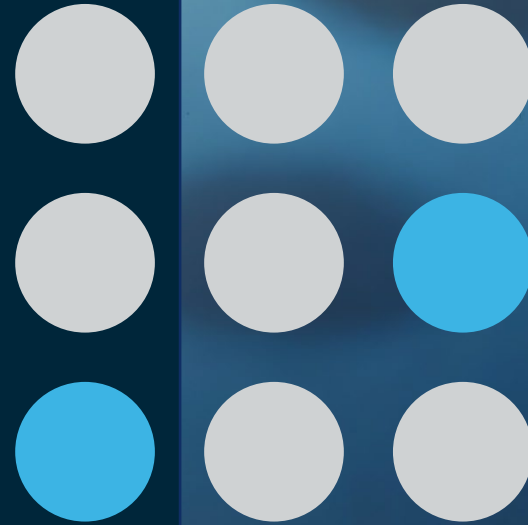


Coast-to-Coast Pay Transparency Laws

March 25, 2025

Littler[®] Compliance **HR**



Today's Webinar Host



STEPHANIE ZIELINSKI

Marketing Director

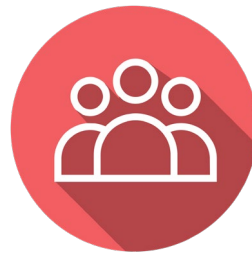
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PolicySmart™

Create and maintain an up-to-date and legally compliant employee handbook



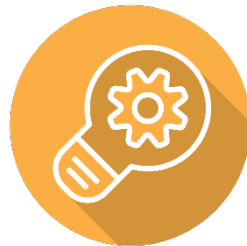
Navigator Independent Contractor

Remove risk in determining Independent Contractor status



Navigator Overtime

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The Reference Center

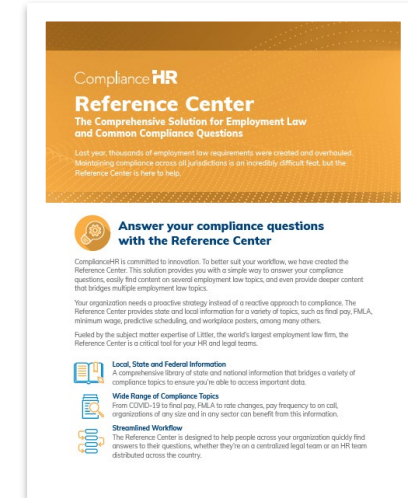
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The Document Center

Efficiently generate state and federal compliant documents throughout the employee lifecycle

Our Most Popular Solutions



PolicySmart provides you with:

- Federal and state-compliant templates
- Innovative compliance timeline
- Handbook policy checklists
- Automated twice monthly legal update emails

The ComplianceHR Reference Center provides you with:

- Local, state and federal information
- Streamlined workflows
- Wide range of compliance topics
 - Leave, final pay, FMLA, minimum wage, and more

When coupled, these two solutions provide you with comprehensive compliance program support

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3. Email our team at demo@compliancehr.com

Benefits of a custom demo:

- Discuss your organization’s requirements/challenges
- Review Navigator Suite Solutions
- Share compliance methodologies

