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US: NEW JERSEY TO BAN SALARY-HISTORY INQUIRIES

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Starting Jan. 1, 2020, New Jersey employers won't be allowed to screen job applicants using their salary history and can't set minimum or maximum salary thresholds for applicants to be considered for a job. Signed into law July 25, the measure (2019 Ch. 199, [A 1094](#)) aims to reduce the gender pay gap. Employers that ask for or obtain applicants' salary histories could face penalties of up to USD \$1,000 for a first offense, increasing to USD \$5,000 for a second offence and \$10,000 for any subsequent violations.

HIGHLIGHTS OF THE SALARY-HISTORY BAN

The new law imposes on private-sector employers a salary-history ban similar to the one that applies to New Jersey government employers under a [2018 executive order](#). In signing the legislation, the acting governor [noted](#) that in New Jersey, female employees earn 82 cents for every dollar paid to men holding full-time, year-round jobs, and the wage gap between Latina women and white men is the largest among US states.

Here are key provisions of what the law permits or prohibits:

- Employers can use an employee's salary history for internal transfers or promotions. Employers also can rely on salary history if an applicant was previously an employee of the organization.
- Employers offering positions with an incentive or commission component can inquire about an applicant's prior experience with such plans but cannot ask or require applicants to provide information on the monetary value.
- If an applicant provides salary history to an employment agency, including information on experience with incentive or commission plans, the agency can't disclose the information to prospective employers without applicant's written consent.
- If an applicant voluntarily discloses salary history, employers can verify and use the information provided to determine compensation.

- Employers using third-party organizations to conduct background checks on applicants must specify that the check doesn't include salary history. If salary information is still disclosed, the prospective employer can't use or retain the information.
- Employers can ask applicants for written permission to verify their salary history only after extending an offer of employment that includes an explanation of the "overall compensation package."
- Employers can still disclose the applicable wage scale for a particular job.
- Employers that have a multistate employment application with a salary-history question must include an instruction that applicants for jobs located completely or mainly in New Jersey should not answer that question.

RELATED RESOURCES

Non-Mercer Resources

- 2019 Ch. 199, [A 1094](#) (New Jersey Legislature)
- [Press Release](#) (New Jersey Governor's Office, July 25, 2019)

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- [US: Alabama Enacts Equal Pay Law](#) (Aug. 1, 2019)
- [US: New York Expands Equal Pay Laws, Bans Salary History](#) (July 17, 2019)
- [US: Washington State Enacts Salary History Ban](#) (May 24, 2019)
- [US: Maine Employers Can't Ask Job Seekers About Salary History](#) (May 1, 2019)
- [US: Cincinnati Adopts Salary History Ban](#) (April 8, 2019)

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