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SENATE BILL NO. 1059

Offered January 9, 2019

Prefiled December 6, 2018

A *BILL to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:7, relating to prohibition on employer inquiry about wage or salary history of prospective employees; civil penalty.*

Patron—Favola

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:7 as follows:

§ 40.1-28.7:7. Acquiring wage or salary history of prospective employees prohibited; civil penalty.

A. No employer shall require as a condition of employment that a prospective employee provide or disclose the prospective employee's wage or salary history.

B. No employer shall attempt to obtain information regarding the wage or salary history of a prospective employee from any current or former employer of the prospective employee.

C. Any employer that violates the provisions of this section shall be subject to a civil penalty not to exceed \$100 for each violation. The Commissioner shall notify any employer that he alleges has violated any provision of this section by certified mail or overnight delivery service. Such notice shall contain a description of the alleged violation. Within 21 days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. If the employer fails to contest the violation by requesting such an informal conference within 21 days following the employer's receipt of the notice of the alleged violation, the violation and proposed penalty will become a final order of the Commissioner and not subject to review by any court or agency except upon a showing of good cause. Such informal conference shall result in a decision by the Commissioner that will be appealable to the appropriate circuit court. The Department shall send a copy of the Commissioner's decision to the employer by certified mail or overnight delivery service. The employer may file a notice of an appeal only within 30 days from the receipt of the decision. The appeal shall be on the agency record. With respect to matters of law, the burden shall be on the party seeking review to designate and demonstrate an error of law subject to review by the court. With respect to issues of fact, the duty of the court shall be limited to ascertaining whether there was substantial evidence in the record to reasonably support the Commissioner's findings of fact. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund. The Commissioner shall prescribe procedures for the payment of proposed penalties that are not contested by employers.

INTRODUCED

SB1059