



Labor & Employment Alert

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PRACTICES

Employment & Labor

Mind the Gap: Kansas City Bars Employers from Inquiring Into Wage Histories of Job Applicants

The Kansas City, Missouri council has approved an ordinance that will prohibit Kansas City employers from inquiring into a job applicant's previous salary history. The goal is to reduce a gender pay gap which, according to the ordinance, is wider in Kansas City than the national average.

Under the new ordinance, which will become effective October 31, 2019, employers will be limited in asking for, or relying on, an applicant's salary history in making hiring decisions. Specifically, an employer may not ask an applicant about salary history, and may not screen applicants based on prior/current salary. If an applicant's salary history is disclosed, either voluntarily or through a background check, the employer may not rely on that information in making the hiring decision or setting the starting salary. (These prohibitions relating to salary information also include benefit history.) The ordinance does permit the employer to ask applicants about expectations for salary/benefits.

In enacting this ordinance, Kansas City joins nine states and several other municipalities which ban private employers from asking applicants about salary history. The ordinance seeks to encourage salaries based on new hires' value and skills as opposed to a simple continuation of what the applicant may have been earning before. The ordinance recognizes that several factors may play into setting a new hire's pay level, but aims to avoid perpetuating an artificially low salary

from a prior employment which may have been the product of bias or discrimination.

As a result of this ordinance, employers should review job applications to insure that salary/benefit history is not requested. Anyone interviewing an applicant must be trained not to make such an inquiry, and not to rely on such information if it is voluntarily disclosed. Background checking procedures should also be reviewed to eliminate questions about salary/benefit history so there can be no question about whether that information was relied on in making hiring decisions.

This is the second time Kansas City has recently moved to regulate the hiring process. Just last year, the Council passed a "ban the box" ordinance prohibiting employers from inquiring into an applicant's criminal history until after he or she has been interviewed. Unlike "ban the box," which only regulates the time when criminal history inquiries can be made, the new ordinance completely prohibits any inquiry about salary/benefit history.

Violation of this ordinance is punishable by a \$500 fine and imprisonment for up to 6 months. The ordinance can be found here:

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