

State Rules Register Alert

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Summary of Some Recent Law Changes

A few new laws have been passed and coverage has been incorporated into the State Rules Register. Here is a summary of this newer information.

Philadelphia and Use of Credit Reports by Employers

Per Phil. Code §9-1102, effective July 1, 2017 it is generally unlawful for an employer to obtain or use credit information in connection with: hiring, discharge, tenure, promotion, discipline or conditions of employment.

This law does not apply:

- To Law enforcement or financial institution employers
- To City of Philadelphia to obtain information on taxes and debts owed to the City.
- When information must be acquired by law: federal or state.
- If employee must be bonded.

Excluded job classifications include:

- supervisory/managerial jobs that set the direction or policies of a business, division, unit, etc. of a business. [So more than a title of "Manager".]
- handling of money, collection, entering into contracts for employer but not pertaining to retail transactions.
- has access to financial information of employer, employees or customers.
- has access to valuable and secret confidential and proprietary employer information.

Regarding a Notice to Consumer:

If a credit report is allowed to be obtained and if employer is going to take adverse action based in whole, or in part on the information: employer must inform consumer of the particular information causing the adverse action and give the consumer an opportunity to explain the circumstances surrounding the information at issue. [No time limit set.]

New York City and Use of Salary History by Employers

Effective November 1, 2017 and per City Administration Code §8-107 (www.amlegal.com/codes/client/new-york-city_ny/), an employee or its "agent" cannot inquire about salary history. If applicant "voluntarily" and "without prompting" discloses past salary, the employer can verify it. There are exceptions.

- Where federal or state law requires disclosure.
- Internal transfers and promotions.
- A unique situation - if, when verifying other past employment information, salary is disclosed, employer may consider it, but not for salary, benefits, or other compensation. [Comment: this seems like a very dangerous exception and one to be avoided. If a CRA is provided this information it would be best not to report it.]

Oregon and Use of Salary History by Employers

Salary History H.B. 2005 and effective October 6, 2017, is a simple part of a larger Equal Pay Law now located at ORS §652.210 but has not yet been codified. See (<https://olis.leg.state.or.us/liz/2017R1/Measures/list/>)

An employer cannot obtain from the applicant or otherwise [CRA verification of employment] seek their salary history. As with some other such laws, the employer can seek to confirm past salary after job offer is extended that includes the proposed compensation.

Vermont Ban-the-Box

Effective July 1, 2017, an employer may not request criminal history record information on its initial employee application form. However, an employer may inquire about a prospective employee's criminal history record during an interview or once the prospective employee has been deemed otherwise qualified for the position. This is per VSA495 (<http://legislature.vermont.gov/statutes/section/21/005/00495j>)

There is an exception allowing inquiry on job application Where federal or state law establishes a presumptive disqualification for certain offenses (whether or not the employer can seek a waiver). However, inquiry can only relate to those disqualifying offenses.

If any employer discovers a possible disqualifying criminal history, the employer shall provide the applicant the opportunity to explain the information and circumstances of the offense/conviction as well as any post-conviction rehabilitation. This does not apply if a conviction operates as a legal bar to employment as noted above. Obviously the consumer can still dispute the record.

Puerto Rico and Use of Salary History by Employers

Per the Equal Pay Act or "Act 16", effective March 8, 2017, an employer cannot inquire about past salary information of any applicant, unless applicant truly volunteered the information. An employer can confirm past salary after offer of employment.

Best Regards
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