

One Minute Memo[®]



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

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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.

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