Resources

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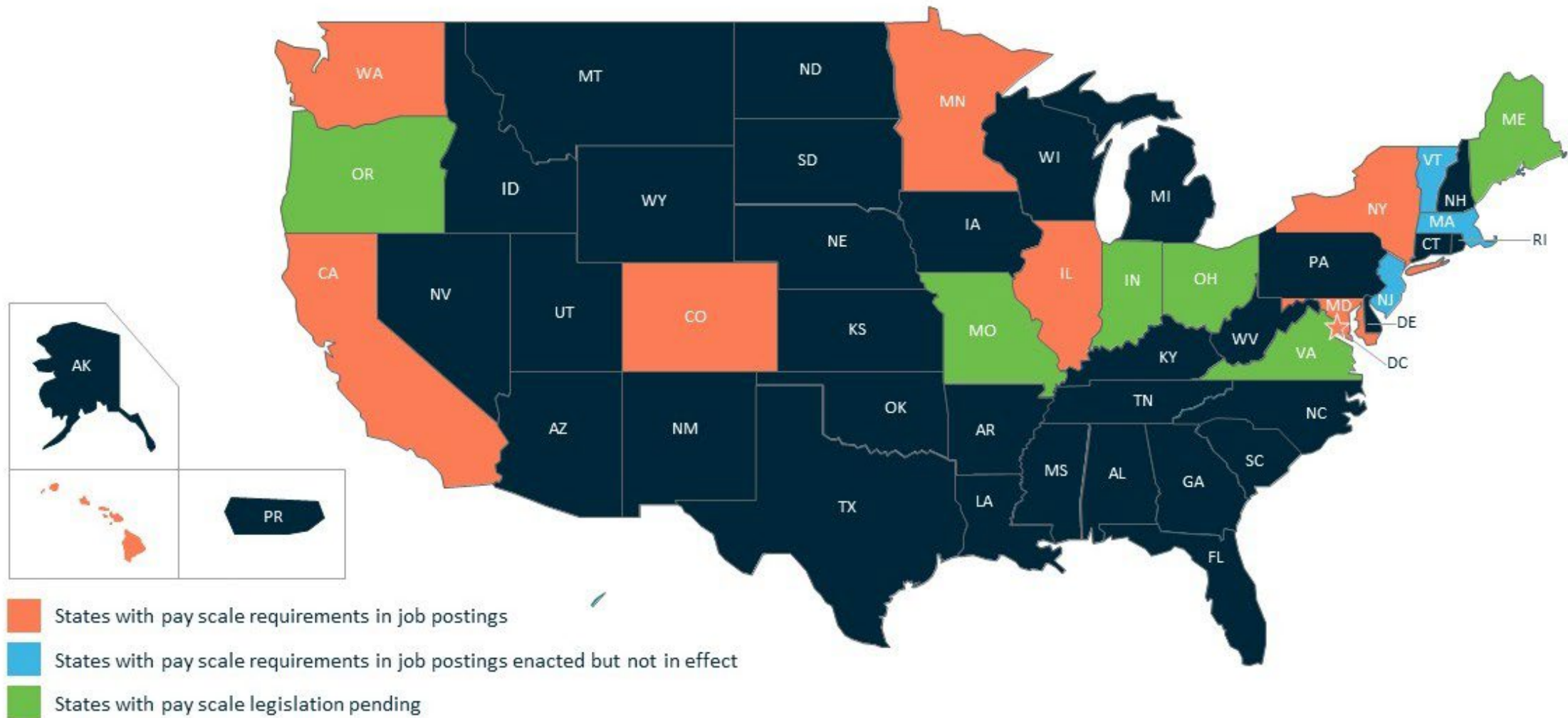
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Introduction

- Starting with Colorado in 2021, multiple states now require employers to disclose salary ranges in pay scales
- The justification is the idea that disclosing a range will help decrease the gender pay gap
- A patchwork of state and local laws contain differing requirements and nuances that can trip up employers
- We will outline the requirements in each state and tackle real-world hypotheticals

Pay Scale Requirements in Job Postings



Wage Transparency Takes Several Forms

- Pay Scale Disclosures
 - Outright
 - Upon Request
 - After Interviews
- Pay data and demographic reporting
- Salary Inquiry Bans:
 - States and Localities differ



Salary Inquiry Bans

- In place in 21 states and D.C.
- 21 cities and counties also have bans in place
- Generally: employer cannot base salary on applicant's prior salary
- Why: Past pay discrimination is perpetuated (either consciously or subconsciously) when employers make decisions based on applicants' prior salaries.
- Each state/city ban may have limited exceptions



State of the States

An Overview



Colorado Equal Pay for Equal Work Act

Overview

- Applies to all employers with at least one employee working from Colorado
- First state to require compensation ranges in job postings
 - Now in year four
- Only jurisdiction to require application deadlines in postings, notifying incumbents of “promotional opportunities,” and post-selection notice



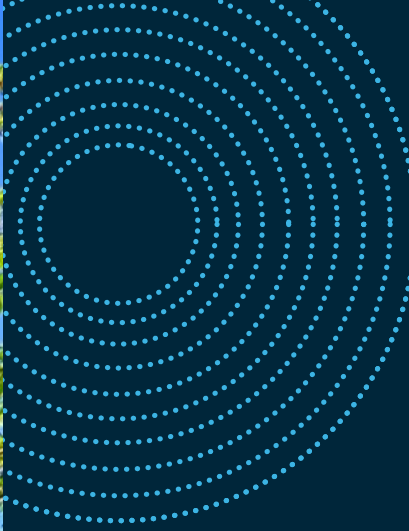
Colorado: Compensation/Benefits Disclosure Requirements

