



# Maine Becomes Latest State To Pass Salary History Ban

Insights

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Maine has recently joined the growing number of states that have passed laws prohibiting employers from requiring new or prospective employees to provide information regarding their prior salary or compensation. On April 12, Maine's first female Governor Janet Mills signed into law "An Act Regarding Pay Equality." The new law, which will go into effect on September 17, 2019—90 days after Maine ends its current legislative session—seeks to end wage inequality by prohibiting employers from taking salary history into account when setting compensation for new employees. Maine is the latest state in New England to pass legislation imposing this prohibition, following Massachusetts and Connecticut.

Under Maine's new law, employers are prohibited from asking job candidates about their compensation history until after a job offer has been negotiated and made, including all terms of compensation. Employers are also prohibited from directly asking a job candidate's current or former employer for salary history information. The new law further promotes wage transparency by barring employers from preventing current employees from discussing their own wages or the wages of another employee.

There are, however, exceptions under the new law. For instance, an employer may confirm a job candidate's compensation history if the candidate voluntarily discloses it. The new law also does not apply to an employer who "inquires about compensation history pursuant to any federal or state law that specifically requires the disclosure or verification of compensation history for employment purposes."

## Damages Available To Prevailing Employees

Although the monetary penalties for violations of this new law are relatively small, with fines of only \$100 to \$500 per violation, employers who violate this law may be opening themselves up to potential complaints under the Maine Human Rights Act and the Maine Equal Pay Law. Specifically, the new law provides that the Maine Human Rights Commission may use compensation history inquiries as evidence of discrimination. This means that even a single violation of inquiring "either directly or indirectly" about the compensation history of a prospective employee is now evidence of "unlawful employment discrimination." Under this new law, employers may also be subject to civil litigation brought by an affected employee or Maine's Department of Labor.

## What Can Maine Employers Do To Prepare?

As noted above, this law will go into effect on September 17, 2019. It is important to be proactive in order to ensure compliance with the new legal mandate and minimize the damages and other costs associated with future litigation by employees and negative attention that may result from a challenge to your company's pay practices.

Over the next few months, you should review your company's hiring policies and practices to ensure salary history information is not solicited from a job applicant unless a statutory exception applies. You should also train hiring managers and personnel interviewing or interacting with job applicants to ensure they are aware of the statute's prohibitions.

For more information about how this legislation could affect your workplace, contact [the author of this post](#), any member of [our Boston office](#), or any member of our [Pay Equity Practice Group](#).

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