



Pay Transparency Comes to Maryland: 6 Key Takeaways and What You Should Do Next

Insights

5.20.24

Maryland is the latest state to jump on the pay transparency bandwagon after Gov. Wes Moore signed new “wage range” requirements into law last month. Beginning October 1, Maryland employers must include salary and benefits information in both internal and external job postings and keep records of compliance for a minimum of three years. The new law expands the state’s Equal Pay for Equal Work Act – which already requires employers to disclose wage and salary information to job applicants who request it – by obligating employers to provide that information upfront in job postings. We’ll give you six key takeaways from the new law and what you should do next.

6 Key Takeaways from the New Law

1. Nearly All Maryland Employers Must Comply

HB 649 applies to any person engaged in a “business, industry, profession, or trade” in Maryland – including private and public employers, regardless of size – and to all positions for work that will be physically performed, at least in part, in the state. While it does not expressly contemplate hybrid work arrangements, the text of the bill suggests that job postings for remote positions where a teleworker will be physically located in Maryland would be subject to the law’s mandates.

2. Employers Must Provide Wage Ranges in Job Postings

Beginning October 1, employers must disclose in each public or internal job posting the minimum and maximum hourly rate or salary – known as the “wage range” – and a general description of benefits and any other compensation offered for the position. The law broadly defines “posting” as “a solicitation intended to recruit applicants for a specific available position” and includes both postings made directly by an employer and those made by a third party on the employer’s behalf. If public or internal postings for a position are not made available to an applicant for the position, employers must disclose wage range and compensation and benefit information to the applicant before discussing compensation and at any time upon the applicant’s request.

3. Wage Ranges Must Be Set in Good Faith

Employers must set wage ranges in “good faith” by referencing any of the following:

- applicable pay scales for the position;
- any previously determined wage range for the position;
- the wage range of someone in a comparable position at the time of posting; or
- the amount budgeted for the position.

It is unclear whether employers may consider other factors, such as market conditions, when setting wage ranges under this standard.

4. No Retaliation Against Applicants or Current Employees

Under existing law, employers are prohibited from refusing to interview, hire, or employ applicants for requesting a position's wage range or declining to provide wage history. The new law extends the anti-retaliation provision to also protect current employees who exercise their rights under the law by prohibiting employers from refusing to promote or transfer an employee for doing so.

5. Recordkeeping Requirements

Employers must keep records of compliance for each position for at least three years after the position is filled, or if not filled, for three years from the date the position was initially posted.

6. No Employee Right to Sue – But Potential Penalties

Beginning October 1, employees and applicants will no longer be able to directly sue employers for alleged wage disclosure violations. Instead, the Maryland Commissioner of Labor and Industry will have sole power to enforce the law. An applicant or employee must first file a complaint with the Commissioner, and the Commissioner will have discretion to, for first violations, issue a letter ordering compliance or, for subsequent violations, assess penalties of up to \$600 per employee or applicant for whom the employer is not in compliance.

What Should Employers Do Now?

Prior to the law going into effect, you should work to identify pay ranges for your Maryland job postings consistent with the law's requirements so you are ready to meet the disclosure requirements come October. It may also be a good time to consider a pay equity audit to ensure that your pay setting practices and posted salaries are compliant with all federal and state equal pay laws. Work with your counsel to learn more about the benefits of a pay equity audit and other best practices to ensure that your organization remains compliant with this and other pay transparency laws around the country.

Conclusion

We will continue to monitor developments in Maryland and throughout the country on pay transparency and pay data reporting. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have questions about the new pay transparency requirements, please contact your Fisher Phillips attorney, the authors of this Insight, or any member of our [Pay Equity Practice Group](#).

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