

## Salary History Off-Limits Under New Illinois Equal Pay Law

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On July 31, 2019, Governor J.B. Pritzker signed a [law](#) prohibiting Illinois employers from asking job applicants or their previous employers about salary history.

The law amends the Equal Pay Act of 2003, which made it illegal to discriminatorily pay employees on the basis of sex or race. The impetus behind the new salary history amendment is an effort to close the gender wage gap. According to a news release from the governor's office, women in Illinois earn 79% of what men earn.

Several other states and municipalities have implemented similar laws that ban salary history inquiries, including New York, [Massachusetts](#), [California](#), Washington, Alabama, [San Francisco](#), and Philadelphia.

In addition to making it unlawful for employers to seek salary history information from applicants, the new law also protects employees' rights to discuss wages and benefits with others. As a result, it is now unlawful for Illinois employers to require employees to sign a contract or waiver prohibiting them from discussing compensation with other employees.

If an employer violates these new amendments, an employee may bring a civil action within five years and seek to recover "any damages incurred," "special damages" up to \$10,000, injunctive relief, costs and attorney's fees. And, employers who violate the law are also subject to civil penalties of up to \$5,000 "for each violation for each employee affected."

In light of these amendments, what sort of salary information *may* employers discuss with applicants? The law carves out certain information employers can still provide and discuss with applicants. First, employers can provide information about the wages, benefits, compensation, or salary offered in relation to a position. Second, they can discuss with an applicant her or his expectations with respect to wage or salary, benefits, and other compensation. Applicants are free to voluntarily disclose their current or prior wage or salary history, so long as the employer does not consider that information when making employment or compensation decisions.

Illinois' salary history law will go into effect on September 29, 2019. In the coming weeks, employers

may wish to review their application forms and retrain recruiters and other personnel involved in the hiring process to remove any questions eliciting salary history information. Additionally, employers should review their handbooks, policies, and employment agreements to ensure they do not prohibit employees from discussing compensation information with other employees.

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