

THE “SALARY HISTORY” BILL (HB 123/SB 217)

KEY TO CLOSING THE WAGE GAP AND STRENGTHENING MARYLAND BUSINESSES AND ECONOMY

The Salary History bill is a simple, straightforward measure that will help stop practices that are harming Maryland employees and businesses by **(1)** ensuring that employers no longer rely on job applicants' salary history in hiring and setting pay and **(2)** requiring employers provide the wage range for a position if the applicant applying for the position requests it.

Relying on applicants' salary history to set pay and keeping salary ranges secret harms many types of job applicants, but it particularly hurts women and people of color by forcing them to carry discriminatory wage gaps from job to job. **Fortunately, research shows that legislation like the Salary History bill helps to narrow wage gaps¹, as does the practice of providing job applicants the wage range for a position.²** Given that Black women in Maryland are paid only 69 cents on the dollar paid to white, non-Hispanic men and Latinas are paid only 46 cents—the 4th largest wage gap for Latinas in the country—Maryland lawmakers have an urgent obligation to Maryland women, families, and the state economy to pass this legislation.

Thirteen states have enacted salary history legislation—all with bipartisan support

- Since just 2016, Delaware, New Jersey, New York, Illinois, Massachusetts, Connecticut, Vermont, Maine, Oregon, Hawaii, California, Colorado and Washington, have passed legislation—all with **bipartisan** support—prohibiting employers from relying on applicants' salary history.
- State agencies in New Jersey, New York, Pennsylvania, North Carolina, Michigan, and the District of Columbia

have also stopped seeking job applicants' salary histories.

- Colorado, Washington, and California have passed legislation requiring employers to either provide the salary range for a position in the job announcement or provide it to the job applicant if they request it.

Stopping reliance on salary history is a good business practice

- Businesses like Amazon, American Express, Bank of America, Cisco Systems, Facebook, Google, GoDaddy, Progressive, Starbucks, and Wells Fargo have all recently announced that they are no longer asking applicants to provide their salary history, recognizing that doing so perpetuates gender and racial wage gaps.
- Stopping reliance on salary history can help businesses attract and retain a diverse workforce by ending a practice that limits the talent pool³, hurts an employer's brand, and can drive the best candidates away.⁴
- Ending reliance on salary history also helps employers decrease their exposure to costly pay discrimination litigation from relying on a practice that unjustifiably perpetuates gender wage gaps.
- Under this bill, employers can still negotiate with applicants and ask them what they hope to make and applicants can choose to offer their salary history in a negotiation.

The Salary History bill will help ensure Marylanders are compensated based on relevant factors like their experience, skills, track record, and the responsibilities they will be assuming, not on race, gender, or what they happened to be paid in their past job

- The Salary History bill recognizes that salary history is not a neutral, objective, or accurate measure by which to set pay or evaluate an applicant, especially for those whose salary history doesn't reflect their current qualifications or interests because they temporarily left the job market to care for children or parents, or those who moved from the public sector to the private sector.
- The bill is a proactive measure that will help Maryland businesses close gender wage gaps; in a recent study, a significant percentage of employers who conduct pay equity audits found that relying on applicants' salary history is a key driver of gender wage gaps within their company.⁵
- Women often ask for less when they negotiate than men, even when they are otherwise equally qualified.⁶ By giving applicants the right to ask for the salary range for a position, the bill will further help level the negotiating playing field.

For more information or to get involved, contact Andrea Johnson at ajohnson@nwlc.org

"I'm a small business owner who also worked for five years in human capital consulting, and I don't use salary history in hiring because I know it can inadvertently perpetuate discrimination and it isn't the most effective way for us to bring the best people onto our team."

Meg McNeill

McNeill Independent Spirit Creators, LLC
Mount Airy, MD

"As a headhunter, I was trained to ask every candidate for their current salary. What I've learned is that this practice perpetuates gender bias in hiring and salary decisions that disproportionately hurts women, especially women of color, and contributes to the continuing pay gap women face. I no longer ask the question. Querying a candidate about what their salary expectations are provides the information an employer needs to make sure the candidate and the position's salary are a fit."

Diana Rubin

Commissioner, Montgomery County Commission for Women and managing director of a national legal recruiting and staffing firm

1 Drew McNichols, Information and the Persistence of the Gender Wage Gap; Early Evidence from California's Salary History Ban (February 1, 2019), SSRN: <https://ssrn.com/abstract=3277664> or <http://dx.doi.org/10.2139/ssrn.3277664>.

2 See, e.g., Hannah Riley Bowles, Linda Babcock & Kathleen L. McGinn, Constraints and Triggers: Situational Mechanics of Gender in Negotiations, 89 J. PERSONALITY & SOC. PSYCH. 951, 955-56 (2005), https://projects.iq.harvard.edu/files/hbowles/files/situational_mechanics.pdf.

3 Moshe A. Barach & John J. Horton, How do Employers Use Compensation History: Evidence From a Field Experiment (CESifo, Working Paper No. 6559, 2017), <http://moshebarach.com/wp-content/uploads/2017/06/WageHistory.pdf>.

4 Liz Ryan, When Someone Demands Your Salary History, Give Your Salary Requirements Instead, forbes (Jan. 16, 2017), <https://www.forbes.com/sites/lizryan/2017/01/16/when-they-demand-your-salary-history-give-your-salary-requirement-instead/#944ba255a8bb>.

5 Harvard Business Review Analytic Services, Navigating the Growing Pay Equity Movement, What Employers Need to Know About What to Do 5 (2019), <https://resources.trusaic.com/pay-equity-downloads/harvard-business-review-trusaic-pulse-survey>.

6 See Linda Babcock & Sara Laschever, WOMEN DON'T ASK: NEGOTIATION AND THE GENDER DIVIDE (2003), <https://press.princeton.edu/books/hardcover/9780691089409/women-dont-ask>; Jenny Save-Soderbergh, Are Women Asking for Low Wages? Gender Differences in Wage Bargaining Strategies and Ensuring Bargaining Success, Swedish Inst. Soc. Res. Working Paper Series 7/2007 10 (2007), https://ideas.repec.org/p/hhs/sofiwp/2007_007.html.