



Massachusetts Passes New Overhauled Equal Pay Act

On August 1, 2016, Massachusetts Governor Charlie Baker signed a groundbreaking new law that significantly updates the state's previously passed equal pay law, which was enacted in 1945. The law is designed to reduce the wage gap between men and women and prevent wage discrimination based on gender. While the law will not take effect until July 1, 2018, business owners should familiarize themselves with the new regulations to ensure compliance and make sure all their employees are adequately covered.

Background

The new law has two main purposes; First, it prohibits gender-based discrimination in wages for comparable work (while providing a clearer definition of "comparable work"). Secondly, it prohibits employers from requesting a salary history from job candidates.

What This Means for You as an Employer

Employers will want to become familiar with the new law sooner rather than later to ensure a smooth transition in their policies and protect themselves from litigation.

First, employers should know that, under the new law, requiring potential job candidates to disclose previous salary levels will be illegal. If they choose to, applicants can disclose this information on their own, and their previous employers are allowed to confirm this information.

According to the law, "comparable work" is defined as "work that is substantially similar in that it requires substantially similar skill, effort, and responsibility and is performed under similar working conditions; provided, however, that a job title or job description alone shall not determine comparability." Employers are prohibited from discriminating based on gender for jobs that would be considered "comparable work" if one gender is being paid higher than another. Employers will still be allowed to compensate employees differently based on one or more of the following objective factors: a seniority system; a merit system; a system that measures earnings by quantity or quality of production, sales; the location in which the job is performed; education, training, or experience related to the job; or travel that is a regular and necessary condition of the job.

In addition, under the new law, employers may not retaliate against employees who reveal information about their own or a coworker's compensation to other employees. The law also extends the statute of limitations for bringing an equal pay claim from one year to three years. Employees and the Massachusetts Attorney General can bring suit against employers that violate these laws, with employees able to recover up to two times their wages, along with attorney fees. That being said, employers may have an affirmative defense if necessary if proven that they have self-audited their business and worked in good faith to alleviate any potential wage issues.

Next Steps for Employers

Although the new regulations will not take effect until 2018, now is the perfect time to start preparing your business to ensure compliance. See the following suggestions, and feel free to contact us for assistance if you have further questions.



- Immediately start taking a proactive look at your business's wage and compensation practices, and identify and correct any discrepancies that would make you liable under the new laws.
- Inform employees of their rights and develop a way for employees to raise wage issues internally.
- Review job applicant process, job descriptions, current salaries, company policies and practices, and employee handbooks to ensure consistency with every aspect of the new law.
- Provide training on the new law for managers and any other employees that have influence in compensation-based matters.

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