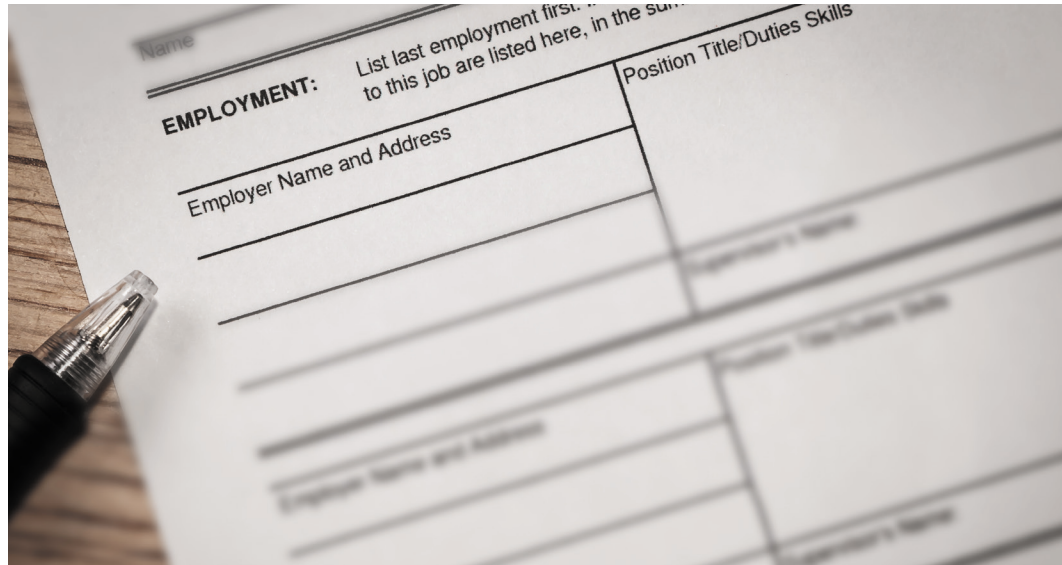


Philadelphia Employers May Not Ask Wage History Questions Under New Ordinance



PEPPER@WORK | January 26, 2017

Tracey E. Diamond | diamondt@pepperlaw.com

VIOLATORS MAY BE SUBJECT TO INJUNCTIVE RELIEF AND ORDERED TO PAY COMPENSATORY AND PUNITIVE DAMAGES AND ATTORNEY'S FEES.

On January 23, 2017, Mayor Kenney signed into law an amendment to the Philadelphia Fair Practices Ordinance making it unlawful for an employer or employment agency to inquire about a prospective employee's wage history or to require disclosure of wage history as a condition of employment. The new law also makes it unlawful to retaliate against a prospective employee for failing to disclose his or her wage history.

The term "wages" is defined broadly to include any form of compensation or benefits. In addition to prohibiting inquiries about an employee's wages, the ordinance makes it unlawful to rely on the wage history of a prospective employee when determining the wages of that individual, unless the individual knowingly and willingly disclosed his or her wage history to the employer.

THIS PUBLICATION MAY CONTAIN ATTORNEY ADVERTISING

The material in this publication was created as of the date set forth above and is based on laws, court decisions, administrative rulings and congressional materials that existed at that time, and should not be construed as legal advice or legal opinions on specific facts. The information in this publication is not intended to create, and the transmission and receipt of it does not constitute, a lawyer-client relationship. Please send address corrections to phinfo@pepperlaw.com.

© 2017 Pepper Hamilton LLP. All Rights Reserved.

Why Ban Wage Questions?

The law was passed to encourage employers to base salary offers on the job responsibilities of the position sought, rather than on the applicant's prior wages. The preamble to the new law quotes the U.S. Census Bureau's 2015 report, which found that women in Pennsylvania earn 79 cents for every dollar earned by men. Because women are paid lower wages than men on average, basing wages on an applicant's wage history perpetuates gender-based wage inequalities.

City Council passed the ordinance in December, but it was not signed into law until January 23, 2017. Massachusetts enacted a law in August 2016 prohibiting employers from seeking or requiring an applicant's wage history, but Philadelphia is the first city in the country to pass similar legislation.

Philadelphia's Commission on Human Relations will enforce the new ordinance. Violators may be subject to injunctive relief and ordered to pay compensatory damages and attorney's fees. Employers that violate the law may also be subject to punitive damages of up to \$2,000 per violation.

What Employers Should Do Now

The law goes into effect on May 23, 2017. In the meantime, employers that do business in Philadelphia should revise their employment applications to delete any questions inquiring about an applicant's wage history. Employers also should train recruiters, HR personnel and managers about the new law to ensure that these individuals do not ask wage-based questions during the interview process. Finally, employers should revise their Equal Employment Opportunity policies to add wage history to the list of protected categories.

If you have any questions about the new law, please contact a member of Pepper's Labor and Employment Practice Group.