

Pay Equity Issues & Insights Blog



Third Time's The Charm For California Salary History Ban Legislation

By *Christine Hendrickson and Chantelle C. Egan*

Seyfarth Synopsis: After [two previous failed attempts](#), California joins seven other U.S. jurisdictions to prohibit inquiries into an applicant's salary history. Read on for a recap of the new law.

With Governor Jerry Brown signing [AB 168](#) into law today, California joins [Delaware](#), Puerto Rico, [Oregon](#), [Massachusetts](#), [New York City](#), [Philadelphia \(currently pending legal challenge\)](#), and its own city of [San Francisco](#) in prohibiting employers from asking job applicants for "salary history information." This term includes both compensation and benefits.

AB 168 will add section 432.3 to the California Labor Code. While Section 432.3 will prohibit employers from asking about or relying on prior salary information in deciding whether to offer a job and in deciding how much to pay, Section 432.3 will give employers a pass when an applicant, "voluntarily and without prompting," discloses salary history information. In that case, Section 432.3 will not prohibit the employer from relying upon the volunteered information in setting the applicant's starting salary. But note that the California Fair Pay Act (Lab. Code § 1197.5(a)(2)) forbids employers to rely on prior salary, by itself, to justify any disparity in pay.

Section 432.3 will also make California the first jurisdiction in the country to require that employers provide applicants with the pay scale for a position, upon "reasonable request."

Section 432.3 will apply to "all employers"—both private and public—and will become effective January 1, 2018.

If you would like further information, please contact [Christine Hendrickson](#) at chendrickson@seyfarth.com or [Chantelle C. Egan](#) at cegan@seyfarth.com.

www.seyfarth.com

Attorney Advertising. This European Employment Law ALERT is a periodical publication of Seyfarth Shaw LLP and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

Seyfarth Shaw LLP Pay Equity Group | October 12, 2017

©2017 Seyfarth Shaw LLP. All rights reserved. "Seyfarth Shaw" refers to Seyfarth Shaw LLP (an Illinois limited liability partnership). Prior results do not guarantee a similar outcome.