

# SALARY HISTORY INQUIRIES

Understanding the State  
and Local Prohibitions on  
Salary Inquiries

WHITE PAPER

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# Summary

## Salary History Laws

Beginning in 2016, many jurisdictions have passed pay equity laws that share the theme of prohibiting employers from seeking information related to a job applicant's prior or current compensation history. These laws are commonly referred to as salary history ban laws. There are currently at least 17 states and 10 local jurisdictions that have passed salary history ban laws applicable to the private sector. Currently, there is no federal legislation that explicitly prohibits private employers from seeking information related to a job applicant's prior or current compensation history. In the material to follow, we will explore the purpose of salary history ban laws and briefly summarize the current laws' prohibitions on seeking compensation history and some of their express exceptions.

## What Employers Need to Know

**What is the purpose of salary history bans, and why are they being implemented in some jurisdictions?**

- At their core, the purpose of salary history ban laws is to promote equal compensation among members of different protected classes for comparable work. Traditionally, employers have sought a job applicant's prior or current compensation information to make compensation decisions for a particular position. Although this may seem harmless on its face, it can lead to a discriminatory result for women and minorities. By way of illustration, women have historically been paid less than men, and as such, if prior or current compensation information is used to make compensation decisions for a particular position, there is the possibility that the practice can perpetuate inappropriate wage inequalities. Accordingly, the implementation of salary history ban laws is a means to reduce the wage gap between members of different protected classes such as those between women and men.

**Are there any exceptions or limitations to the salary history ban laws?**

- Generally, salary history ban laws prohibit employers from seeking a job applicant's prior or current compensation history. Still, as you will see below, the scope of each law varies based on the jurisdiction. For example, some laws' inquiry prohibition only applies to inquiries directed at the job applicant or prior or current employers, while other laws go a step further and apply the prohibition to conducting a search of publicly available records or reports. Furthermore, the extent of the exceptions to a particular prohibition contrast from jurisdiction to jurisdiction. Some laws are silent and do not expressly cite any exceptions, while other laws list numerous situations in which inquiry into compensation history is permitted. Simply put, different jurisdictions use different methods to achieve the end goal of reducing the wage gap.



# Jurisdictions with Salary History Ban Laws Applicable to the Private Sector

Below you will find brief summaries of the salary history ban laws that are applicable to the private sector. Please note that this information is not all inclusive. Instead, the summaries only primarily focus on language that prohibits investigation into compensation history and highlights select exceptions to those prohibitions. Indeed, the summaries do not directly emphasize, among other things, language within the laws in relation to relying on the compensation history information of a job applicant as a factor in determining a compensation or a hiring decision. The summaries are simply meant to shed light on how the prohibitions against investigating compensation information impact the hiring process for employers. InCheck strongly recommends that readers work closely with their legal counsel to further examine all applicable salary history ban laws to ensure their hiring processes are compliant.

Jurisdictions include:

- [California](#)
- [California \(San Francisco\)](#)
- [Colorado](#)
- [Connecticut](#)
- [Delaware](#)
- [Hawaii](#)
- [Illinois](#)
- [Maine](#)
- [Maryland](#)
- [Massachusetts](#)
- [Minnesota](#)
- [Missouri \(Kansas City\)](#)
- [Nevada](#)
- [New Jersey](#)
- [New York](#)
- [New York \(Albany County\)](#)
- [New York \(New York City\)](#)
- [New York \(Suffolk County\)](#)
- [New York \(Westchester County\)](#)
- [Ohio \(Cincinnati\)](#)
- [Ohio \(Columbus\)](#)
- [Ohio \(Toledo\)](#)
- [Oregon](#)
- [Pennsylvania \(Philadelphia\)](#)
- [Rhode Island](#)
- [Vermont](#)
- [Washington](#)

## California

Salary History Inquiry Prohibition	An employer shall not, orally or in writing, personally or through an agent, seek salary history information, including compensation and benefits, about an applicant for employment.
Express Exception(s)	<ul style="list-style-type: none"> <li>• The law does not apply to salary history information disclosable to the public pursuant to federal or state law.</li> <li>• The law does not prevent an applicant from voluntarily, and without prompting, disclosing salary history information to a prospective employer.</li> <li>• The law does not prohibit an employer from asking an applicant about their salary expectation for the position being applied for.</li> </ul>

