

Salary History Ban Law: What it means for you

By: Amy Costa

Both state and local governments are increasingly adopting rules and regulations that outlaw employers from requesting salary history information from job applicants.

The Salary History Ban Law is defined as being unlawful for an employer, employment agency, or their employees to inquire about an applicant's salary history, or to rely on an applicant's salary history to determine their salary, benefits, or other compensation during the hiring and contract negotiation process. However, should the applicant voluntarily disclose their salary history to the employer, the employer may rely upon and verify that information.

Salary history includes the applicant's current or prior wage, benefits, or other compensation, including commissions or profit percentage earned.

The only exception to this law is if the applicant voluntarily discloses their salary history to the employer; or if the salary history question is asked in a certain state/country where this law has not been put into effect yet (more on that in a bit!).

Where IS this law effective in/about to be effective in?

[Click here to view on a Map where the salary history question is banned.](#)

LOCATION	EFFECTIVE DATE
California	*statewide* January 1, 2018
Connecticut	January 1, 2019
Chicago, IL	April 10, 2018
Delaware	December 14, 2017
Louisville, KY	May 17, 2018
Massachusetts	July 1, 2018
Michigan	*estimated* June 24, 2018
New Jersey	Feb 1, 2018
New Orleans, LA	January 25, 2017
New York	October 31, 2017
Oregon	October 6, 2017
Philadelphia	TBD
Pittsburgh	January 30, 2017
Puerto Rico	March 8, 2017
Vermont	July 1, 2018
Westchester County	July 9, 2018
Wisconsin	April 18, 2018

<https://www.hrdive.com/news/salary-history-ban-states-list/516662/>

Which states are proposing the Salary History Ban, but it has not been put into effect yet?

Arizona
Hawaii
Illinois
Kentucky

Minnesota
Rhode Island
South Carolina

How do I remain in compliance with this new law?

In order to remain lawful and in compliance with state and local law, you should take the following precautions/recommendations:

- Eliminate questions regarding compensation history from all application forms, electronic or otherwise.
- Employers will *not* avoid liability if they retain this question on their applications, but include a disclaimer that individuals in (*insert state/country Salary Ban Law is effective*) do not need to answer the question. In other words, avoid asking the question under ANY circumstances!
- Educate and notify all personnel involved in the hiring process that they may not inquire an applicant's salary history.
- Some suggestions can be holding a Q&A session on this law, a company-wide email being sent, posting notices of this law in common areas, etc.

Background Check Compliance

It is crucial that a Salary History background check is not conducted in where this law is effective. When running a background check, employers should specify that information regarding salary history should be excluded from the report.

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Sources:

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<https://www.lexology.com/library/detail.aspx?g=4c1cdd50-a3be-4149-995a-2ad9f408d1be> <http://www1.nyc.gov/site/cchr/media/salary-history-frequently-asked-questions.page> <https://gusto.com/framework/news/salary-history-ban-map/>