



HR-Alert: New York Enacts Transparency Law

New York's salary transparency law takes effect September 17, 2023. Covered employers will be required to disclose minimum and maximum annual salary or hourly range of compensation for any external or internal advertised job, promotion, or transfer opportunity that will physically be performed, at least in part, in the state of New York. The range would be considered the lowest and highest compensation an employer feels in good faith to be accurate at the time the position is posted. Further, employers must also include a job description if one exists. This State law largely follows the New York City Pay Transparency law that took effect November 1, 2022, however, there are some differences.

Who is Covered?

The New York salary transparency law covers employers with four or more employees. Temporary staffing firms are exempt from compliance. The statute is broadly defined and expressly applies to positions that can or will be performed, even in part, in New York. This includes positions where work is performed outside of New York state but will report to a supervisor, office, or worksite located in New York.

Differences in the NYC Transparency Law

The statewide salary transparency law has some differences when compared to the New York City salary transparency law; New York City employers must ensure they are compliant with both laws. Unlike the city law, the statewide law requires that if there is a job description, it must be included in the posting. The law does not define "job description" and does not require an employer to create a description in order to be posted. Additionally, the statewide law indicates that advertisements for jobs which are paid solely on commission will be in compliance provided they include a general statement indicating compensation shall be based on commission.

Violations

This law comes with penalties up to \$3,000 for noncompliance. Additionally, the law expressly prohibits employers from not hiring or interviewing an individual who exercises their rights under the law.

Employer Next Steps

- New York joins several other states and localities that have enacted pay transparency laws; multistate employers must consider these laws
- Covered employers should review their compensation programs in conjunction with their hiring processes to ensure all applicable job postings include the minimum and maximum annual salary or hourly ranges
- Consider conducting a pay equity audit to see how current pay matches up to the salary ranges posted

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on job postings

- Review your job posting templates to ensure compliance
- Train those involved in the hiring process of these disclosure requirements
- In anticipation of this new law, current employees may request their salary range, therefore it is important to have all information ready and be prepared to respond to any employee requests
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