## California (San Francisco)

Salary History Inquiry Prohibition	<ul style="list-style-type: none"> <li>• An employer shall not inquire about an applicant's salary history.</li> <li>• "Inquire" shall mean any direct or indirect statement, question, prompting, or other communication, orally or in writing, personally or through an agent, to gather information from or about an applicant, using any mode of communication, including but not limited to application forms and interviews.</li> <li>• "Salary history" shall mean an applicant's current and past financial compensation in exchange for labor, including but not limited to wages, commissions, and any monetary emolument in the applicant's current position, or in a prior position with the current employer or a prior employer. "Salary history" shall not include any objective measure of the applicant's productivity such as revenue, sales, or other production reports.</li> </ul>
Express Exception(s)	<ul style="list-style-type: none"> <li>• The prohibition shall not prohibit an applicant from voluntarily and without prompting disclosing salary history. Where applicant voluntarily and without prompting discloses salary history to a prospective employer, the employer may consider that voluntarily disclosed salary history in determining salary for such applicant or verifying such applicant's salary history.</li> <li>• An employer may, without inquiring about salary history, engage in discussion with the applicant about the applicant's expectations with respect to salary, including but not limited to unvested equity or deferred compensation or bonus that an applicant would forfeit or have cancelled by virtue of the applicant's resignation from their current employer.</li> <li>• The prohibition shall not prohibit an employer from verifying non-salary related information disclosed by the applicant or from conducting a background check provided that if such verification or background check discloses the applicant's salary history, the disclosed salary history shall not be considered for purposes of determining the salary to be offered to the applicant during the hiring process or whether to offer employment to the applicant.</li> </ul>



## Colorado

Salary History Inquiry Prohibition	<ul style="list-style-type: none"><li>• An employer shall not seek the wage rate history of a prospective employee or rely on the wage rate history of a prospective employee to determine a wage rate.</li><li>• “Wage rate” means (1) for an employee paid on an hourly basis, the hourly compensation paid to the employee plus the value per hour of all other compensation and benefits received by the employee from the employer; or (2) for an employee paid on a salary basis, the total of all compensation and benefits received by the employee from the employer.</li></ul>
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## Connecticut

Salary History Inquiry Prohibition	<ul style="list-style-type: none"><li>• No employer shall inquire or direct a third party to inquire about a prospective employee’s wage and salary history.</li><li>• “Wages” means compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece, commission or other basis of calculation.</li></ul>
Express Exception(s)	<ul style="list-style-type: none"><li>• Employers may inquire or direct a third party to inquire about a prospective employee’s wage and salary history if the prospective employee has voluntarily disclosed such information.</li><li>• The prohibition does not apply to any actions taken by an employer or agent thereof pursuant to any federal or state law that specifically authorizes the disclosure or verification of salary history for employment purposes.</li><li>• The prohibition shall not prohibit an employer from inquiring about other elements of a prospective employee’s compensation structure, as long as such employer does not inquire about the value of the elements of such compensation structure.</li></ul>

## Delaware

Salary History Inquiry Prohibition	<ul style="list-style-type: none"><li>• It shall be an unlawful employment practice for an employer or an employer’s agent to seek the compensation history of an applicant from the applicant or a current or former employer.</li><li>• “Compensation” includes monetary wages as well as benefits and other forms of compensation.</li></ul>
Express Exception(s)	<ul style="list-style-type: none"><li>• The law does not prohibit an employer and an applicant from discussing and negotiating compensation expectations provided that the employer does not request or require the applicant’s compensation history.</li><li>• The law does not prohibit an employer from seeking the applicant’s compensation history after an offer of employment with terms of compensation has been extended to the applicant and accepted, for the sole purpose of confirming the applicant’s compensation history.</li></ul>

