

## Maryland's New Pay Transparency Law Effective October 1, 2024

June 11, 2024

On October 1, 2024, Maryland's [House Bill 649](#) law takes effect, extending pay transparency requirements for Maryland employers. The law applies to all employers "engaged in a business, industry, profession, trade, or other enterprise" in Maryland, regardless of size. The law expands the state's Equal Pay for Equal Work Act, which already requires employers to disclose wage ranges to job applicants upon request. We've described the main requirements of the law below.

### Disclosure requirements

Covered employers must disclose a wage range and a general description of benefits and "any other compensation offered for the position," for all public or internal job postings. The disclosure requirements apply to all positions that will be "physically performed at least in part in the state." The state has not yet provided guidance on the law, including how to interpret this requirement. Thus, it remains unclear at this time whether the law applies to employers located outside of Maryland that employ remote workers in Maryland, or whether the law covers positions that are based in a different state but include remote work in Maryland on occasion. It also is unclear what other forms of compensation could be required under the broad disclosure requirement of "any other compensation," which could include bonuses or equity.

Similar to other pay transparency laws, this law requires employers set wage ranges in good faith. The "wage range" must be set "in reference to" any of the following:

1. Any applicable pay scale.
2. Any previously set minimum and maximum salary or hourly rate for the position.
3. The minimum and maximum salary or hourly rate of any individual holding a comparable position at the time of the posting.
4. The budgeted amount for the position.

The disclosure requirements apply to any "posting," defined as "a solicitation intended to recruit applicants for a specific available position." Indirect solicitation efforts, including through third parties (such as recruiting agencies) also must follow the disclosure requirements. Should no posting for a certain position exist, employers still must disclose the required information upon an applicant's request and prior to having any discussions on compensation with an applicant.

The law requires Maryland's commissioner of labor and industry to develop a form that employers can use to integrate into public and internal job postings and otherwise provide the completed form to applicants as required.

### Expanded wage history protections

Currently, employers are prohibited from refusing to interview, hire, or employ an applicant who refuses to provide their wage history or who requests the wage range for a position from the employer. The amended law now extends these same protections to

current employees. Further, employers cannot retaliate against or refuse to promote or transfer employees who choose not to disclose their wage history or request the wage range for a position. Employers are prohibited from retaliating against any applicants or current employees for exercising any rights under the law.

## Recordkeeping, enforcement and penalties

Employers are required to retain records demonstrating compliance with the law for each position for at least three years after the position is filled or the position was initially posted, if not filled.

Notably, the law does not include a private right of action for noncompliance. Instead, employees and applicants must file complaints with Maryland's labor and industry commissioner. The Maryland Division of Labor and Industry is authorized to issue orders compelling compliance and impose the following penalties for violations, after considering factors such as the employer's size and history of related violations:

- **First violation:** A letter to the employer compelling compliance.
- **Second violation:** A civil penalty of up to \$300 for each employee/applicant for whom the employer is not in compliance.
- **Third and any subsequent violations:** A civil penalty of up to \$600 for each employee/applicant for whom the employer is not in compliance if the violation occurred within three years after a prior finding that a violation occurred.

## Next steps

Maryland joins the growing number of jurisdictions requiring pay transparency in job postings – and this trend shows no signs of slowing down. Shortly after Maryland's law was enacted, Minnesota enacted its own pay transparency law, effective January 1, 2025. The law requires employers with 30 or more employees at one or more sites in Minnesota to list salary ranges, fixed pay rates, and a description of benefits and other compensation offered in all job position postings. Vermont also enacted a pay transparency law, which beginning July 1, 2025, will require employers with five or more employees to disclose the compensation or range of compensation to employees and applicants, with certain exceptions. The law applies to "Vermont job openings," which does not include positions physically located outside the state and that perform work predominantly for one or more offices or worksites physically located outside the state.

Maryland employers can prepare to comply with the state's law by reviewing their current pay transparency and pay equity practices. Employers should examine all public and internal job postings and advertisements to ensure these postings disclose the wage ranges and compensation and benefits information required under the law. Employers should carefully examine and note which positions can be "performed, at least in part" in the state. Employers also should review recordkeeping practices to ensure there are procedures in place to retain the pay disclosure compliance records for at least three years. Employers should consider conducting a pay equity audit in conjunction with counsel, to ensure that all pay practices and job postings are in compliance with applicable law and address any disparities. In addition to Maryland, Minnesota and Vermont's laws, multistate employers should note upcoming pay transparency obligations in [Washington, DC](#), (effective June 30, 2024) and [Illinois](#) (effective July 1, 2025).

If you have any questions about Maryland's HB 649 or pay transparency issues more generally, please contact the Cooley employment team.

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