

## Publications

### Maryland Employers: Prepare for New Wage Transparency, Posting, Pay Stub Requirements

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Maryland joins the growing list of states that have enacted wage transparency legislation. Effective October 1, 2024, employers will be required to publish wage ranges and other compensation information for all job postings in Maryland. This expands on Maryland's existing requirement that employers provide an applicant with a wage range for the position for which the applicant applied upon request.

Maryland's new wage transparency law broadly defines "employer" to include all persons and entities engaged in a business, industry, trade, profession, or other enterprise in the state. It also includes those who act directly or indirectly in the interest of another employer with an employee. The law applies to all job postings for positions that will be physically performed at least in part in Maryland.

In addition, Maryland will require employee pay stubs and wage statements to contain certain information relating to their pay, deductions and hours of work.

#### What is Required?

To comply with the law, employers must disclose in public or internal job postings for each position a good faith wage range and a general description of benefits and other compensation offered for the position. If an employer does not make this information available in a job posting, it must disclose to the applicant the information **before** the employer discusses compensation with the applicant **and** at any other time on request of the applicant.

The law directs the Maryland Commissioner of Labor and Industry to develop a form that employers may use to comply with the disclosure requirements. If an employer chooses to use the form, the employer must include the completed form in each public or internal posting for a position and otherwise make the form available to applicants.

Employers must keep a record of their compliance with the wage transparency law for **each** position for at least three years after the position is filled. If the position is not filled, the employer must keep a record of its compliance for three years after the position was initially posted.

## What is a “Posting?”

A “posting” is any solicitation intended to recruit applicants for a specific available position, including recruiting done directly by an employer or indirectly through a third party. The requirements apply to both external and internal job postings.

## What is a “Wage Range?”

The law defines a “wage range” as the minimum and maximum hourly rate or minimum and maximum salary for a position, set in good faith by the employer. A good faith wage range is established by reference to:

- any applicable pay scale;
- any previously determined minimum and maximum hourly rate or minimum and maximum salary for the position;
- the minimum and maximum hourly rate or minimum and maximum salary of an individual holding a comparable position at the time of the posting; or
- the budgeted amount for the position.

## Enforcement and Penalties for Noncompliance

The law prohibits employers from retaliating against applicants and employees for exercising any rights under the new law.

However, the law does not create a private right of action for employees and applicants for employer noncompliance. Instead, employees and applicants may file a complaint with the Commissioner of the Division of Labor and Industry. If the Commissioner determines that an employer has violated the wage disclosure requirements, the Commissioner will issue an order compelling the employer’s compliance. The Commissioner may also, in their discretion:

- For a first violation, issue a letter to the employer compelling compliance
- For a second violation, impose a civil penalty of up to **\$300 for each employee or applicant** for whom the employer is not in compliance; or
- For each subsequent violation, impose a civil penalty of up to **\$600 for each employee or applicant** for whom the employer is not in compliance if the violation occurred within three years after a previous determination that a violation occurred.

In determining the amount of penalty, the Commissioner considers the gravity of the violation, the size of the employer’s business, the employer’s good faith, and the employer’s history of violations under the law.

## New Pay Stub Requirements

Beginning October 1, 2024, pay stubs and wage statements for Maryland employees must include the following information for each pay period: (1) employer's name (as registered with the State of Maryland), address, and phone number; (2) date of payment and beginning and end dates of the pay period; (3) total number of hours worked during the pay period (for non-exempt employees); (4) rate of pay; (5) gross and net pay for the pay period; (6) amount and name of any deductions; (7) a listing of any additional pay in the paycheck (such as commissions, bonuses, etc.); and (8), for employees paid a piece rate, the applicable piece rate and number of pieces completed. The Commissioner will develop a template that employers may use.

Employers who fail to comply with the pay stub requirements may be ordered to pay administrative penalties of up to \$500 per employee who did not receive the required information.

Maryland employers should begin to review their internal and external job postings to ensure that they will meet the law's posting requirements. They also should review their payroll processes to ensure that employee pay stubs contain the required information. Contact your Vorys attorney with questions related to Maryland's wage transparency law or similar laws in other jurisdictions.