## Hawaii

<b>Salary History Inquiry Prohibition</b>	<ul style="list-style-type: none"><li>• No employer, employment agency, or employee or agent thereof shall inquire about the salary history of an applicant for employment.</li><li>• “Inquire” means to: (1) Communicate any question or statement to an applicant for employment, an applicant’s current or prior employer, or a current or former employee or agent of the applicant’s current or prior employer, in writing, verbally, or otherwise, for the purpose of obtaining an applicant’s salary history; or (2) Conduct a search of publicly available records or reports for the purpose of obtaining an applicant’s salary history.</li><li>• “Salary history” includes an applicant for employment’s current or prior wage, benefits, or other compensation, but shall not include any objective measure of the applicant’s productivity, such as revenue, sales, or other production reports.</li></ul>
<b>Express Exception(s)</b>	<ul style="list-style-type: none"><li>• An employer, without inquiring about salary history, may engage in discussions with an applicant for employment about the applicant’s expectations with respect to salary, benefits, and other compensation; provided that if an applicant voluntarily and without prompting discloses salary history to an employer, the employer may consider salary history in determining salary, benefits, and other compensation for the applicant, and may verify the applicant’s salary history.</li><li>• The law shall not apply to any attempt by an employer to verify an applicant’s disclosure of non-salary related information or conduct a background check; provided that if a verification or background check discloses the applicant’s salary history, that disclosure shall not be relied upon during the hiring process for purposes of determining the salary, benefits, or other compensation of the applicant, including the negotiation of an employment contract.</li></ul>

## Illinois

Salary History Inquiry Prohibition	<ul style="list-style-type: none"><li>• It is unlawful for an employer or employment agency, or employee of agent thereof to request or require a wage or salary history as a condition of being interviewed, as a condition of continuing to be considered for an offer of employment, as a condition of an offer of employment or an offer of compensation.</li><li>• It is unlawful for an employer or employment agency, or employee of agent thereof to request or require that an applicant disclose wage or salary history as a condition of employment.</li><li>• It is unlawful for an employer to seek the wage or salary history, including benefits or other compensation, of a job applicant from any current or former employer.</li></ul>
Express Exception(s)	<ul style="list-style-type: none"><li>• The prohibition against seeking the wage or salary history, including benefits or other compensation, of a job applicant from any current or former employer does not apply if the job applicant's wage or salary history is a matter of public record under the Freedom of Information Act, or any other equivalent state or federal law, or is contained in a document completed by the job applicant's current or former employer and then made available to the public by the employer or submitted or posted by the employer to comply with state or federal law.</li><li>• The prohibitions do not prevent an employer from engaging in discussions with an applicant for employment about the applicant's expectations with respect to wage or salary, benefits, and other compensation.</li><li>• An employer does not violate the prohibitions when a job applicant voluntarily and without prompting discloses their current or prior wage or salary history, including benefits or other compensation, on the condition that the employer does not consider or rely on the voluntary disclosures as a factor in determining whether to offer a job applicant employment, in making an offer of compensation, or in determining future wages, salary, benefits, or other compensation.</li></ul>

## Maine

Salary History Inquiry Prohibition	<ul style="list-style-type: none"><li>• An employer may not use or inquire about the compensation history of a prospective employee from the prospective employee or a current or former employer of the prospective employee.</li></ul>
Express Exception(s)	<ul style="list-style-type: none"><li>• An employer may inquire about or seek compensation history of an employee or prospective employee after an offer of employment that includes all terms of compensation has been negotiated and made to the prospective employee.</li><li>• The prohibition does not apply to an employer who inquiries about compensation history pursuant to any federal or state law that specifically requires the disclosure or verification of compensation history for employment purposes.</li></ul>

## Maryland

Salary History Inquiry Prohibition	<ul style="list-style-type: none"> <li>An employer may not seek the wage history for an applicant for employment orally, in writing, or through an employee or agent or from a current or former employer.</li> </ul>
Express Exception(s)	<ul style="list-style-type: none"> <li>After an employer makes an initial offer of employment with an offer of compensation to an applicant for employment, an employer may seek to confirm the wage history voluntarily provided by the applicant for employment to support a wage offer higher than the initial wage offered by the employer.</li> <li>The law does not prohibit an applicant from employment from sharing wage history with an employer voluntarily.</li> </ul>

## Massachusetts

Salary History Inquiry Prohibition	<ul style="list-style-type: none"> <li>It shall be an unlawful practice for an employer to seek the wage or salary history of a prospective employee from the prospective employee or a current or former employer or to require that a prospective employee's prior wage or salary history meet certain criteria. <ul style="list-style-type: none"> <li>"Wages" shall include all forms of remuneration for employment.</li> </ul> </li> </ul>
Express Exception(s)	<ul style="list-style-type: none"> <li>If a prospective employee has voluntarily disclosed wage or salary history, a prospective employer may confirm prior wages or salary or permit a prospective employee to confirm prior wages or salary.</li> <li>A prospective employer may seek or confirm a prospective employee's wage or salary history after an offer of employment with compensation has been negotiated and made to the prospective employee.</li> </ul>

