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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **403**

01/28/2021 Authored by Her, Bahner, Edelson, Moller, Feist and others
The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law
02/04/2021 Adoption of Report: Re-referred to the Committee on Labor, Industry, Veterans and Military Affairs Finance and Policy
02/18/2021 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act
1.2 relating to human rights; prohibiting employers from inquiring about past pay;
1.3 amending Minnesota Statutes 2020, section 363A.08, by adding a subdivision.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2020, section 363A.08, is amended by adding a subdivision
1.6 to read:

1.7 Subd. 8. **Inquiries into pay history prohibited.** (a) "Pay history" as used in this
1.8 subdivision means any prior or current wage, salary, earnings, benefits, or any other
1.9 compensation about an applicant for employment.

1.10 (b) An employer, employment agency, or labor organization shall not inquire into,
1.11 consider, or require disclosure from any source the pay history of an applicant for
1.12 employment for the purpose of determining wages, salary, earnings, benefits, or other
1.13 compensation for that applicant. There is a rebuttable presumption that use of pay history
1.14 received on an applicant for employment to determine the future wages, salary, earnings,
1.15 benefits, or other compensation for that applicant is an unfair discriminatory employment
1.16 practice under subdivisions 1 to 3. The general prohibition against inquiring into the pay
1.17 history of an applicant does not apply if the job applicant's pay history is a matter of public
1.18 record under federal or state law, unless the employer, employment agency, or labor
1.19 organization sought access to those public records with the intent of obtaining pay history
1.20 of the applicant for the purpose of determining wages, salary, earnings, benefits, or other
1.21 compensation for that applicant.

1.22 (c) Nothing in this subdivision shall prevent an applicant for employment from voluntarily
1.23 and without prompting disclosing pay history for the purposes of negotiating wages, salary,

2.1 benefits, or other compensation. If an applicant for employment voluntarily and without
2.2 prompting discloses pay history to a prospective employer, employment agency, or labor
2.3 organization, nothing in this subdivision shall prohibit that employer, employment agency,
2.4 or labor organization from considering or acting on that voluntarily disclosed salary history
2.5 information to support a wage or salary higher than initially offered by the employer,
2.6 employment agency, or labor organization.

2.7 (d) Nothing in this subdivision limits, prohibits, or prevents a person from bringing a
2.8 charge, grievance, or any other cause of action alleging wage discrimination because of
2.9 race, color, creed, religion, national origin, sex, gender identity, marital status, status with
2.10 regard to public assistance, familial status, membership or activity in a local commission,
2.11 disability, sexual orientation, or age, as otherwise provided in this chapter.

2.12 (e) Nothing in this subdivision shall be construed to prevent an employer from:

2.13 (1) providing information about the wages, benefits, compensation, or salary offered in
2.14 relation to a position; or

2.15 (2) inquiring about or otherwise engaging in discussions with an applicant about the
2.16 applicant's expectations or requests with respect to wages, salary, benefits, or other
2.17 compensation.

2.18 **EFFECTIVE DATE.** This section is effective January 1, 2022. For employment covered
2.19 by collective bargaining agreements, this section is not effective until the date of
2.20 implementation of the applicable collective bargaining agreement that is after January 1,
2.21 2022.