



SALARY HISTORY BANS BY STATE AND LOCALITY

December 2018



Introduction

The issue of pay has traditionally been an inevitable topic of discussion in any job interview. However, in a growing number of places throughout the country, an employer can no longer ask an applicant about his or her salary history. The locations listed on the chart below 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 make it illegal for employers to ask applicants about their current compensation or how they were paid at past jobs. The rationale for these laws stems from the equal pay issue and the premise that pay for the job 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 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 compensation expectations;
- Updating employment applications to remove the salary history information; and
- Training hiring managers and interviewers to avoid asking questions about salary history.

The laws shown here apply to private employers only; the chart does not include laws applicable to public contractors or public employers.

JURISDICTION	EFFECTIVE DATE	APPLIES TO	REQUIREMENTS
California	January 1, 2018	All California employers	<p>According to Cal. Labor Code § 432.3, all employers are prohibited from:</p> <ul style="list-style-type: none"> • Relying on an applicant's salary history information as a determining factor in hiring or salary. • Seeking an applicant's salary history information, verbally or in writing, personally or through an agent, including compensation and benefits. <p>Pay Scale</p> <p>Upon an applicant's reasonable request an employer must provide him or her with the appropriate pay scale for the position.</p> <p>Voluntary Disclosure</p> <p>The law does not prohibit an applicant from voluntarily, and without prompting, disclosing salary history information to a prospective employer. If an applicant does so, then an employer may consider or rely on that voluntarily disclosed salary history information in determining that applicant's salary.</p>
San Francisco, California	July 1, 2018	All San Francisco employers, including city contractors and subcontractors	<p>The Consideration of Salary History Ordinance bans employers, including city contractors and subcontractors, from considering an applicant's current or past salary in determining whether to hire an applicant or what salary to offer the applicant. The ordinance also prohibits employers from asking applicants about their current or past salary or disclosing a current or former employee's salary history without that employee's authorization, unless the salary history is publicly available.</p>
Connecticut	January 1, 2019	All Connecticut employers	<p>According to Conn. Gen. Stat. § 31-40z, employers are prohibited from:</p> <ul style="list-style-type: none"> • Inquiring about a prospective employee's wage and salary history; or • Directing a third party to make the inquiry. tEmployers may inquire about other elements of a prospective employee's compensation structure, if it does not involve the value of the other elements.

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Delaware	December 14, 2017	All Delaware employers with four or more employees	<p>According to Del. Code Ann. tit. 19, § 708B, it is an unlawful employment practice for an employer or an employer's agent to:</p> <ul style="list-style-type: none"> • Screen applicants based on their compensation histories, including requiring an applicant's prior compensation satisfy minimum or maximum criteria. • Seek an applicant's compensation history from the applicant or a current or former employer. However, an employer or an employer's agent (employer) and an applicant may discuss and negotiate compensation expectations if the employer does not request or require the applicant's compensation history. Additionally, after an offer of employment with terms of compensation is extended to an applicant, and he or she accepts it, then an employer may seek the individual's compensation history for confirmation purposes only. <p>Compensation includes monetary wages as well as benefits and other forms of compensation.</p>
Hawaii	January 1, 2019	All Hawaii employers	<p>According to Hawaii law, prospective employers are prohibited from:</p> <ul style="list-style-type: none"> • Inquiring about the salary history of an applicant. • Relying on an applicant's salary history in determining compensation during the hiring process, including during employment contract negotiations. <p>Permitted Discussion</p> <p>Employers may:</p> <ul style="list-style-type: none"> • Inform an applicant about the proposed or anticipated salary or salary range for the position. • Discuss the compensation expectations of an applicant so long as the discussion is not an attempt to inquire about salary history. <p>Voluntary Disclosure</p> <p>If an applicant voluntarily, and without prompting, discloses his or her salary history then the employer may consider it in determining the applicant's compensation and may verify the history.</p>
Massachusetts	July 1, 2018	All Massachusetts employers	<p>According to the Massachusetts Equal Pay Act, it is an unlawful employment practice for an employer to seek the wage or salary history of a prospective employee from his or her current or former employer, and for an employer to require that a prospective employee's prior wage or salary history meet certain criteria, subject to the following:</p> <ul style="list-style-type: none"> • If a prospective employee has voluntarily disclosed such information, a prospective employer may confirm prior wages or salary or permit him or her to confirm prior wages or salary. • A prospective employer may seek or confirm a prospective employee's wage or salary history after an offer of employment with compensation has been negotiated and made.

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Albany County, New York	December 17, 2017	All Albany County employers with four or more employees	<p>It is an unlawful practice for an Albany County employer with four or more employees, and employment agencies, to:</p> <ul style="list-style-type: none"> • Screen applicants based on their current or prior wages or other compensation. • Require that an applicant's prior wages satisfy minimum or maximum criteria. • Request or require that applicants disclose salary history information as a condition of being interviewed or considered for employment. • Seek information about the current or prior salary of an applicant from his or her current or former employers. <p>Employers or employment agencies may confirm the prior wages, benefits, or other compensation history of an applicant, but only after extending an offer of employment with compensation and with the applicant's written authorization.</p>
New York City, New York	October 31, 2017	All New York City employers	<p>According to NYC Admin. Code § 8-107, it is an unlawful discriminatory practice for an employer, employment agency, or employee or agent thereof (employer) to:</p> <ul style="list-style-type: none"> • Inquire about the salary history of an employment applicant. Salary history includes the applicant's current or prior wage, benefits, or other compensation, but does not include any objective measure of the applicant's productivity such as revenue, sales, or other production reports. • Rely on the salary history of an applicant in determining his or her salary, benefits, or other compensation during the hiring process, including the negotiation of a contract. <p>Permitted Discussion</p> <p>An employer may, without inquiring about salary history, engage in a discussion with the applicant about his or her expectations with respect to salary, benefits, and other compensation.</p> <p>Voluntary Disclosure</p> <p>If an applicant voluntarily and without prompting discloses salary history to an employer, the employer may:</p> <ul style="list-style-type: none"> • Consider salary history in determining salary, benefits, and other compensation for the applicant. • Verify salary history.

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Westchester County, New York	On or around July 9, 2018	All private employers in Westchester County	<p>Employers may not request or require applicants' salary history information as a condition of employment or consideration for employment.</p> <p>Generally, employers may not rely on applicants' salary history information as a factor in determining whether to offer employment or what salary to offer. If an applicant discloses his or her wage history voluntarily, employers may consider or rely on this information to support a higher wage. Under such circumstances, employers can confirm applicants' salary history with their current or former employers with the applicant's voluntarily written consent.</p>
Oregon	October 6, 2017; enforcement begins January 1, 2019	All Oregon employers with one or more employees	Employers are prohibited from seeking the pay history of an applicant or employee from the applicant or employee or a current or former employer of the applicant or employee before the employer makes an offer of employment to the prospective employee that includes an amount of compensation.
Vermont	July 1, 2018	All Vermont employers	<p>According to Vt. Stat. Ann. tit. 21, § 495m, employers are prohibited from:</p> <ul style="list-style-type: none"> • Screening applicants based on their current or prior wages or other compensation; • Asking prospective employees about or seeking information regarding compensation history; • Requiring a prospective employee's current or past compensation satisfy minimum or maximum amounts for employment; or • Determining whether to interview a prospective employee based on current or past compensation.
Washington State	June 8, 2018	All Washington employers with one or more employees	Employers are prohibited from using an applicant's prior wage or salary history as a defense against pay discrimination claims.