



## California Bans Employers From Asking About Salary History Or Considering It

October 2017

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Effective January 1, 2018, California employers cannot ask job applicants for salary history information or rely on such information in determining whether to extend a job offer to an applicant or to determine what salary to offer.

On October 12, 2017, Governor Jerry Brown signed legislation (Assembly Bill No. 168) enacting California Labor Code § 432.3. This new law mandates that employers make hiring decisions from a position of ignorance with respect to an applicant's salary history. Employers are prohibited from:

1. orally or in writing, personally or through an agent (e.g., through a recruiting agency), seeking salary history information, including compensation and benefits, about an applicant for employment; or
2. relying on the salary information of an applicant for employment as a factor in determining what salary to offer the applicant, unless the applicant voluntarily and without prompting discloses this information to the employer, in which case it can be considered.

This new law also requires an employer, upon reasonable request, to provide the pay scale for a particular position to an applicant for employment.

Employers should review their employment applications (including any online application forms) and remove any pay-related questions. Managers should also be informed that they should not ask any salary history related questions of job applicants or employees, or seek to obtain such information via third parties.

Reiterating an earlier amendment to Labor Code section 1197.5 (effective January 1, 2017) aimed at rooting out gender-based pay disparities, this new statute also states that an applicant's prior salary, by itself, cannot be used to justify any disparity in compensation.