

Maryland's New Wage Transparency Law to Take Effect on October 1, 2024

June 24, 2024

By [D'Ontae D. Sylvertooth](#)

Maryland's recently enacted [Wage Range Transparency Act](#) amends the state's Equal Pay for Equal Work law, specifically Sections 3-301, 3-304.2, 3-305, and 3-308(e) of Maryland's Labor and Employment Article Title 3, Subtitle 3.

As a recap, that law prohibits an employer from discriminating between employees by (1) paying a wage to employees of one sex or gender identity at a rate less than the rate paid to other employees under certain circumstances; and (2) providing less favorable employment opportunities as defined by the law, based on sex and gender identity.



- Following the lead of California, Colorado, Hawaii, New York, Washington, and the District of Columbia, Maryland's Equal Pay for Equal Work – Wage Range Transparency Act will require employers to disclose certain wage information in both public and internal job postings.
- The law was signed into law by Governor Wes Moore on April 25, 2024.
- The law will take effect on October 1, 2024.

The legislature passed the current law to strengthen Maryland's wage discrimination law, and as such, employers will now be required to provide wage information to applicants upon request.

The first question any employer may ask is: *Does this law apply to my organization?* The answer is yes for those engaged in a business, industry, profession, trade, or other enterprise in Maryland. This also includes a person acting "directly or indirectly in the interest of another employer with an employee," i.e., a recruiter.

The second question any employer may ask is: *Do I have to comply with this law for all of my available positions, regardless of where the position is located?* The answer is that the act applies to any position for work "that will be physically performed, at least in part," in Maryland.

The third question any employer may ask is: *What exactly must I do to comply with this law?* The answer to that question requires a discussion of specific definitions within the statute.

First, the statute defines a "posting" as a "solicitation intended to recruit applicants for a specific available position." The solicitation can be done by the employer itself or indirectly by a third party. Second, the statute defines "wage" as "all compensation for employment," which includes any allowances provided for "board, lodging, or other advantage" paid to an employee for the employer's convenience.

Third, the statute defines "wage range" as "the minimum and maximum hourly rate or minimum and maximum salary for a position." Employers can establish this range based on any applicable pay scale, a past minimum and maximum for the position at issue, any comparable position held by an individual at the time of the posting, or the budgeted amount for the position. It should be noted that the statute requires employers to set a wage range in good faith.

The amended law requires employers to publish the wage range for the position, a general description of benefits, and *any other compensation* offered for the position in their public or internal job advertisements.

In the event a posting was not made available to the applicant, the employer must disclose the wage range for the position, a general description of benefits, and *any other compensation* offered for the position (a) before a compensation discussion is held with the applicant, and (b) at any other time the applicant requests such information.

Instead of placing the required information in a posting, employers can comply with the statute by completing a state-provided form (to be developed), including the form with each public and internal posting, and making the form available to applicants when requested.

Like other wage transparency laws, Maryland prohibits employers from retaliating against employees by refusing to promote or transfer them if they do not provide their wage history or exercise their rights under the act. Employers are also prohibited from making employment decisions based on an employee’s or candidate’s wage history or an employee’s or candidate’s request for the position’s wage range.

Further, Maryland has existing salary history inquiry restrictions that control when and how an employer can obtain an applicant’s wage history. Specifically, employers *cannot* rely on wage history for screening, considering, or setting an applicant’s wages. Nor can an employer seek the wage history, orally or in writing, from an applicant either directly or using an agent or current or former employee.

Once an offer of employment that contains an offer of compensation is provided to an applicant, an employer may (a) rely on voluntarily disclosed wage history to support a higher wage offer or (b) seek to confirm the wage history to support a higher wage offer. However, if reliance on the wage history creates an unlawful pay differential, employers are prohibited from using the wage history.

Vividly missing from the law is any explanation of any other compensation or if bonuses are included in wages. However, given that discretionary bonuses are just that—discretionary and often undetermined at the time of a posting—it seems practical that a general description of the types of bonuses offered would comply with the law. The act also does not specify what is considered a “general description” of benefits. While it is undoubtedly burdensome for employers to curate a list of benefits offerings with their details outlined, it is unlikely that employers must offer more than a generalized list of their benefits.

The chart below provides a comparison of Maryland’s and D.C.’s wage transparency laws. While Maryland’s act is similar to D.C.’s [Wage Transparency Omnibus Amendment Act of 2023](#) (which will be effective on June 30, 2024), there are notable differences between the two laws, illustrated below.

	Maryland	District of Columbia
Who must comply with the law?	All employers engaged in business in Maryland, <i>including</i> the government.	All employers that employ at least one employee in D.C., <i>excluding</i> the D.C. and the federal government.

<p>What information must be disclosed?</p>	<p>The position's wage range, a general description of benefits, and <i>any</i> other compensation offered for the position.</p>	<p>The position's minimum and maximum projected salary or hourly pay, and the existence of healthcare benefits.</p>
<p>When must the required information be disclosed?</p>	<p>In each <i>public or internal</i> job posting. If it wasn't made then, it must be disclosed <i>before</i> discussing compensation with the applicant, and at any other time on request of the applicant.</p>	<p>In all job postings (<i>the law does not expressly address internal postings</i>). Disclosing the existence of healthcare benefits must be before the first interview. If not disclosed as required, the prospective employee may inquire about such disclosures.</p>
<p>What is prohibited?</p>	<p>Employers are prohibited from retaliating against employees or applicants who did not provide their wage history, requested the wage range for the position applied, or exercised any other rights under the law.</p>	<p>D.C.'s law is the same.</p>
<p>Who enforces the law?</p>	<p>The commissioner of labor and industry.</p>	<p>The mayor assesses the fines, and the attorney general examines whether violations have occurred. The attorney general also has the power to bring a civil action.</p>
<p>What is the enforcement?</p>	<p>If the commissioner determines there's a violation, the commissioner will issue an order compelling compliance. The fine is determined from a series of factors (described previously). The commissioner also may impose penalties as follows: <i>First violation</i>: Issue a letter compelling compliance. <i>Second violation</i>: Assess a civil penalty up to \$300 per applicant/employee for employment for whom the employer is not in</p>	<p>Civil penalties are not discretionary. The mayor imposes penalties as follows: <i>First violation</i>: \$1,000 <i>Second violation</i>: \$5,000 More than two violations: \$20,000 for each subsequent violation.</p>

	compliance. <i>More than two violations:</i> Assess a civil penalty up to \$600 for each subsequent violation for each applicant/employee for employment for whom the employer is not in compliance.	
Is there a private right of action?	No.	No.
Are there recordkeeping requirements?	Yes. Employers must retain records showing their compliance, for at least three years from the date the position is filled, or if it's not filled, from the time the position was initially posted.	No.
Is there a notice requirement?	No.	Yes. Employers must post in the workplace a notice that informs employees of their rights under this law. The posting must be in a conspicuous location where employees congregate.
When does the law take effect?	October 1, 2024	June 30, 2024. The law applies retroactively to employment contracts entered into after March 11, 2015.

Ogletree Deakins' [Washington, D.C.](#), office will continue to monitor developments and will publish updates on the [Maryland, Pay Equity](#), and [Wage and Hour](#) blogs as additional information becomes available.

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