

# New York City Passes Law Prohibiting Employers From Inquiring About Salary History For Prospective Employees

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Employers with operations in New York City should take note: The Big Apple has joined a growing list of jurisdictions in which employers are prohibited from inquiring about a prospective employee's salary history.

On May 4, 2017, New York City Mayor Bill de Blasio signed into law a bill that makes it an "unlawful discriminatory practice" for anyone involved in the hiring process to inquire about an applicant's current or past salary. The law, which is aimed at eliminating the gender wage gap perpetuated through employers' consideration of salary history, will take effect on October 31, 2017.

## **Growing Trend of Laws Prohibiting Inquiry of Salary History**

New York City now joins the city of Philadelphia and the state of Massachusetts as jurisdictions with salary history legislation. While New Jersey employers are not currently held to similar restrictions, they must also remain alert to this issue. In 2016, the New Jersey State Legislature passed a related pay equity bill, but failed to override a veto by Governor Chris Christie. It remains to be seen if similar legislation will be passed under a future administration, pending the results of the New Jersey Gubernatorial Election later this year. We will continue to track this legislation and report on any new developments as they occur.

Looking to the near future, salary history laws will likely continue to be controlled on a state and local level as there is currently no applicable overarching federal legislation with respect to this issue. Although there are now congressional efforts to move forward on this matter, it is unclear what position the Trump administration will take with respect to enacting new legislation on pay equity.

Considering the evolving status of the law and the lack of an overarching standard, employers with operations that run across two or more jurisdictions must be especially careful as there may be different sets of rules to follow based on the location of the business.

### **Practical Steps for New York City Employers**

Employers with operations in New York City should begin to review their hiring practices to make sure they are in compliance with the new rules, and any managers and human resources personnel involved in the hiring process should be informed and trained regarding the new requirements.

Notably, employers are barred from making inquiries into salary history, and are similarly barred from considering salary history even if they become aware of a prospective employee's current or past salary. It should be noted that an exception to the rule applies when such information is provided by the job applicant "voluntarily and without prompting." Employers should also keep in mind that restrictions against "salary history" inquiries apply not only to current and prior wages, but also to benefits and other compensation.