



## **NJ AUTO INDUSTRY ALERT**

August 9, 2019

### **New Law Bars Asking Job Applicants About Their Salary History and Compliance Tips Concerning Retail Sales Of Vehicles Without Titles**

#### Employers Will Be Barred From Asking Job Applicants About Their Salary History

Under a new law signed by Acting Gov. Sheila Oliver on July 25, 2019 employers will be barred from asking job applicants about their prior wages, salaries or benefits. The new law provides that in the event that an applicant voluntarily, without employer prompting, provides the employer with their salary history the employer can consider and verify the information.

The law is designed to combat the gender pay gap and to ensure that all employees receive salaries that are commensurate with their skills, qualifications and experience.

Violators will face fines of up to \$1,000 for a first offense, \$5,000 for a second violation, and \$10,000 for subsequent infractions. The law applies to all business that hire employees in New Jersey and will take effect on January 1, 2020.

#### Compliance Tip: Retailing Vehicles Without Titles

Many New Jersey car dealers periodically offer used vehicles for sale on a retail basis without physically having a title, which is lawful provided certain conditions are satisfied. Under New Jersey law, dealers can retail vehicles without an assignment or certificate of title at the time of sale provided the dealer: (1) satisfies all liens noted on the certificate of title; (2) has a right to obtain title as of the time of sale; and (3) gives the consumer written confirmation of No.'s 1 and 2 above at the time of sale. Some dealers are not aware of all the requirements. A common mistake is to fail to make the appropriate disclosures in writing. Often these oversights are discovered either during an NJMVC audit following a consumer complaint or after a lawsuit is brought by a retail consumer. Wholesale transactions and the interests of floorplan lenders in inventory held for sale are exempt from this provision of the law. Failure to comply with this law can, among other things, result in fines, suspension or termination of a license by the NJMVC. Existing New Jersey consumer laws also require dealers to refrain from making affirmative misstatements or omissions regardless of intent when selling motor vehicles on a retail basis. Failure to comply with consumer protection statutes can expose a dealer to three times compensatory damages plus attorneys' fees.

If your dealership sells any used vehicles without having titles present, its disclosure forms should be reviewed by an attorney or other qualified professional to ensure compliance with the law. By being transparent, dealers can potentially limit liability to the NJMVC and consumers.



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Anthony Bush is a Member in Eckert Seamans' Princeton Office and has more than two decades of commercial litigation and regulatory experience with an emphasis on issues impacting the automotive industry. His clients include operators of wholesale motor vehicle auctions, auto dealerships, wholesale auto parts distributors, finance companies, lessors, and auto body repair facilities. Tony and Eckert represent clients in corporate and consumer litigation including class actions, land use matters, business counseling, employment matters, franchise disputes, before the New Jersey Motor Vehicle Commission and New Jersey Department of Law and Public Safety, Division of Consumer Affairs, and in legislative and regulatory issues affecting the automotive industry. For more information about the NJIADA, contact Paula Frendel at [njiada.pfrendel@gmail.com](mailto:njiada.pfrendel@gmail.com). For more information about any of the issues above, or any other legal issues impacting your dealership, contact Tony Bush at (609) 989-5056 or [abush@eckertseamans.com](mailto:abush@eckertseamans.com).

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