

EFFECTIVE JANUARY 6, 2020

## NEW YORK BARS EMPLOYERS FROM SALARY HISTORY INQUIRIES (AKA "SALARY HISTORY BAN")

<https://legislation.nysenate.gov/pdf/bills/2019/S6549>

### KEY PROVISIONS OF THE LAW

Senate Bill 6549 amends the New York State Labor Law to institute a state-wide salary history ban, prohibiting employers from:

- relying on the wage or salary history of a job applicant in determining whether to offer employment or in determining the wages or salary of such applicant;
- orally or in writing seeking, requesting, or requiring the wage or salary history from an applicant or current employee as a condition to be interviewed, employed, or promoted or as a condition of continuing to be considered for an offer of employment;
- orally or in writing seeking, requesting, or requiring the wage or salary history of an applicant or current employee from a current or former employer, employee, or agent of the applicant, except when confirming wage or salary history when the applicant or current employee provided wage or salary information; and
- refusing to interview, hire, promote, otherwise employ or otherwise retaliating against an applicant or current employee based on his or her prior wage or salary history.

### EXCEPTIONS

- Applicants or current employees may voluntarily, and without prompting, disclose or verify their wage or salary history, including but not limited to for the purposes of negotiating wages or salary.
- An employer may confirm wage or salary history only if, at the time an offer of employment with compensation is made, the applicant or current employee responds to the offer by providing prior wage or salary information to support a wage or salary higher than offered by the employer.

### DAMAGES

Employers found in violation may be liable for compensatory damages, injunctive relief, and reasonable attorneys' fees in litigation brought by an aggrieved individual. Individuals are permitted to seek enforcement of this law and bring a civil action on behalf of all similarly situated persons.

### RECOMMENDED ACTIONS IN PREPARATION FOR JANUARY 6, 2020

Employers with operations in New York should take steps to ensure compliance, including:

- Reviewing employment applications to eliminate questions about pay history
- Reviewing and updating HR procedures to ensure they do not request salary history
- Training all human resources personnel, as well as any other employees involved in the interviewing and hiring process, to prevent potential violations

*NOTE: This information is offered as general direction and in no way should be construed or accepted as legal advice. Each individual employer may have particular regulatory and other requirements which may alter this general direction. Furthermore, each individual position may have unique duties, responsibilities, and characteristics which may influence this general direction.*