Jobs that either are to be performed in Colorado, **or that can be performed remotely from anywhere**, must include in the posting:

- The compensation range for the position and descriptions of incentive compensation and benefits
- Compensation range means a “reasonable estimate” of what the employer in “good faith” believes it might pay for the position
 - **Benefits descriptions can be short:**
 - “Medical, dental, and vision insurance”
 - 401(k) matching, etc.
 - **Other forms of compensation**
 - “Eligible for annual performance bonus”
 - “+ commissions”

Updates to CO Law

- Interpretive Notice & Formal Opinion (“INFO”) # 9A: Transparency in Pay and Job Opportunities: The Colorado Equal Pay for Equal Work Act, Part 2:
- Must include a deadline for application submission
- Post selection notification requirements
- Details at <https://cdle.colorado.gov>



Washington Equal Pay and Opportunity Act

Overview

- Took effect January 1, 2023
- Employers of 15 or more employees, with at least one employee physically working in Washington
- Job postings must include:
 - Wage scale or salary range
 - General description of benefits and other compensation
- To count as a “job posting,” must include
 - qualifications such as specific knowledge, skills, or abilities; &
 - specific position



Washington State Pay Transparency

- Wage scale or salary range
 - Should extend from lowest to highest pay established by employer prior to publishing job posting
 - If not pre-existing, should be created prior to posting
 - Should be updated if the range changes



Washington State Pay Transparency

- “Other compensation”
 - If position has base pay, this can be a general statement: “commission eligible,” “bonus eligible”
 - For positions paid 100% on commission, employer must state “rate or range” offered
 - Example from policy guidance: 5-8% of net sale price per unit
 - For more complex plans, agency says it “might” be compliant to provide the range of compensation to be paid in the form of commissions
 - Positions paid on piece-rate must state agreed-upon piece rate
 - Example from policy guidance: \$0.55-\$0.75 per pound of strawberries picked



Washington State Pay Transparency

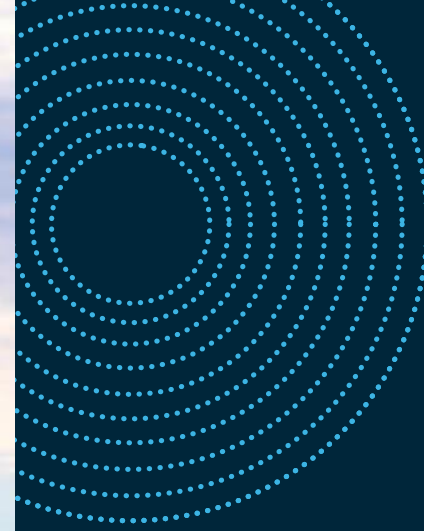
- “General description of benefits”
 - Health care benefits, retirement benefits, any benefits permitting paid days off (including more generous paid sick leave accruals, parental leave, and paid time off or vacation benefits), and any other benefits that must be reported for federal tax purposes, such as fringe benefits
 - Type of insurance (medical, vision, dental, life, disability)
 - Type of retirement options (401k, employer-funded, deferred compensation, other defined benefit or defined contribution)
 - Number of PTO/vacation days or hours offered
 - Number of paid holidays
 - Amount of paid sick if more than law requires
- General description must be in posting itself but more detailed information may be linked

Pending Legislation and Regulations

- Pending bill allows for corrections to wage and salary disclosures in job postings without penalties or damages assessed if made within ten business days.
- Washington's Labor Department has *pending draft rules* which clarify coverage and compliance:

Employee: An employee who is employed in the business of the employee's employer whether by way of manual labor or otherwise.

Applicant: An individual, including existing employees, who submits in good faith an application for a job posting with the intent of gaining employment.



