

Alert | Labor & Employment



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New York, New Jersey Employers Now Prohibited From Inquiring About Salary History

As noted in our [2019 legislative update](#), New Jersey and New York have joined a growing number of states in prohibiting employers from asking job applicants about their salary history. Both states' legislation became effective earlier this month after being signed into law last year. As of January 2020, other states that prohibit all private employers from inquiring into an applicant's salary history include Alabama, California, Connecticut, Delaware, Hawaii, Illinois, Maine, Massachusetts, Oregon, Vermont, and Washington.

Both laws prohibit public and private employers from soliciting job applicants' past salaries and considering that information in making employment decisions, unless an applicant voluntarily discloses his or her pay. New York's law is unique in that it also explicitly applies to current employees. New York issued [guidance](#) explaining that when deciding compensation to be paid to a current employee (say, for a promotion or new position within the company), employers may consider the salary or benefits it currently pays to the employee but may not ask the employee about his or her pay from previous jobs.

Notably, both laws also permit employers to confirm an applicant's salary history after an employment offer has been made, provided certain conditions are met. New Jersey employers may confirm an applicant's salary history *upon the applicant's written authorization*, after it makes an employment offer that includes an explanation of the overall compensation package ([read more on the New Jersey law](#)). New York employers may do so only if the applicant responds to the offer by disclosing his or her wage history to negotiate for a higher wage or salary.

Employers should be aware of these new laws and endeavor to proactively prevent any inquiries into the salary histories of applicants (or in New York, employees as well) that may potentially violate these statutes.

Authors

This GT Alert was prepared by **Robert H. Bernstein, Jerrold F. Goldberg, Katarina S. Kingston,** and **Ryan P. O'Connor**. Questions about this information can be directed to:

- [Robert H. Bernstein](#) | +1 973.360.7946 | bernsteinrob@gtlaw.com
- [Jerrold F. Goldberg](#) | +1 212.801.9209 | goldbergj@gtlaw.com
- [Katarina S. Kingston](#) | +1 973.443.3225 | kingstonk@gtlaw.com
- [Ryan P. O'Connor](#) | +1 973.443.3563 | oconnorry@gtlaw.com
- Or your [Greenberg Traurig attorney](#)

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