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Kansas City, Missouri Passes Ban on Salary History Inquiries

Law and the Workplace on **June 3, 2019**

Kansas City, Missouri is the latest jurisdiction (and the second Midwestern city in recent weeks) to enact a law that will prohibit employers from asking job applicants about salary history.

The ordinance, which takes effect on October 31, 2019, will apply to employers in Kansas City with six or more employees, and will prohibit such employers and their agents from:

- inquiring about the salary history of an applicant for employment;
- screening applicants based on salary history, or requiring that salary history satisfy minimum or maximum criteria;
- relying on salary history in deciding whether to extend an offer of employment, or in determining the salary, benefits, or other compensation for an applicant during the hiring process, including the negotiation of an employment contract; and/or
- refusing to hire or otherwise retaliating against an applicant for not disclosing his or her salary history.

For purposes of the ordinance, "applicant" is defined broadly to mean any person applying for employment with an employer located in Kansas City. "Salary history" means an applicant's current or prior wages, benefits, or other compensation, but does not include any objective measure of the applicant's productivity, such as revenue, sales, or other production reports.

While the term "inquire" includes oral or written requests as well as searches of publicly available records, employers *may* verify an applicant's non-salary related information or conduct a background check, so long as they do not consider or rely upon any salary history information that may inadvertently be obtained.

Notably, the ordinance's prohibitions do not apply to "voluntary and unprompted" disclosures of salary information by applicants. The ordinance further permits employers to engage in discussion with applicants about their expectations with respect to compensation, including but not limited to unvested equity or deferred compensation that may be subject to forfeiture or cancellation.

The ordinance also excludes from coverage: (1) applicants for internal transfer or promotion; (2) positions for which compensation is determined pursuant to collective bargaining; and (3) former employees who are re-hired by the same employer within five years of termination, provided that the employer already has any past salary history information regarding the applicant from the individual's previous employment.

In advance of the October 31, 2019 effective date, employers in Kansas City should begin taking steps to ensure compliance by training human resources and other relevant personnel on these new requirements.

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