based on their wages.</li> <li>• Requiring that an applicant's prior wages satisfy minimum or maximum criteria.</li> <li>• Requesting or requiring that applicants disclose salary history information as a condition of being interviewed or considered for employment.</li> <li>• Seeking information about the current or prior salary of an applicant from his or her current or former employers.</li> </ul>
<b>New York City, New York</b>	October 31, 2017	All employers	<p>According to NYC Admin. Code § 8-107(25), employers are prohibited from:</p> <ul style="list-style-type: none"> <li>• Inquiring about an applicant's salary history; or</li> <li>• Relying on an applicant's salary history in determining salary, benefits, or other compensation during the hiring process, including contract negotiations.</li> </ul>
<b>Suffolk County, New York</b>	June 30, 2019	Employers with four or more employees	<p>According to Suffolk County Human Rights Law § 528-7, employers are prohibited from inquiring about a job applicant's wage or salary history, including his or her compensation or benefits, during the hiring process. To <b>inquire</b> is to ask an applicant or former employer verbally, in writing, or otherwise, or to conduct a search of publicly available records or reports.</p>
<b>Westchester County, New York</b>	July 9, 2018	Employers with at least four persons in their employ	<p>According to Westchester City Admin. Code §§ 700.02(7) and 700.03(9), employers are prohibited from:</p> <ul style="list-style-type: none"> <li>• Relying on a prospective employee's wage history from the individual's current or former employer in determining wages for such individual;</li> <li>• Verbally, or in writing, requesting or requiring as a condition of being interviewed, as a condition of continuing to be considered for an employment offer, or as a condition of employment, that a prospective employee disclose information about his or her own wages from any current or former employer; and</li> <li>• Verbally or in writing seeking from any current or former employer the previous wages of any prospective employee.</li> </ul> <p><b>Note:</b> According to Westchester City Admin. Code § 700.02(21), the unlawful practice must have occurred in Westchester County.</p>

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<b>Cincinnati, Ohio</b>	March 2020	Any employer located within the City of Cincinnati and using the services of 15 or more employees for pay within the city	<p>According to the City of Cincinnati Code of Ordinances §§ 804-01 – 804-09, employers may not:</p> <ul style="list-style-type: none"> <li>• Inquire about an applicant's salary history or request reports or other information to determine or verify salary history;</li> <li>• Screen job applicants based on current or prior compensation or salary history;</li> <li>• Rely on salary history when deciding to offer employment, when determining salary or other compensation, or when negotiating an employment contract; or</li> <li>• Refuse to hire, otherwise disfavor, or retaliate against an applicant for not disclosing his or her salary history.</li> </ul>
<b>Toledo, Ohio</b>	June 25, 2020	Any employer located within the City of Toledo and using the services of 15 or more employees for pay within the city	<p>According to the Pay Equity Act at Toledo Municipal Code Chapter 768, employers may not:</p> <ul style="list-style-type: none"> <li>• Inquire about an applicant's salary history.</li> <li>• Screen applicants based on their current or prior wages, benefits, other compensation, or salary histories, including requiring that an applicant's prior wages, benefits, other compensation, or salary history satisfy minimum or maximum criteria.</li> <li>• Rely on an applicant's salary history in deciding whether to extend a job offer, or in determining an applicant's salary, benefits, or other compensation during the hiring process, including employment contract negotiations.</li> <li>• Refuse to hire or otherwise disfavor, injure, or retaliate against an applicant for not disclosing his or her salary history.</li> </ul>
<b>Oregon</b>	<p>The salary history ban:</p> <ul style="list-style-type: none"> <li>• October 6, 2017: became effective.</li> <li>• January 1, 2019: became subject to enforcement.</li> <li>• January 1, 2024: will become subject to civil actions.</li> </ul>	All employers with one or more employees	<p>According to the Oregon Equal Pay Act, employers are prohibited from:</p> <ul style="list-style-type: none"> <li>• Seeking the salary history of an applicant or employee from either a current or former employer;</li> <li>• Screening applicants based on their current or past compensation; or</li> <li>• Determining compensation for a position based on a prospective employee's current or past compensation.</li> </ul> <p>According to Or. Admin. R. 839-008-0005(2), employers are prohibited from using information about an applicant's current or past compensation to determine suitability or eligibility for employment, regardless of how the information was obtained.</p>



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<b>Philadelphia, Pennsylvania</b>	Pending appeal	Any employer who does business in the City of Philadelphia with one or more employees, exclusive of parents, spouse, or children. Includes interviewer of a prospective employee who is interviewing with intention of employment consideration within the city.	According to the Philadelphia Wage Equity Ordinance § 9-1311, employers must not include a question on a paper or electronic employment application asking a prospective employee to provide salary history at any previous position.
<b>Columbia, South Carolina</b>	August 6, 2019	All employers with five or more employees	<p>According to the City of Columbia, Code of Ordinances, Article VII §§ 2-351 – 2-356, it is unlawful for an employer to:</p> <ul style="list-style-type: none"> <li>• Inquire about an applicant's wage history or require disclosure of wage history;</li> <li>• Condition employment, or consideration for an interview, on an applicant's wage history disclosure;</li> <li>• Retaliate against an applicant for failing to comply with any wage history inquiry; or</li> <li>• Retaliate against an employee for opposing an unlawful act related to wage history inquiries.</li> </ul>
<b>Vermont</b>	July 1, 2018	All employers	<p>According to Vt. Stat. Ann. tit. 21, § 495m, employers are prohibited from:</p> <ul style="list-style-type: none"> <li>• Inquiring about or seeking information regarding a prospective employee's current or past compensation from either the prospective employee or their current or former employer;</li> <li>• Requiring that a prospective employee's current or past compensation satisfy minimum or maximum criteria; or</li> <li>• Determining whether to interview a prospective employee based on the prospective employee's current or past compensation.</li> </ul>

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<b>Washington</b>	July 28, 2019	All employers with one or more employees	According to the Washington Equal Pay and Opportunities Act, employers are prohibited from: <ul style="list-style-type: none"><li>• Seeking the wage or salary history of an applicant from the applicant or a current or former employee; or</li><li>• Requiring that an applicant's prior wage or salary history meet certain criteria.</li></ul>