## Minnesota

Salary History Inquiry Prohibition	<ul style="list-style-type: none"> <li>An employer, employment agency, or labor organization shall not inquire into, consider, or require disclosure from any source the pay history of an applicant for employment for the purpose of determining wages, salary, earnings, benefits, or other compensation for that applicant. <ul style="list-style-type: none"> <li>"Pay history" means any prior or current wage, salary, earnings, benefits, or any other compensation about an applicant for employment.</li> </ul> </li> </ul>
Express Exception(s)	<ul style="list-style-type: none"> <li>The prohibition against inquiring into the pay history of an applicant does not apply if the job applicant's pay history is a matter of public record under federal or state law, unless the employer sought access to those public records with the intent of obtaining pay history of the applicant for the purpose of determining wages, salary, earnings, benefits, or other compensation for that applicant.</li> <li>The law shall not prevent an applicant for employment from voluntarily and without asking, encouraging, or prompting disclosing pay history for the purposes of negotiating wages, salary, benefits, or other compensation.</li> <li>The law shall not prevent the employer from inquiring about or otherwise engaging in discussions with an applicant about the applicant's expectations or requests with respect to wages, salary, benefits, or other compensation.</li> </ul>



## Missouri (Kansas City)

Salary History Inquiry Prohibition	<ul style="list-style-type: none"> <li>• It shall be unlawful for an employer or agent to inquire about the salary history of an applicant for employment.</li> <li>• “Inquire” means to communicate any question or statement to an applicant, an applicant’s current or prior employers, or a current or former employee or agent of the applicant’s current or prior employers, in writing or otherwise, for the purpose of obtaining an applicant’s salary history, or to conduct a search of publicly available records or reports for the purpose of obtaining an applicant’s salary history.</li> <li>• “Salary history” includes the applicant’s current or prior wage, benefits, or other compensation. “Salary history” does not include any objective measure of the applicant’s productivity such as revenue, sales, or other production reports.</li> </ul>
Express Exception(s)	<ul style="list-style-type: none"> <li>• An employer may, without inquiring about salary history, engage in discussion with the applicant about the expectations with respect to salary, benefits, and other compensation, including but not limited to unvested equity or deferred compensation that an applicant would forfeit or have cancelled by virtue of the applicant’s resignation from their current employer.</li> <li>• The prohibition shall not apply to a voluntary and unprompted disclosure of salary history information by an applicant.</li> <li>• The prohibition shall not apply to any attempt by an employer to verify an applicant’s disclosure of non-salary related information or conduct a background check, provided that if such verification or background check discloses the applicant’s salary history, such disclosure shall not be relied upon for purposes of determining the salary, benefits, or other compensation of such applicant during the hiring process, including the negotiation of a contract.</li> </ul>

## Nevada

Salary History Inquiry Prohibition	<ul style="list-style-type: none"> <li>• An employer or an employment agency shall not, orally or in writing, personally or through an agent, seek the wage or salary history of an applicant for employment.</li> <li>• “Wage or salary history” means the wages or salary paid to an applicant for employment by the current or former employer of the applicant. The term includes, without limitation, any compensation and benefits received by the applicant from their current or former employer.</li> </ul>
Express Exception(s)	<ul style="list-style-type: none"> <li>• The law does not prohibit an employer from asking an applicant for employment about their wage or salary expectation for the position for which the applicant is applying.</li> </ul>

