

## Massachusetts Employers: Prepare for New Pay Transparency Requirements

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The Massachusetts legislature recently took its first significant step to expand pay-related protections for job applicants since the state's 2016 Pay Equity Law. Beginning July 31, 2025, most employers will now be required to disclose pay ranges in their job postings and report demographic and pay data to the state.

### Who must comply with the pay transparency requirements?

The pay transparency requirements concerning job postings apply to any employer that employs 25 or more employees in Massachusetts.

The data reporting requirements apply to any employer that employs 100 or more employees in Massachusetts and that is already required to file an applicable EEO report with the U.S. Equal Employment Opportunity Commission (EEOC).

### What must covered employers do to comply?

Covered employers must disclose the pay range for the applicable position in each posting for that position. Employers must also disclose to employees offered a promotion or transfer the pay range of their new position. Finally, employers must provide a position's pay range upon request to a current employee in that position or to an applicant for that position.

"Pay range" includes both annual salary and hourly wage ranges. The range should be calculated based on the employer's reasonable and good faith pay expectations for the position at that time.

Covered employers who are required to file EEO-1, EEO-3, EEO-4, and/or EEO-5 data reports with the EEOC must now also submit them to the Secretary of the Commonwealth (the chief record-keeping, public information, securities regulator, and elections officer). EEO-1 reports for the prior year must be submitted annually. EEO-3 and EEO-5 reports for the most recent filing period must be submitted every odd-

numbered year. EEO-4 reports for the most recent filing period must be submitted every even-numbered year.

### What is a “posting?”

A posting is anything intended to recruit job applicants for a particular and specific position. This can include advertisements, job postings, direct recruiting, and indirect recruiting through a third party.

### What are the punishments for failure to comply?

The law prohibits employers from retaliating or discriminating against individuals for exercising their rights under the new law.

There is, however, no private right of action. Instead, the Massachusetts Attorney General may impose punishments for violations. Covered employees found in violation of either requirement may be punished with:

- For a first violation, a warning.
- For a second violation, a fine of up to \$500.
- For a third violation, a fine of up to \$1,000.
- For a fourth violation and beyond, a fine of up to \$25,000, authorized by a separate law.

For the first two years, starting July 31, 2025, and ending July 31, 2027, employers will have two business days after learning of a violation to fix it before they can be fined.

### Takeaways for Employers

States continue to enact pay transparency (job posting) requirements. For example, Minnesota’s pay transparency law takes effect in January 2025. Massachusetts employers should review their current pay rates, hiring practices, and job postings in anticipation of the July 2025 effective date. Contact your Vorys lawyer with questions regarding Massachusetts’ pay transparency requirements or similar requirements in other jurisdictions.