

# Pay Equity Lightning Round Don't Ask, Don't Tell: Salary History Bans

March 7, 2018



Jeffrey A. Fritz (617) 532-9325 jfritz@fisherphillips.com Monica Snyder (617) 532-9327 mpsnyder@fisherphillips.com



## **Changing Legal Landscape**

- The Equal Pay Act has been in place for decades, nevertheless, the "pay gap" persists.
- States and cities are enacting laws and ordinances to try to close the "pay gap."
- Result: patchwork of, in certain respects, inconsistent laws.



## **Salary History Ban**

- Many new laws prohibit, or limit, an employer from seeking salary history from applicants.
- Rationale: pay discrimination can follow employees from job to job throughout their careers, resulting in a systemic reduction in their earning power.
- If an employee experiences pay inequality in a prior job, disclosing their past salary when applying for a new job has the potential to perpetuate the effect of the past discrimination.



## Salary History Bans – Effective Dates

- New York (1/9/17)
- New Orleans (1/25/17)
- Puerto Rico (3/8/17)
- Oregon (10/6/17)
- New York City (10/31/17)
- Delaware (12/14/17)

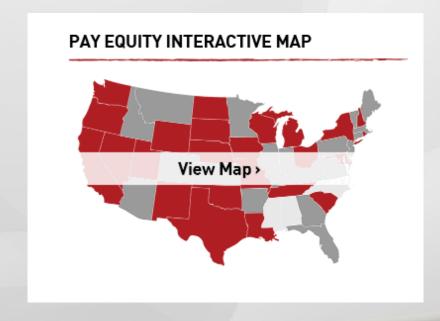
- California (1/1/18)
- Pittsburgh (1/30/18)
- New Jersey (2/1/18)
- San Francisco (7/1/18)
- Massachusetts (7/1/18)
- Philadelphia (on hold)



#### **Recommended Actions**

#### Stay up to date on legal developments:

- https://www.fisherphillips.com/services-pay-equity
- https://www.fisherphillips.com/pay-equity-blog/
- https://www.fisherphillips.com/equity





#### **Recommended Actions**

- Consider how to handle multi-state issues blanket or patchwork policies/practices?
- Remove salary history questions from application materials, background checks or verification inquiries.
- Train anyone involved in interviewing candidates.
- Determine how company will inquire about and document candidate's salary expectations.
- Implement process for documenting voluntary disclosures.
- Confirm compliance by external recruiters or other third party services.



**Pay Equity Practice Group** 

#### **Practice Group Co-Chairs**

Cheryl L. Behymer Columbia, SC (803) 255-0000

Kathleen McLeod Caminiti Murray Hill, NJ (908) 516-1050 cbehymer@fisherphillips.com kcaminiti@fisherphillips.com

> **Cheryl B. Pinarchick Boston**, MA (617) 532-8215 cpinarchick@fisherphillips.com





For more information, visit our webpage

www.fisherphillips.com/servicespay-equity

Assess Pay Practices | Comply With Laws and Regulations | Defend Your Business



### **Thank You**



Jeffrey A. Fritz (617) 532-9325 jfritz@fisherphillips.com Monica Snyder (617) 532-9327 mpsnyder@fisherphillips.com