## New Jersey

<b>Salary History Inquiry Prohibition</b>	<ul style="list-style-type: none"><li>• It shall be an unlawful employment practice for any employer to screen a job applicant based on the applicant's salary history, including, but not limited to, the applicant's prior wages, salaries or benefits or require that the applicant's salary history satisfy any minimum or maximum criteria.</li></ul>
<b>Express Exception(s)</b>	<ul style="list-style-type: none"><li>• An employer may consider salary history in determining salary, benefits, and other compensation for the applicant, and may verify the applicant's salary history, if an applicant voluntarily, without employer prompting or coercion, provides the employer with salary history.</li><li>• An employer may request that an applicant provide the employer with a written authorization to confirm salary history, including, but not limited to, the applicant's compensation and benefits, after an offer of employment that includes an explanation of the overall compensation package has been made to the applicant.</li><li>• The prohibition does not apply to any actions taken by an employer pursuant to any federal law or regulation that expressly requires the disclosure or verification of salary history for employment purposes or requires knowledge of salary history to determine an employee's compensation.</li><li>• The prohibition does not apply to any attempt by an employer to obtain, or verify a job applicant's disclosure of, non-salary related information when conducting a background check on the job applicant, provided that, when requesting information for the background check, the employer shall specify that salary history information is not to be disclosed. If, notwithstanding that specification, salary history information is disclosed, the employer shall not retain that information or consider it when determining the salary, benefits, or other compensation of the applicant.</li><li>• The law does not prohibit an employer from acquiring salary history information that is publicly available, but an employer shall not retain or consider that information when determining the salary, benefits, or other compensation of the applicant unless the applicant voluntarily, without employer prompting or coercion, provides the employer with salary history.</li></ul>

## New York

<b>Salary History Inquiry Prohibition</b>	<ul style="list-style-type: none"><li>• No employer shall, orally or in writing, seek, request, or require the wage or salary history from an applicant or current employee as a condition to be interviewed, or as a condition of continuing to be considered for an offer of employment, or as a condition of employment or promotion.</li><li>• No employer shall, orally or in writing, seek, request, or require the wage or salary history of an applicant or current employee from a current or former employer, current or former employee, or agent of the applicant or current employee's current or former employer.</li></ul>
<b>Express Exception(s)</b>	<ul style="list-style-type: none"><li>• The law does not prevent an applicant or current employee from voluntarily, and without prompting, disclosing or verifying wage or salary history, including but not limited to for the purposes of negotiating wages or salary.</li><li>• An employer may confirm wage or salary history only if at the time an offer of employment with compensation is made, the applicant or current employee responds to the offer by providing prior wage or salary information to support a wage or salary higher than offered by the employer.</li><li>• The law shall not supersede any federal, state or local law previously enacted that requires the disclosure or verification of salary history information to determine an employee's compensation.</li></ul>

## New York (Albany County)

<b>Salary History Inquiry Prohibition</b>	<ul style="list-style-type: none"><li>• It shall be an unlawful discriminatory practice to request or require as a condition of being interviewed, or as a condition of continuing to be considered for an offer of employment, that a job applicant disclose prior wages or salary history.</li><li>• It shall be an unlawful discriminatory practice to seek the salary history of any job applicant from any current or former employer.</li></ul>
<b>Express Exception(s)</b>	A job applicant may provide written authorization to a prospective employer to confirm prior wages, including benefits or other compensation or salary history, only after any offer of employment with compensation has been made to the job applicant.

## New York (New York City)

Salary History Inquiry Prohibition	<ul style="list-style-type: none"> <li>• It is an unlawful discriminatory practice for an employer, employment agency, or employee or agent thereof to inquire about the salary history of an applicant for employment.</li> <li>• “To inquire” means to communicate any question or statement to an applicant, an applicant’s current or prior employer, or a current or former employee or agent of the applicant’s current or prior employer, in writing or otherwise, for the purpose of obtaining an applicant’s salary history, or to conduct a search of publicly available records or reports for the purpose of obtaining an applicant’s salary history.</li> <li>• “Salary history” includes the applicant’s current or prior wage, benefits or other compensation. “Salary history” does not include any objective measure of the applicant’s productivity such as revenue, sales, or other production reports.</li> </ul>
Express Exception(s)	<ul style="list-style-type: none"> <li>• An employer may, without inquiring about salary history, engage in discussion with the applicant about their expectations with respect to salary, benefits, and other compensation, including but not limited to unvested equity or deferred compensation that an applicant would forfeit or have cancelled by virtue of the applicant’s resignation from their current employer.</li> <li>• Where an applicant voluntarily and without prompting discloses salary history to an employer, such employer may consider salary history in determining salary, benefits, and other compensation for such applicant, and may verify such applicant’s salary history.</li> <li>• The prohibition does not apply to any actions taken by an employer pursuant to any federal, state, or local law that specifically authorizes the disclosure or verification of salary history for employment purposes, or specifically requires knowledge of salary history to determine an employee’s compensation.</li> <li>• The prohibition does not apply to any attempt by an employer to verify an applicant’s disclosure of non-salary related information or conduct a background check, provided that if such verification or background check discloses the applicant’s salary history, such disclosure shall not be relied upon for purposes of determining the salary, benefits or other compensation of such applicant during the hiring process, including the negotiation of a contract.</li> </ul>

