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HOUSE BILL NO. 416

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Labor and Commerce
on January 30, 2020)

(Patrons Prior to Substitute—Delegates Cole, J.G., Delaney [HB 802], and Levine [HB 326])

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.*

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:

1. Require as a condition of employment that a prospective employee provide or disclose the prospective employee's wage or salary history;

2. Attempt to obtain information regarding the wage or salary history of a prospective employee from any current or former employer of the prospective employee;

3. Request a prospective employee to complete an application for employment that includes a question inquiring about the prospective employee's wage or salary history; or

4. Ask a prospective employee in an employment interview any question intended to obtain information about the prospective employee's wage or salary history.

B. 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.

C. The provisions of this section shall not apply to an employer with fewer than 25 employees.