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Labor & Employment Alert

November 18, 2024

Understanding the Massachusetts Pay Transparency Act

By Damaris Hernandez and Jeffrey Gilbreth

Ensure compliance with the Massachusetts Pay Transparency Act—First deadline is February 1, 2025



What's the impact?

- The Act imposes new requirements on employers' compensation practices. Among other requirements, employers with twenty-five or more employees must disclose pay ranges in job postings.
- The first deadline under the Act is February 1, 2025, so covered employers should act now to ensure compliance.

When do employers' requirements commence?

Wage reporting under the Massachusetts Pay Transparency Act (the Act) requires employers with over one hundred employees to submit wage data reports annually by February 1, 2025.

COMPENSATION DISCLOSURE AND OTHER REQUIREMENTS

The Act sets forth a new framework for compensation disclosure, so it is crucial for employers to understand these obligations and when the requirements take effect. By familiarizing themselves with the requirements of the Act and tracking the effective date, employers can take full advantage of the remaining time available to prepare for compliance.

This portion of the Act will take effect on October 29, 2025. Governor Maura Healey signed the Act into law on July 31, 2024, and it provides that the Act will take effect one year after signing. But because the Massachusetts Constitution establishes an additional 90-day period for laws like the Act to take effect, the Act's effective date is October 29, 2025.

Summary of key provisions of the Bill

WAGE DATA REPORTS

The Act requires employers with one hundred or more employees to file annually a wage data report required under federal law with the office of the Secretary of the Commonwealth. The required contents of the wage data reports are employer-specific, and different types of employers have different requirements. The wage data report requirement applicable to larger employers is the EEO-1 data report (which such employers are (or should be) already filing federally each year).

These larger employers must file a completed copy of all required components of its Employer Information Report, as issued by the US Equal Employment Opportunity Commission, including any successor report containing the same or substantially similar workforce demographic and pay data categorized by race, ethnicity, sex, and job category. An employer subject to the EEO-1 data filing requirement must submit its report for the prior year to the Secretary of the Commonwealth annually by February 1st. As referenced above, the first filing deadline under the Act is February 1, 2025.

INCLUDING COMPENSATION INFORMATION IN JOB POSTINGS

The Bill requires any employer with twenty-five or more workers to include pay ranges in their job postings. A pay range is the annual salary range or hourly wage range that the covered employer reasonably and in good faith expects to pay for such position at the time. A "job posting" is any job posting or advertisement intended to recruit job applicants for a specific job, including both recruitments directly by the employer or indirectly through a third party.

Separately, current employees will be allowed to request the pay range for their current position and when the employer promotes or transfers the employee to a new position with different job responsibilities.

ENFORCEMENT AND LIABILITY

The Bill imposes liability on employers who violate this section. The Massachusetts Attorney General has exclusive jurisdiction to enforce this section and may obtain injunctive or declaratory relief. For a first-time violation, an employer receives a warning; for a second offense, the employer is fined up to \$500 dollars; for a third offense, the employer is fined up to \$1,000 dollars; and for a fourth and subsequent offense the employer is subject to the penalties in M.G.L. c. 149, section 27(c).

PROHIBITION ON RETALIATION AND DISCRIMINATION

The Bill imposes a prohibition on retaliation and discrimination. An employer is not allowed to retaliate or discriminate against an employee or applicant for: (1) pursuing their rights under the Act; (2) making a complaint regarding an alleged violation of the Act; (3) instituting any proceeding under the Act; or (4) testifying in any such proceeding.

The attorney general has exclusive jurisdiction to enforce the Act's anti-retaliation provisions and may obtain injunctive or declaratory relief. For a first-time violation, an employer receives a warning; for a second offense, the employer is fined up to \$500 dollars; for a third offense, the employer is fined up to \$1,000 dollars; and for a fourth and subsequent offense the employer is subject to the penalties in M.G.L. c. 149, section 27(c). Violating this section does not carry treble damages.

CURE OPPORTUNITY UNDER BOTH SECTIONS

For both sections discussed above, during the first two years after the effective date, an employer will have two business days after a notice of a violation to cure any defect before a fine is imposed.

STEPS EMPLOYERS SHOULD TAKE NOW AND WHO TO CONTACT

It is crucial for employers to ensure compliance by the dates set forth in the Act, with February 1, 2025, being the first deadline. We recommend that employers take steps now to review all aspects of their compensation practices and wage data reports.

If you have any questions or need assistance ensuring compliance with the Act, please contact Jeffrey Gilbreth at jgilbreth@nixonpeabody.com or Damaris Hernandez at dhernandez@nixonpeabody.com.



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