## New York (Suffolk County)

Salary History Inquiry Prohibition	<ul style="list-style-type: none"> <li>• It is an unlawful discriminatory practice for any employer, employment agency, employee or agent thereof to inquire, whether in any form of application or otherwise, about a job applicant’s wage or salary history, including but not limited to, compensation and benefits.</li> <li>• “To inquire” means to ask an applicant or former employer orally, or in writing or otherwise or to conduct a search of publicly available records or reports.</li> </ul>
Express Exception(s)	<ul style="list-style-type: none"> <li>• The prohibition does not apply to any actions taken by an employer pursuant to any federal, state, or local law that requires the disclosure or verification of salary for employment purposes.</li> </ul>

## Westchester County, New York

Salary History Inquiry Prohibition	<ul style="list-style-type: none"> <li>• It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or licensing authority or employee or agent to orally, or in writing, request or require as a condition of being interviewed, or as a condition of continuing to be considered for an offer of employment, or as a condition of employment, that a prospective employee disclose information about the employee's own wages from any current or former employee.</li> <li>• It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or licensing authority or employee or agent to orally, or in writing, seek from any current or former employer the previous wages of any prospective employee.</li> </ul>
Express Exception(s)	<ul style="list-style-type: none"> <li>• An employer may seek to confirm prior wage information only after an offer of employment with compensation has been made to the prospective employee and the prospective employee responds to the offer by providing prior wage information to support a wage higher than offered by the employer. Under these circumstances, the employer may only seek to confirm prior wages after obtaining written authorization by the prospective employer to do so.</li> </ul>

## Ohio (Cincinnati)

Salary History Inquiry Prohibition	<ul style="list-style-type: none"> <li>• It is unlawful discriminatory practice for an employer or its agent to inquire about the salary history of an applicant.</li> <li>• "Inquire" means to communicate any question or statement to an applicant, an applicant's current or prior employers, or a current or former employee or agent of the applicant's current or prior employer, in writing or otherwise, for the purpose of obtaining an applicant's salary history, or to conduct a search of publicly available records or reports for the purpose of obtaining an applicant's salary history.</li> <li>• "Salary history" includes the applicant's current or prior wage, benefits, or other compensation. "Salary history" does not include any objective measure of the applicant's productivity such as revenue, sales, or other production reports.</li> </ul>
Express Exception(s)	<ul style="list-style-type: none"> <li>• An employer may, without inquiring about salary history, engage in discussion with the applicant about their expectations with respect to salary, benefits, and other compensation, including but not limited to unvested equity or deferred compensation that an applicant would forfeit or have cancelled by virtue of the applicant's resignation from their current employer.</li> <li>• The prohibition shall not apply to any actions taken by an employer pursuant to any federal, state, or local law that specifically authorizes the reliance on salary history to determine an employee's compensation.</li> <li>• The prohibition shall not apply to a voluntary and unprompted disclosure of salary history information by an applicant.</li> <li>• The prohibition shall not apply to any attempt by an employer to verify an applicant's disclosure of non-salary related information or conduct a background check, provided that if such verification or background check discloses the applicant's salary history, such disclosure shall not be relied upon for purposes of determining the salary, benefits, or other compensation of such applicant during the hiring process, including the negotiation of a contract.</li> </ul>