New York State Pay Transparency Act

New York State Pay Transparency Act – Summary

- Took effect September 17, 2023
- The law requires employers to post salary ranges in job advertisements for positions that will be performed, in whole or in part, in New York, and for positions reporting to a New York-based supervisor
- The commissioner may sue employers for violations of this statute and seek remedies at law and in equity as may be appropriate



New York City Pay Transparency Act – Summary

- Effective November 1, 2022 – Not preempted by state law
- The act covers ads publicized to applicants, regardless of the format. Employment agencies are covered, but not temporary help firm that assign their own employees to perform temporary work at other organizations
- Covers advertisements for jobs that can or will be performed, in whole or in part, in New York City
- The advertisement must include a good faith salary range or ranges of possible hourly rates, but not incentive comp, bonuses, or benefits



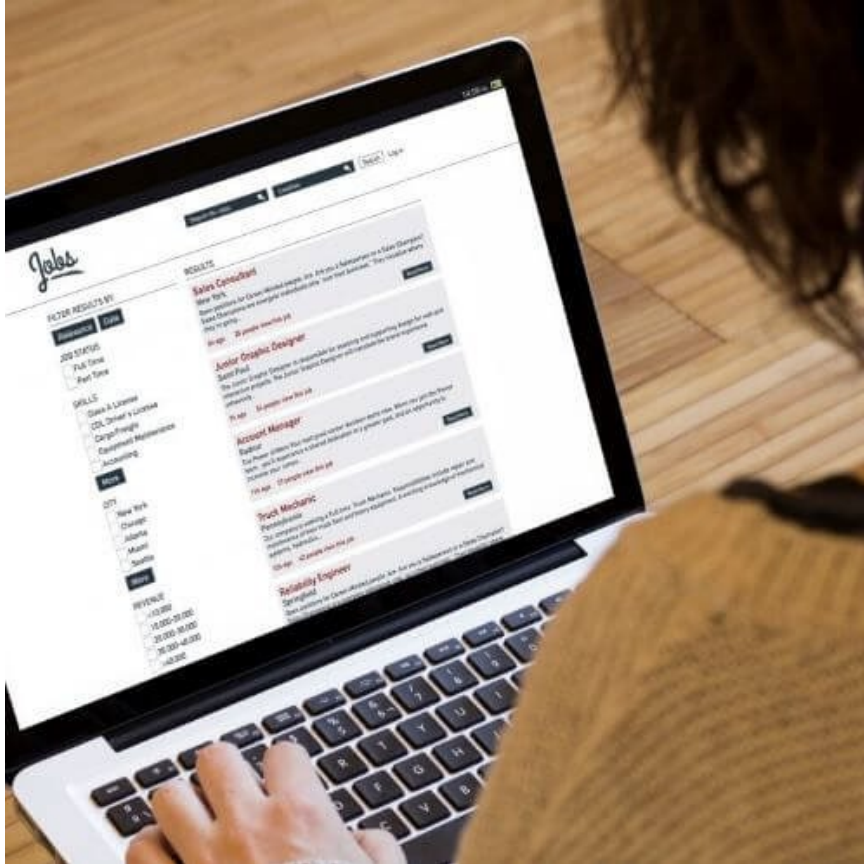
Pending Bill in NY

- AB1289 would prohibit employers from asking job applicants about salary expectations; and
- Allow job applicants to request the included benefits for the position they are applying for.
- NYC bill Int 0982-2024 proposes pay data reporting for employers with more than 25 employees working in the City
 - Expansive reporting categories
 - Currently laid over in committee



California Pay Transparency Law

California Pay Transparency: Overview



- Pay Scale in job postings
- Pay Scale to employees

Employers With 15 or More Employees

- The statute does not specify how to count the employees for purposes of coverage, but the Labor Commissioner has issued guidance
- Labor Commissioner interprets the 15-employee threshold to apply when:
 - An employer reaches 15 employees at any point in a pay period, and
 - At least one employee is currently located in California



“Pay Scale” Must Be Disclosed in Any Job Opening

- Job opening is not defined
- “Help Wanted?”
- A social media post that reads “manufacturing jobs available, apply now online”
- Compare with Washington and Colorado, where a job posting is covered if it includes qualifications or references a specific position for a desired applicant



