

SALARY HISTORY BAN: DON'T ASK, DON'T ASK

New York State Signs On

As part of a multi-pronged effort to end wage discrimination and close wage gaps— primarily the historic disparity between men and women—Governor Cuomo recently signed Executive Order 161, which bars New York State entities from asking applicants about their current salary or salary history. While the law only covers the public sector, it's safe to assume that the mandate will be extended to the private sector in the foreseeable future.

With his action, Governor Cuomo added New York to a growing list of states and cities where salary history is, or will soon be, off limits. In August, Massachusetts made salary inquiries illegal for all employers, and in January, Philadelphia followed suit. Applicants for municipal jobs in New York City are no longer asked about salary, and the City Council may soon extend the ban to private employers. Bills to ban salary inquiries have also been introduced in New Jersey, Pittsburgh and Washington, DC.

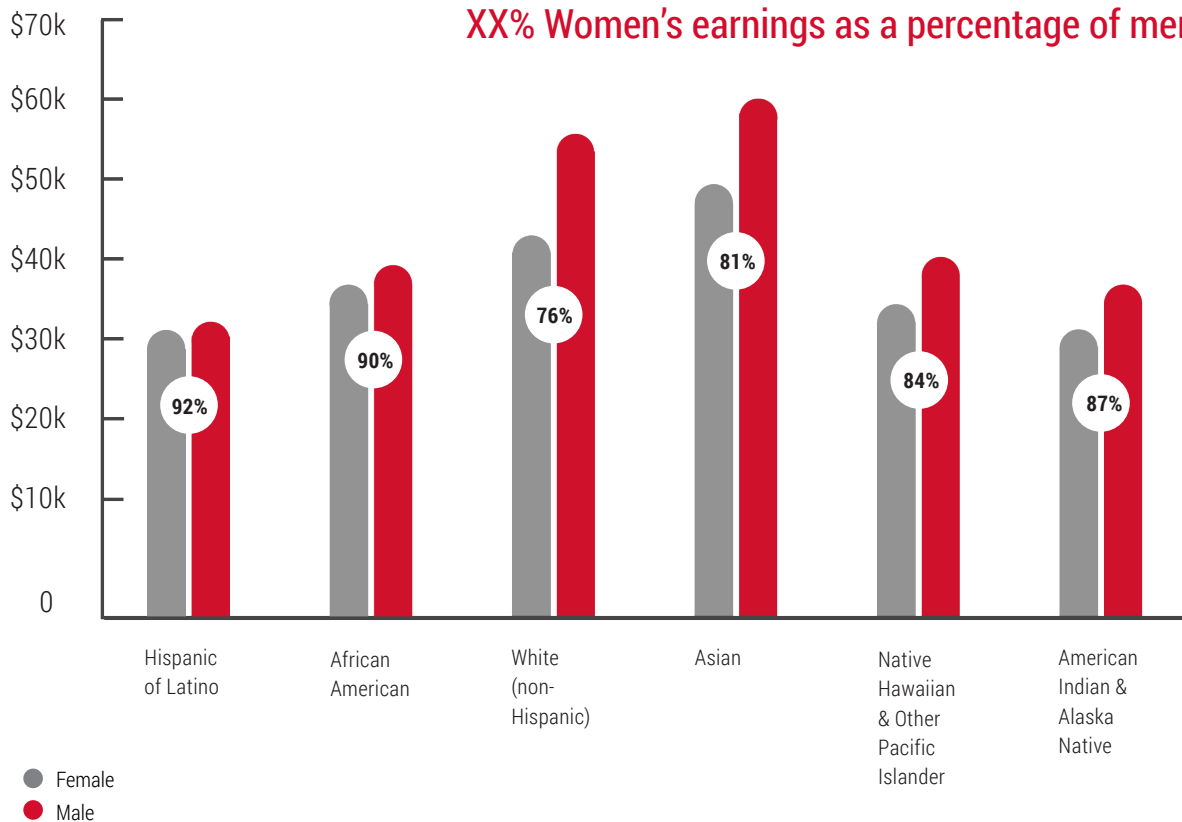
Why Are They Taking Action?

Here's a common scenario that the new mandates address. If a woman is earning less than a male counterpart and they are both applying for the same position, the prospective employer—armed with the woman's current salary information—may be prone to offer her less than would be offered to the similarly qualified male applicant. She may enter the new job at a lower salary than her male counterpart and, regardless of how long she stays with the company and how many raises or promotions she gets, may never achieve parity. Additionally, should she decide to move on from there, will probably be underpaid at her next job as well.

As long as the woman is forced to reveal her salary history at every job interview throughout her career, she will probably never close the wage gap. The ban on salary inquiries is aimed at disrupting this "vicious cycle." Without knowing how much a person is currently earning, new employers will not be able to adjust their offers accordingly, and the candidate will have a better chance of achieving pay equity.



XX% Women's earnings as a percentage of men's earnings



Source: U.S. Census Bureau, 2015 American Community Survey 1-Year Estimates Courtesy, AAUW

The Silver Lining

While many employers are supportive of efforts to close the wage gap, it's not surprising that they are also ambivalent about the new mandates. After all, a ban on salary inquiries reduces the amount of information they can glean from candidates, limits their leverage when negotiating salary and extending offers and, in all probability, will end up increasing payroll. So it's understandable that, despite their belief in pay equity, they are not looking forward to the ban.

However, if they are willing to take the long view, they may actually realize that this cloud has some very bright silver linings. First, by closing the wage gap and ensuring pay equity, we are almost certain to see increased morale and a corresponding increase in productivity, along with a reduction in job hopping among valuable employees who are either being underpaid or feel that they are being underpaid.

Equally important, the new mandates may actually help employers make better hiring decisions. You see, even though we think that we're being totally objective, salary considerations almost always come into play when evaluating candidates.

While these decisions may cost us more up front, they are certain to cover the initial salary differential many times over due to better performance and increased productivity. So please don't stress. While the new laws were designed to benefit your employees, they may actually end up improving your workforce and your business...and your bottom line.