## Ohio (Columbus)- Effective Date: 3/1/24

<b>Salary History Inquiry Prohibition</b>	<ul style="list-style-type: none"><li>• An employer shall not inquire about the salary history of an applicant for employment.</li><li>• “Inquire” means to communicate any question or statement to an applicant, an applicant’s current or prior employers, or a current or former employee or agent of the applicant’s current or prior employers, in writing or otherwise, for the purpose of obtaining an applicant’s salary history, or to conduct a search of publicly available records or reports for the purpose of obtaining an applicant’s salary history.</li><li>• “Salary history” includes the applicant’s current or prior wage, benefits, or other compensation. “Salary history” does not include any objective measure of the applicant’s productivity such as revenue, sales, or other production reports.</li></ul>
<b>Express Exception(s)</b>	<ul style="list-style-type: none"><li>• An employer may, without inquiring about salary history, engage in discussion with the applicant about their expectations with respect to salary, benefits, and other compensation, including but not limited to unvested equity or deferred compensation that an applicant would forfeit by resigning from their current employer.</li><li>• The prohibition shall not apply to any actions taken by an employer pursuant to any federal, state, or local law that specifically authorizes the reliance on salary history to determine an employee’s compensation.</li><li>• The prohibition shall not apply to a voluntary and unprompted disclosure of salary history information by an applicant.</li><li>• The prohibition shall not apply to any attempt by an employer to verify an applicant’s disclosure of non-salary related information or conduct a background check, provided that if such verification or background check discloses the applicant’s salary history, such disclosure shall not be solely relied upon for purposes of determining the salary, benefits, or other compensation of such applicant during the hiring process, including the negotiation of a contract.</li></ul>



## Ohio (Toledo)

Salary History Inquiry Prohibition	<ul style="list-style-type: none"><li>• It is an unlawful discriminatory practice for an employer to inquire about the salary history of an applicant for employment.</li><li>• “Inquire” means to communicate any question or statement to an applicant, an applicant’s current or prior employers, or a current or former employee or agent of the applicant’s current or prior employer, in writing or otherwise, for the purpose of obtaining an applicant’s salary history, or to conduct a search of publicly available records or reports for the purpose of obtaining an applicant’s salary history.</li><li>• “Salary history” includes the applicant’s current or prior wage, benefits, or other compensation. “Salary history” does not include any objective measure of the applicant’s productivity such as revenue, sales, or other production reports.</li></ul>
Express Exception(s)	<ul style="list-style-type: none"><li>• An employer may, without inquiring about salary history, engage in discussions with the applicant about their expectations with respect to salary, benefits, and other compensation, including but not limited to unvested equity or deferred compensation that an applicant would forfeit or have cancelled by virtue of the applicant’s resignation from their current employer.</li><li>• The prohibition shall not apply to any actions taken by an employer pursuant to any federal, state or local law that specifically authorizes the reliance on salary history to determine an employee’s compensation.</li><li>• The prohibition shall not apply to a voluntary and unprompted disclosure of salary history information by an applicant.</li><li>• The prohibition shall not apply to any attempt by an employer to verify an applicant’s disclosure of non-salary related information or conduct a background check, provided that if such verification or background check discloses the applicant’s salary history, such disclosure shall not be relied upon for purposes of determining the salary, benefits, or other compensation of such applicant during the hiring process, including the negotiation of a contract.</li></ul>

## Oregon

Salary History Inquiry Prohibition	<ul style="list-style-type: none"><li>• It is an unlawful practice for an employer or prospective employer to seek the salary history of an applicant or employee from the applicant or employee or a current or former employer of the applicant or employee.</li></ul>
Express Exception(s)	<ul style="list-style-type: none"><li>• The prohibition does not prevent an employer from requesting from a prospective employee written authorization to confirm prior compensation after the employer makes an offer of employment to the prospective employee that includes an amount of compensation.</li></ul>

## Pennsylvania (Philadelphia)

<p>Salary History Inquiry Prohibition</p>	<ul style="list-style-type: none"> <li>• It is an unlawful employment practice for an employer, employment agency, or employee or agent thereof to inquire about a prospective employee's wage history, require disclosure of wage history, or condition employment or consideration for an interview or employment on disclosure of wage history.</li> <li>• "To inquire" shall mean to ask a job applicant in writing or otherwise.</li> <li>• "Wages" shall mean all earnings of an employee, regardless of whether determined on time, task, piece, commission or other method of calculation and including fringe benefits, wage supplements, or other compensation whether payable by the employer from employer funds or from amounts withheld from the employee's pay by the employer.</li> </ul>
<p>Express Exception(s)</p>	<ul style="list-style-type: none"> <li>• The prohibition does not apply to any actions taken by an employer pursuant to any federal, state, or local law that specifically authorizes the disclosure or verification of wage history for employment purposes.</li> </ul>

