

Maryland Employers: Amended Pay Transparency Law Requires Wage Range Disclosure in Job Postings

Article By:

David Barmak

Danielle M. Berezney

Maryland was one of the first states to implement a pay transparency law in 2020, and now it joins several states in broadening that law to require employers to disclose a wage range for open positions (Washington, D.C.'s pay transparency law, for example, which we wrote about [here](#) will become effective on June 30, 2024). Since 2020, employers in Maryland have been required to provide, when *requested* by an applicant, the wage range for the position to which the applicant applied. Maryland will now require employers to proactively disclose in their public and internal job postings the wage range for the position. Maryland's new law will go into effect on October 1, 2024.

Employer Obligations to Disclose the Wage Range in each Job Posting

Maryland's law requires employers to disclose in each internal or external job posting the wage range for the position, a general description of the benefits offered, and "any other compensation for the position." The law does not define "any other compensation," and we will await guidance on this point.

Maryland's law further defines "posting" as "a solicitation intended to recruit applicants for a specific available position," indicating that the requirements apply to both internal and external job postings. Recruiters and other third parties soliciting applicants on behalf of an employer must also follow the law's requirements.

As with similar laws in other states, Maryland's law requires that the "wage range," which is defined as the minimum and maximum hourly rate or the minimum and maximum salary for a position, is set in good faith. To help meet that requirement, the "wage range" should be "set in reference to" one or more of the following: (i) any applicable pay scale, (ii) any previously determined minimum and maximum hourly rate or minimum and maximum salary for the position, (iii) the minimum and maximum hourly rate or minimum and maximum salary of an individual holding a comparable position at the time of the posting, or (iv) the budgeted amount for the position.

The Law Only Covers Positions That Are Located in Maryland

Maryland's law differs from other states' pay transparency laws which require employers to include a wage range in a job posting if the applicant will be located outside of the state but report to a supervisor or office within the state (such as New York). In contrast, Maryland's law only requires that the wage range be disclosed for a position where the work will be physically performed in Maryland "at least in part." Employers should therefore be mindful of meeting the law's requirements if the position may be filled by an individual who may work from Maryland some of the time, such as when working from their Maryland home in a hybrid work arrangement for a Virginia employer.

A Sample Form Will Be Available for Employers

Maryland's Commissioner of the Division of Labor and Industry will develop and publish a form that employers "may" use to disclose the wage range for each open position. The law provides that employers may complete the form and include it with each internal or external job posting. Use of the form apparently will not be required, but this point may be clarified by any future guidance.

Recordkeeping Obligations

The law requires that employers maintain a record of compliance with statute's requirements for each position for at least three years after the position is filled or, if it was never filled, after the position was posted.

Enforcement of the Law

While there is no private right of action, an applicant or employee may file a complaint with the Commissioner. The Commissioner may issue orders compelling compliance with the law and impose penalties which will be based on certain factors such as the gravity of the violation, the employer's size, and its history of violations. The Commissioner may impose penalties ranging from a letter to up to \$600 per violation.

Next Steps for Employers

Employers should begin planning to comply with the law's requirements, including whether they will use the Commissioner's form. Employers should also determine which of their positions may be performed in Maryland "at least in part," to ensure they are including the required information in the appropriate job postings. While Maryland employers have already been providing wage ranges to applicants upon request, employers must be ready by October 1 to publicize that wage range as well a summary of benefits and any other compensation in all job postings for positions for which work may be performed in Maryland.

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