

FREQUENTLY ASKED QUESTIONS ON WAGE HISTORY BAN Illinois Equal Pay Act (EPA)

New Law Prohibits Employers from Asking for Wage History

On July 31, 2019, Gov. J.B. Pritzker (Dem-IL) signed an amendment to the Illinois Equal Pay Act (EPA). Pursuant to Public Act 101-0177, the EPA now bans employers and employment agencies from asking about applicants' past wage and compensation histories. This law took effect on September 29, 2019. Employers can be penalized for asking the applicant or the applicant's current or former employers for wage or salary history. Therefore, employers should review their employment applications to make sure they do not ask for salary and wage history. They should also train those involved in hiring on the new law. For more information you may contact the Illinois Department of Labor at the Equal Pay Hotline 866.372.4365.



CAN EMPLOYERS ASK FOR SALARY HISTORY OR USE SALARY HISTORY WHEN DETERMINING WHETHER TO OFFER A JOB OR WHEN DETERMINING HOW MUCH TO PAY THE JOB APPLICANT?

No. It is unlawful for an employer to request or require a wage or salary history from a job applicant as a condition of being considered for employment or as a condition of employment.

CAN EMPLOYERS ASK ABOUT EMPLOYMENT BENEFITS THAT HAVE BEEN PROVIDED IN THE PAST TO A JOB APPLICANT DURING THE APPLICATION PROCESS?

No. It is also unlawful for an employer to request or require a job applicant to disclose benefits or other compensation received at any current or former employer as a condition of being considered for employment or as a condition of employment.

WHO IS COVERED BY THE LAW?

Illinois job applicants. This includes applicants to part-time and full-time positions, temporary or permanent, whether hourly or salary. The law however does not cover independent contractors.

CAN EMPLOYERS USE RECRUITERS TO DETERMINE APPLICANTS' SALARY HISTORIES?

No. Recruiters, employment agencies, staffing agency or any other agent of an employer may not screen applicants based on their current or prior wages or salary histories, benefits or other compensation.

CAN AN EMPLOYER ASK A CURRENT OR FORMER EMPLOYER OF THE JOB APPLICANT FOR THE APPLICANT'S WAGE HISTORY?

No. It is unlawful for an employer or their agent to ask for a wage or salary history, benefits or other compensation from an applicant's employer or former employers when conducting verification or reference checks.

WHAT IF THE EMPLOYEE ALREADY WORKS FOR THE COMPANY WHERE HE OR SHE IS APPLYING?

The prohibition does not apply if a job applicant's salary history is a matter of public record or if the applicant is a current employee applying with the same employer.

CAN AN EMPLOYER PROHIBIT EMPLOYEES FROM DISCUSSING THEIR SALARIES?

No. An employer cannot prohibit its employees from disclosing their own salaries, benefits or other compensation to other individuals.

CAN JOB APPLICANTS VOLUNTEER SALARY HISTORY INFORMATION?

Yes. Applicants may voluntarily disclose their prior wage or salary history including benefits or other compensation. The employer shall not consider or rely on the voluntary disclosures as a factor in determining whether to offer a job applicant employment, in making an offer of compensation, or determining future wages, salary or benefits.

CAN EMPLOYERS PROVIDE A SALARY RANGE TO AN APPLICANT OR DISCUSS WITH AN APPLICANT THEIR SALARY AND BENEFITS EXPECTATIONS?

Yes. An employer can provide information about the wages, benefits, compensation, or salary offered in relation to a position. The employer can also engage in discussions with an applicant about the applicant's expectations with respect to wage or salary or benefits.

WHO DO I CONTACT IF I HAVE QUESTIONS ABOUT THE NEW LAW?

You should call the Illinois Department of Labor at the Equal Pay Hotline 866.372.4365.

Source: Illinois Department of Labor, Brilliant Staffing, LLC