

Minnesota Law Prohibits Employers from Inquiring into Applicants' Pay History

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Minnesota is the new state to prohibit employers from inquiring into an applicants' pay history. Effective January 1, 2024, Minnesota employers may not ask about or consider an applicant's past or current pay during the hiring process, with limited exceptions.

What Employers Are Covered?

All Minnesota employers, employment agencies, and labor organizations are covered by the prohibition.

What Are Employers Prohibited From Doing?

Minnesota employers are prohibited from inquiring into, considering, or requiring the disclosure from any source an applicants' wage, salary, benefits, or other compensation history for purposes of determining the compensation for that applicant. For purposes of this prohibition, "applicant" includes external candidates as well as current employees seeking an internal promotion or transfer.

Are There Exceptions?

The general prohibition does not apply if the job applicant's pay history is a matter of public record under federal or state law, **unless** the employer seeks to use those public records with the intent to obtain pay history of the applicant for purposes of determining wages, salary, earnings, benefits, or other compensation for that applicant.

The prohibition also does not prevent an applicant from voluntarily disclosing pay history for purposes of negotiating wages, salary, benefits, or other compensation. If an applicant voluntarily discloses pay history to a prospective employer, the employer is permitted to consider and act upon that voluntarily disclosed information to support a wage or salary **higher** than initially offered by the employer.

Employers may provide information concerning the pay and benefits that apply to a position and may ask an applicant about their expectations or requests concerning pay and benefits.

What Steps Should Minnesota Employers Take to Comply?

Employers should review their applicant materials and interview questions to make sure they do not ask for current or past pay information. They should decide what information, other than current or past pay, will be used to determine an applicant's pay.

Contact your Vorys attorney if you have questions regarding Minnesota's salary history ban, or similar bans in other jurisdictions, or for assistance revising your employee handbook.