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Employment Law Forum

Asking About Past Salary

Effective January 1, 2018, the State of California will ban an employer from inquiries into an individual's salary history.ⁱ The new law will apply to all employers, including state and local government. California joins a growing list of jurisdictions across the country that have prohibited salary history inquiries including the states of Delaware, Massachusetts, and Oregon. Legislation has been introduced in other states including Texas, Florida, Montana, Virginia, and Wisconsin. In addition, more than 200 cities have either adopted or are considering similar legislation including New York City, Philadelphia, and San Francisco.

A primary purpose of eliminating an individual's past salary on job applications is to prevent gender discrimination from being passed from one workplace to another by basing an employee's pay on his or her past salary. In 2015 women working full-time earned \$.805 cents for every dollar earned by a man.ⁱⁱ

California and other states have equal pay laws based on the principle that an employee is entitled to equal pay for equal work without regard to gender.ⁱⁱⁱ However, these laws do not prohibit employers from requiring an employee's current or past salary on application forms. Some online applications cannot be submitted until a prior salary is listed.

ⁱ California Labor Code §432.3.

ⁱⁱ Jessica L. Semega, Kayle R. Fontenot, and Melissa A. Kollar, *Income and Poverty in the United States 2016*, (2017), *Current Population Reports*, pp.60 –259, U. S. Census Bureau.

ⁱⁱⁱ California Labor Code §1197.5.