## Rhode Island

<p>Salary History Inquiry Prohibition</p>	<ul style="list-style-type: none"> <li>• No employer shall seek the wage history of an applicant.</li> <li>• "Wage history" means the wages paid to an applicant for employment by the applicant's current employer and/or previous employer or employers. Wage history shall not include any objective measure of the applicant's productivity, such as revenue, sales, or other production reports.</li> </ul>
<p>Express Exception(s)</p>	<ul style="list-style-type: none"> <li>• After the employer makes an initial offer of employment with an offer of compensation to an applicant for employment, an employer may seek to confirm the wage history of the applicant for employment to support a wage higher than the wage offered by the employer, if wage history is voluntarily provided by the applicant for employment without prompting from the employer.</li> <li>• An employer may request a background check that does not affirmatively seek wage history; provided, however, if the background check discloses the applicant's wage history, such information shall not be relied on for purposes of determining wage, benefits or other compensation for an applicant during the hiring process, including the negotiation for a contract for employment.</li> </ul>

## Vermont

Salary History Inquiry Prohibition	<ul style="list-style-type: none"><li>• An employer shall not inquire about or seek information regarding a prospective employee's current or past compensation from either the prospective employee or a current or former employer of the prospective employee.</li><li>• "Compensation" includes wages, salary, bonuses, benefits, fringe benefits, and equity-based compensation.</li></ul>
Express Exception(s)	<ul style="list-style-type: none"><li>• If a prospective employee voluntarily discloses information about their current or past compensation, an employer may, after making an offer of employment with compensation to the prospective employee, seek to confirm or request that the prospective employee confirm that information.</li><li>• The law does not prevent an employer from inquiring about a prospective employee's salary expectations or requirements.</li></ul>

## Washington

Salary History Inquiry Prohibition	<ul style="list-style-type: none"><li>• An employer may not seek the wage or salary history of an applicant for employment from the applicant or a current or former employer.</li></ul>
Express Exception(s)	<ul style="list-style-type: none"><li>• An employer may confirm an applicant's wage or salary history if the applicant has voluntarily disclosed the applicant's wage.</li><li>• An employer may confirm an applicant's wage or salary history after the employer has negotiated and made an offer of employment with compensation to the applicant.</li></ul>

# Conclusion

## **What are the potential benefits and challenges associated with implementing salary history bans?**

The overwhelming benefit associated with implementing salary history ban laws is the purpose behind the laws, as discussed above; The laws operate in a way to help eliminate potentially discriminatory wage gaps. Additionally, employers will benefit from avoiding the legal consequences that come with non-compliance of the laws.

Still, there are challenges associated with implementing salary history bans as employers should be taking steps to ensure compliance with applicable salary history ban laws. For example, employers should consult with their legal counsel to become familiar with applicable jurisdictions that contain a salary history ban law and understand all the prohibitions and exceptions under such law. Additionally, employers should review their job application materials to ensure applicants are not being asked to disclose their prior or current compensation information. Likewise, employers should train their hiring staff to ensure they do not ask applicants, orally or in writing, about their prior or current compensation unless they are permitted to do so under the applicable law. Notably, many employers are proactively taking these types of questions out of their application materials and interview question lists to prevent any perception of discrimination.

## **How can InCheck help?**

First and foremost, unless otherwise requested, InCheck will not include any compensation history within a background check report. Additionally, InCheck will continue to monitor the evolving salary history ban laws and publish content if a new salary history ban law is on the horizon, which is very likely as the continued spread of salary history ban laws is expected.



# About The Author

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Jonathan Culbertson received his Juris Doctorate from the University of Cincinnati College of Law in 2016 and was admitted to the State of Pennsylvania Bar in 2018. Jonathan joined InCheck in 2021 as Compliance Manager and promptly became a member of the Professional Background Screening Association.

As Compliance Manager, Jonathan helps the InCheck team and clients stay up to date with the continuously changing federal, state, and local laws and regulations that influence how background screenings should be conducted, so that all parties can develop policies and procedures that are compliant. Jonathan takes great pride in helping the team and clients better understand the requirements of laws such as the federal Fair Credit Reporting Act, fair credit reporting state laws, equal employment opportunity laws, fair chance hiring laws, pay equity laws, marijuana laws, and many other state and local law trends. These laws are continuously evolving, complex, and mandate many requirements. As such, he is passionate about sharing his knowledge of new and changing legislation, compliance issues, and industry best practices through newsletters, blogs, vlogs, and white papers.



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