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HOUSE BILL NO. 326

Offered January 8, 2020

Prefiled January 1, 2020

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 the wage history of applicants for employment; prohibited actions; civil penalty.*

Patron—Levine

Referred to Committee on Labor and Commerce

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. Wage history inquiries; civil penalty.

A. As used in this section:

"Employer" includes the Commonwealth and each of its agencies, institutions, and political subdivisions.

"Wage history" means information regarding the amount of wages that was paid or is being paid to an applicant for employment by any current or former employer of the applicant.

B. No employer shall:

1. Refuse to interview, hire, or employ an applicant for employment because the applicant does not provide wage history;

2. Retaliate against an applicant for employment because the applicant does not provide wage history; or

3. Rely on the wage history of an applicant to determine the wages offered by the employer to such individual.

C. Nothing in this section shall prohibit an employer from asking an applicant about the individual's wage or salary expectation for the position for which the individual is applying.

D. An applicant or current or former employee aggrieved by a violation of this section may bring a civil action for compensation for any damages sustained as a result of such violation in a court of competent jurisdiction. Such damages shall include the wages, and interest thereon at the legal rate of interest, of which such applicant or employee is deprived by reason of the violation. The court may award injunctive relief as well as reasonable attorney fees to an individual who prevails in a civil action brought under this subsection.

E. Any employer that violates the provisions of this section is subject to a civil penalty not to exceed \$100 for each violation. The Commissioner shall notify any employer who he alleges has violated any provision of this section by certified mail. Such notice shall contain a description of the alleged violation. Within 15 days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. In determining the amount of any penalty to be imposed, the Commissioner shall consider the size of the business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be final. Civil penalties under this section shall be assessed by the Commissioner and paid to the Literary Fund. The Commissioner shall prescribe procedures for the payment of proposed penalties that are not contested by employers.

INTRODUCED

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