



Re: COMPLIANCE ALERT - Salary Restrictions & Documents

Dear Valued Client:

I write to you today to bring to your attention two very important and rapidly advancing recruiting and human resource issues:

1. Requesting salary history from applicants, and
2. Provisioning of documents to satisfy employment verification.

In direct response to new and upcoming legislation restricting the use of salary history information in the recruitment and pre-offer/employment process, Driver iQ is making two very distinct changes to its procedures. Requesting salary history of an applicant (and in some cases an employee) is currently in a state of legislative maturity. Some states, counties, and cities have passed nuanced legislation that prohibits the asking of salary history prior to, and in some cases, during the applicant being given a written employment offer and or becoming an employee. Some jurisdictions such as New York City and California have restrictions as to the use of salary history after employment.

For a second, let me just quickly explain the foundation underneath this very important shift in the recruitment/hiring process.

Salary History – proponents of the salary history prohibition connect the historical salary earnings and gender or protected class of an individual (often times referred to as the “glass ceiling”) as a predetermination of what that individual’s future earnings/compensation will be. The underlying theory is that if the hiring manager is aware of the prior salary history they are forced to make employment offers based upon prior history and not on merits, qualifications, or job requirements. Therefore the linkage between those individuals who have suffered historical low earnings because of gender or class discrimination will have the opportunity for a correction in the new position because the new employer will not have the historical insight and will not have the prior gender or class limited influence on setting the future salary and compensation level.

Each state, county, city has their own “flavor” or nuance to their legislation or regulation which is making it increasingly more difficult, especially for employers that have a broad multi-jurisdiction employment base to comply with each nuance and requirement of each of the new



laws or regulations. In those instances where documents such as a paystub or IRS W-2 was used to verify employment, such documentation can no longer be provided to the employer as it divulges the salary history. Although redaction of a W-2 was considered, because of the vast amount of financial information contained on a W-2 and the large amount of redaction required to pass it along, it was decided that the remaining un-redacted information left the document meaningless.

Driver iQ has been closely monitoring this situation as it relates to its onboarding portal and the application of background screening services which are vital to protecting the employer, its employees, its financial position, and the welfare of all individuals interacting with its operations. The pace and velocity with which the changes are occurring and the ability of large multi-state employers to maintain compliance with each restriction across their business units is becoming increasingly difficult.

What can you do?

- (1) Immediately review your application forms and pre-hire questionnaires or paperwork. If you are utilizing Driver iQ's onboarding platform, please contact your Client Service Representative to obtain a full set of all forms hosted.
- (2) It is suggested that regardless of the jurisdiction, remove any entry or question which would require an applicant to divulge their salary or compensation history.
 - NOTE: Some jurisdictions allow for an applicant to identify the level of compensation expected for a position.
- (3) Move your background check program to a POST-offer state.
- (4) Understand your requirements on the FCRA and various state laws and legislation as to what notice requirements are for your recruiting jurisdiction.
- (5) Update interviewing guidelines, job postings, and notices to conform to the jurisdiction in which the recruiting and hiring is located.

CHANGE IN DRIVER IQ PROCESS TO COMPLY: Effective **January 1, 2018**

- Driver iQ is removing any reference or request for salary history to its standard application or data entry collection in its onboarding portal for all jurisdictions.
- Driver iQ will no longer attach any document to a case which would divulge to the end user the salary history of the applicant/employee. Driver iQ will continue to collect documentation for verification but will NOT make such documentation available as part of the consumer report or file.
- If the end-user/Client needs to have access to such documents for audit purposes, special arrangements will be made for those reports which are included within the audit scope.



- If the Client needs to receive these documents with the salary information redacted, the Client will need to make a special request and Driver iQ will provide the redacted documents for an additional nominal fee.
- Those clients that have adopted Driver iQ's standard application or data collection form in the Driver iQ Onboarding portal, effective the above date, there will no longer be any reference to salary history.
- If you believe that this salary information is imperative to your operation and you fall within a jurisdictional exception, please advise your Client Service Representative so arrangements for custom programming can be made to facilitate a data collection form/application meeting your specific instructions.
- Those clients that previously adopted the standard data collection/application form and want to maintain that document as it is formatted today needs to advise their Client Service Representative so that they can be excluded from the conversion.
- Those clients that have previously customized and utilize their own form set should immediately have these reviewed by their employment counsel to decide whether changes are necessary to their documents.

Please note, this is not legal advice and you should make sure that your federal and state notices and applications are reviewed by your employment counsel before making a decision. Any and all documents presented to any Driver iQ client are sample documents only and any Client that adopts said document for their use does so after their own legal review and fully assuming all responsibility and liability associated with its use.

IMMEDIATE ACTION: Update the applications, remove any reference to salary history, and move the program to a post-offer stage of the recruitment process. NOTE, **IF** Driver iQ hosts your forms and applications, we cannot unilaterally alter these in our system without your instructions. If you contact us, we will make the necessary changes as expeditiously as possible, but the directive and instruction to do so must be from an authorized representative of your office, as the Client.

Our office and our Client Services Team are here to assist in any way possible, so please do not hesitate to contact us as you implement the changes to your organization's recruitment/hiring process.