

## Labor and Employment Alert

June 11, 2018

### Key Points

- Connecticut has passed a law barring employers from asking job candidates about their compensation history.
- The law mirrors legislation recently enacted in New York City, California, and elsewhere.
- The law goes into effect January 1, 2019.



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### Connecticut Is Latest State to Ban Inquiries Regarding Applicants' Compensation History

Late last month, Connecticut Governor Dannel Malloy signed “An Act Concerning Pay Equity,” prohibiting Connecticut-based employers from inquiring about a prospective employee’s salary or compensation history. The law, which mirrors legislation recently enacted in New York City, California, and several other jurisdictions, goes into effect on January 1, 2019. As with the laws passed elsewhere, the Connecticut law is intended to help break a perceived cycle in which pay disparities impacting women and minorities at one employer tend to carry over to the employees’ next jobs.

The key features of the new law are as follows:

- The law makes it an unlawful discriminatory practice for an employer, or an agent thereof, to inquire about an applicant’s compensation history, including his or her prior salary, benefits, or other compensation.
- Like the New York City salary history law, the Connecticut law contains several exceptions:
  - If a candidate “voluntarily” discloses his or her compensation history, the hiring company may inquire further regarding it.
  - Employers also may inquire about compensation history if a state or federal law requires or specifically authorizes it to verify such information.
  - A company also may inquire into the components of a candidate’s compensation structure, presumably including whether the employee received equity, profit participation, deferred compensation, etc., so long as the employer does not inquire as to the value of such compensation.

- The law does not appear to prohibit employers from informing candidates about the proposed or anticipated compensation range of the position at issue.
- The law also does not appear to prohibit employers from engaging in discussions with prospective employees regarding their expectations with respect to compensation.
- Among the potential remedies for violations of the law are compensatory damages, attorney's fees and costs, equitable relief, and punitive damages.

### **What Employers Should Do Now**

The Connecticut law is sparser than its New York City counterpart, and its precise contours will need to be defined through regulatory guidance and/or case law. For now, Connecticut-based employers should take the following steps:

- As January 1, 2019 approaches, employers should educate their employees regarding the new law, including directing those who interview or come into contact with candidates not to request the candidates' pay history.
- Be cognizant of the broader context of the law, and the increasing focus on statistical pay disparities between white males, on the one hand, and women and minorities, on the other hand, as well as on the heightened risk of litigation involving such matters.

Consider conducting a privileged review of their compensation structure to ensure that any disparities are justified by valid business considerations. Such a review should be conducted under the guidance of counsel, to protect its privileged nature.

## Contact Information

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