

Maine Lawmakers Celebrate ‘Equal Pay Day’ by Passing Pay History Ban

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On April 2, Equal Pay Day, Maine’s House and Senate passed a bill prohibiting employers from asking about a potential worker’s wage history before making a job offer. L.D. 278 passed the Maine House by a vote of 86-54 after clearing the Maine Senate by a vote of 22-11 earlier in the day.

If Governor Janet Mills, a Democrat, signs the bill into law, it will go into effect immediately, and Maine will become the 14th state in the nation to prohibit employers from making pre-offer inquiries into an applicant’s compensation history.

Prohibitions

The bill would bar an employer from inquiring about compensation history unless it has negotiated and made an offer to the prospective employee that includes all terms of compensation. The employer may not make such inquiries of the prospective employee or of the employee’s current or former employer.

The bill also clarifies that the state’s existing pay transparency law prohibits employers from stopping employees from discussing or disclosing their own or *another employee’s wages*.

Evidence of Discrimination

Maine specifically identifies an employer’s direct or indirect inquiry into an applicant’s pay history as evidence of unlawful employment discrimination. It is the first state to do so.

Permitted Practices

The bill allows the following:

- Employers or employment agencies may “seek compensation history of an employee or prospective employee **after** an offer of employment that includes all terms of compensation *that has been negotiated and made* to the prospective employee”
- Employers may confirm a prospective employee’s compensation history if that compensation

history was voluntarily disclosed, without prompting

Further, the law is inapplicable to an employer who makes a compensation inquiry based upon any state or federal law that requires disclosure or verification of compensation history.

Next

Governor Janet Mills is expected to sign L.D. 278. Once signed, the law will go into effect immediately. Employers should review and revise their job applications and policies and procedures and consider training personnel about the ban.

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