# Engage PEO Client Alert

## Pay Transparency Laws Impact Employers in More States

**WHAT'S NEW:** States have been active with pay transparency legislation. These laws require employers to share the compensation range for a particular position, how they calculate compensation ranges for employment offers, and how they compute annual salary increases, or promotional increases.

**WHAT IT MEANS:** These laws are meant to help employers develop consistent pay practices and reduce potential inequities in pay. Ultimately, pay transparency laws seek to even the playing field for employees when it comes to employee pay.

Employers that violate the new laws may be subject to penalties, including civil actions by aggrieved applicants, civil penalties for violations of the law, actions by the Labor Commissioner, and administrative penalties for investigation costs and attorneys' fees.

**WHAT EMPLOYERS OPERATING IN, OR WITH REMOTE WORKERS IN, THESE STATES SHOULD DO:**

- Review job posting practices and templates and take appropriate steps to bring them into compliance with the laws of these various states.
- Be ready to take steps to comply with legislation in additional states and cities in the future.
- Evaluate pay ranges for all current positions.
- Contact your Engage HR Consultant to ensure you are compliant.

**SUMMARY OF PAY TRANSPARENCY LAWS IN EIGHT STATES PLUS NEW YORK CITY**

**California**

As of January 1, 2023, the law in California requires employers with fifteen or more employees to post the established pay range or wage range in any job posting for a position that may be performed in California, including remote positions. Employers with less than 15 employees are still subject to current state regulations under which they must provide a pay scale to applicants upon reasonable request.

All employers must also provide a pay scale to current employees for the position(s) they hold upon request, as well as maintain records of the job titles and wage rate histories for each employee for the duration of their employment plus three years after the end of the employment.

Note: Since this law is for any position that may be performed in California, it imposes this requirement on employers posting remote regardless of whether they are in California.

**Colorado**

As of January 1, 2021, the law in the Colorado requires employers (even those employers based in other states with remote workers in Colorado) to include compensation in job postings, notify employees of promotional opportunities, and keep job description and wage rate records.

The Act covers all employers, public or private, that employ at least one person in Colorado, and all employees of those employers. The following are not covered, and do not need to comply with the requirements for job postings or promotion notices in the Act.

**Colorado, continued**

- Employers with no employees in Colorado
- A party just sharing or re-posting another employer's job
- An employer whose job is re-posted by a third party on its own

**Connecticut**

As of October 1, 2021, the law in Connecticut requires employers to disclose wage ranges for open positions. Posted pay ranges may be based on 1) any applicable pay scale, 2) previously determined pay range for the position, and/or 3) actual range of wages for those employees currently holding comparable positions or the employer's budgeted amount for the position.

Applicants are entitled to this information upon request or before or when an offer is made to the applicant. Employees are entitled to this information upon their first request and when there is "a change in the employee's position." Disclosure requirements include instances of promotion or transfer within the company.

**Maryland**

As of October 1, 2020, Maryland's Equal Pay for Equal Work Law requires that employers provide a wage range for a position upon request of the applicant, and creates a ban on requesting the applicant's salary history. It expands protections for employees from retaliation for asking about their own wages. Prior to the amendment, the law only protected employees from asking about co-worker wages.

Under Maryland's law, an employer must provide the applicant with the wage range for the position for which the applicant applied if the applicant requests it. An employer may not retaliate against the applicant for the request.

An employer may not ask an applicant for his/her wage or salary and may not rely upon the applicant's wage history for the purpose of screening the applicant for employment or in determining the wages for the applicant. Moreover, an employer cannot have a background agent or staffing company ask for information concerning the applicant's wage/salary history. The same anti-retaliation provisions apply.

After the employer makes an initial offer of employment with an offer of compensation to an applicant, the employer may then consider a wage history voluntarily offered by the applicant to support the applicant's request for a higher wage/salary.

**Nevada**

As of October 1, 2021, Nevada's pay transparency law prohibits private employers in the state from inquiring about an applicant's wage or salary history or discriminating against an applicant that refuses to provide a wage or salary history. The law prohibits private employers from:

- Seeking the wage or salary history of an applicant;
- Relying upon the wage or salary history of an applicant to determine whether to offer employment or the rate of pay for the applicant;

**Nevada, continued**

- Refusing to interview, hire, promote, or employ an applicant if the applicant does not provide a wage or salary history; or
- Discriminating against or retaliating against an applicant that does not provide a wage or salary history.

Employers are permitted to ask an applicant about wage or salary expectations for the position.

Employers are required to provide the wage or salary rate for the position following an interview.

**New York City and New York State**

**New York City**

As of November 1, 2022, New York City law requires employers and employment agencies to post the minimum and maximum hourly or salary compensation that they believe in good faith they will pay for jobs, promotions, or transfer opportunities advertised to successful candidates. The new law applies to employers that have four or more employees (or one or more domestic workers). The law applies as long as one of the employees works in New York City. While the law also covers employment agencies that post job openings, it does not cover companies that recruit temporary employees.

The law applies to any advertisement for a job, promotion, or transfer opportunity that would be performed in New York City.

**New York State**

On June 2, 2022, the New York state legislature passed a similar bill that awaits Governor Kathy Hochul's signature. The bill is expected to be signed by the governor, albeit with some revisions. The effective date of the New York state law would be 270 days from the date that Governor Hochul signs the bill.

**Update December 2022**: New York State passed a salary transparency law that will require employers to provide a salary range for positions advertised internally and externally. The law becomes effective in September 2023 and mimics requirements enacted by NYC earlier this year.

**Rhode Island**

As of January 1, 2023, the Rhode Island Equal Pay Law requires employers with one or more employees in the state to provide job applicants a wage range upon the applicant's request.

Even when the applicant does not make a request, an employer should provide the wage range for the position "prior to discussing compensation." The wage range is defined as the range the employer anticipates paying for the position, including budgeted amounts.

Upon hire, when a current employee moves to a new position, or at any time upon an employee's request, employers must provide a wage range.

**Washington State**

As of January 1, 2023, Washington's Equal Pay and Opportunity Act requires employers with at least one employee in the state, including remote workers, and 15 or more employees anywhere in the world, to disclose salary ranges and benefits for all job postings.

**Washington State, continued**

All job postings must state the wage scale or salary range, benefits, and other compensation for the position. The wage scale or salary range should not be open-ended, but rather, state a low and high number. The job posting must provide a description of the "benefits" including but not limited to healthcare benefits, retirement benefits, paid time off, fringe benefits, and any other benefits reportable as income. The job posting must also describe "all other compensation," which may include bonuses, stock options, travel allowance, or profit sharing.

This disclosure requirement applies to new hires, promoted employees, and internal transfers, including any remote position that can be performed by a Washington-based employee. Stating that an employer will not consider job applicants residing in Washington does not excuse compliance with this law.

Third-party staffing companies must also comply with the new disclosure requirements. Employers will need to regularly update their job postings if there are any changes to the position.

An out-of-state exception applies only to jobs that will be physically performed outside of Washington, such as restaurant work in other states. Those job postings do not need to disclose wage and salary information.