

REFERENCE TITLE: employers; compensation history; prohibitions

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1361

Introduced by
Senators Mendez: Diaz, Epstein, Fernandez, Gonzales, Hatathlie, Hernandez,
Sundareshan

AN ACT

AMENDING TITLE 23, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 23-207; RELATING TO EMPLOYMENT PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 2, article 1, Arizona Revised
3 Statutes, is amended by adding section 23-207, to read:

4 23-207. Compensation history; exceptions; civil penalty;
5 definitions

6 A. AN EMPLOYER OR AN EMPLOYER'S AGENT MAY NOT EITHER:

7 1. SCREEN AN APPLICANT BASED ON THE APPLICANT'S COMPENSATION
8 HISTORY, INCLUDING BY REQUIRING THAT AN APPLICANT'S PRIOR COMPENSATION
9 SATISFY MINIMUM OR MAXIMUM CRITERIA.

10 2. SEEK THE COMPENSATION HISTORY OF AN APPLICANT FROM THE APPLICANT
11 OR A CURRENT OR FORMER EMPLOYER FOR THE PURPOSE OF SETTING COMPENSATION TO
12 BE OFFERED TO AN APPLICANT.

13 B. FOR THE PURPOSES OF THIS SECTION, IF THE EMPLOYER DEMONSTRATES
14 THAT THE EMPLOYER'S AGENT WAS INFORMED OF AND INSTRUCTED TO COMPLY WITH
15 THE REQUIREMENTS OF THIS SECTION, THE EMPLOYER IS NOT LIABLE FOR ANY
16 ACTION THAT THE EMPLOYER'S AGENT TAKES THAT VIOLATES THIS SECTION UNLESS
17 THERE IS A FINDING OF A REPEAT VIOLATION WITH KNOWLEDGE OF THE EMPLOYER.

18 C. THIS SECTION DOES NOT PROHIBIT EITHER OF THE FOLLOWING:

19 1. AN EMPLOYER OR AN EMPLOYER'S AGENT AND AN APPLICANT FROM
20 DISCUSSING AND NEGOTIATING COMPENSATION EXPECTATIONS IF THE EMPLOYER OR
21 EMPLOYER'S AGENT DOES NOT REQUEST OR REQUIRE THE APPLICANT'S COMPENSATION
22 HISTORY AS PART OF THAT PROCESS.

23 2. AN EMPLOYER OR AN EMPLOYER'S AGENT FROM SEEKING THE APPLICANT'S
24 COMPENSATION HISTORY AFTER AN OFFER OF EMPLOYMENT THAT INCLUDES TERMS OF
25 COMPENSATION HAS BEEN EXTENDED TO THE APPLICANT AND ACCEPTED.

26 D. THE INDUSTRIAL COMMISSION OF ARIZONA MAY IMPOSE A CIVIL PENALTY
27 OF AT LEAST \$1,000 BUT NOT MORE THAN \$5,000 FOR THE FIRST VIOLATION AND AT
28 LEAST \$5,000 BUT NOT MORE THAN \$10,000 FOR EACH SUBSEQUENT VIOLATION
29 AGAINST ANY EMPLOYER THAT VIOLATES OR FAILS TO COMPLY WITH THIS SECTION.
30 FOR THE PURPOSES OF THIS SUBSECTION, ANY ACTIONS BY AN EMPLOYER OR
31 EMPLOYER'S AGENT THAT VIOLATE SUBSECTION A OF THIS SECTION PERTAINING TO
32 INTERVIEWING AND HIRING FOR A SINGLE POSITION CONSTITUTE A SINGLE
33 VIOLATION.

34 E. FOR THE PURPOSES OF THIS SECTION:

35 1. "APPLICANT" MEANS A PROSPECTIVE EMPLOYEE APPLYING FOR
36 EMPLOYMENT.

37 2. "COMPENSATION" INCLUDES MONETARY WAGES AS WELL AS BENEFITS AND
38 OTHER FORMS OF COMPENSATION.