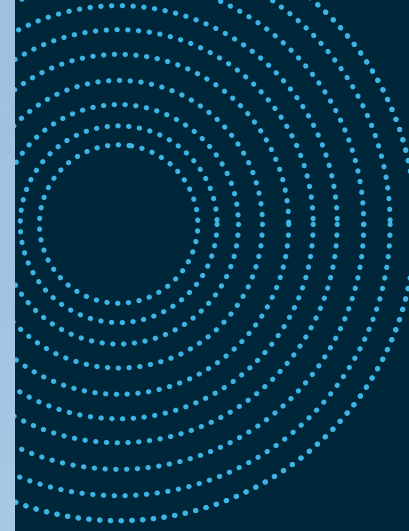


Hawaii Pay Transparency Act

Hawaii

- Took effect on January 1, 2024
- Requires all job listings to disclose an hourly rate or salary range reasonably reflecting the actual expected compensation
- Excluded from these requirements are internal transfers or promotions, public employees, and employers with fewer than 50 employees companywide





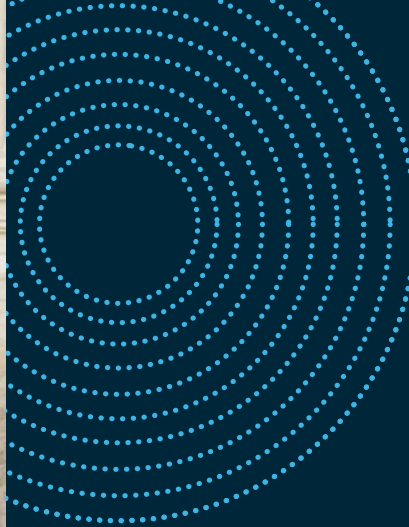
Illinois Pay Transparency Act

Illinois

- Took effect on **January 1, 2025**
- Requires employers with 15 or more employees to include a pay scale and benefits in job postings for jobs which either are to be physically performed in Illinois or if the job would report to a supervisor, office, or other work site in Illinois
- For positions that are not posted, applicants may obtain the pay scale and benefits for the position upon request and prior to any discussion of compensation or offer
- The law provides for a 14-day cure period after receiving notice of a violation without penalty, and then a penalty of up to \$500 for the first violation; and a second cure period of 7 days for a second offense, and then a penalty of up to \$2,500 for the second violation. The third violation has no cure period and carries a penalty of up to \$10,000.

Illinois Dept of Labor Webinar

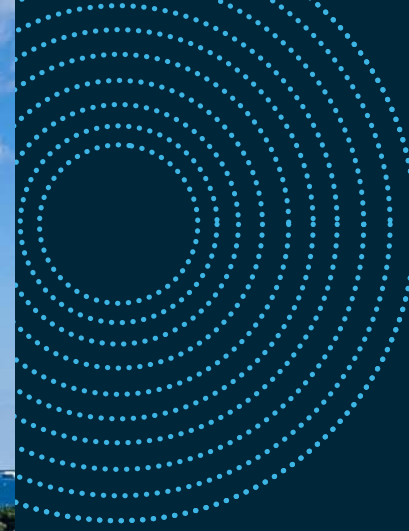
- Littler was in attendance for an earlier webinar on Illinois's EPA during which the IDOL covered, among other things, the following topics:
- There is no private right of action under the law;
- Postings should clarify local ranges if they differ (i.e., one range for Chicago and another range for Champaign);
- There was a 14-day grace period to come into compliance;
- The law will only apply to roles that will be performed at least partially in IL or that will report to supervisors/offices/worksites in Illinois;
- An FAQ page is posted here: <https://labor.illinois.gov/faqs/equal-pay-act-salary-transparency-faq.html>



Washington D.C. Pay Transparency

Washington, D.C.

- Took effect on June 30, 2024
- Covers all employers with at least **one employee** in the District of Columbia
- Requires an employer to disclose the minimum and maximum projected salary or hourly pay in all job listings and position descriptions
- Requires disclosing to applicants the existence of healthcare benefits that employees may receive before the first interview
- No private right of action. Enforced by AG. Mayor may also assess fines \$1,000-\$20,000.



Maryland Pay Transparency

Maryland: HB 649

- Took effect on October 1, 2024
- Requires employers to disclose (internal and external postings) wage range and a general description of benefits and any other compensation offered.
- The law includes “board, lodging, or other advantage provided to an employee for the convenience of the employer” in its definition of wages.
- Penalties range from a warning letter for a first offense to a \$600 fine for a third and subsequent offense.



Maryland FAQ Highlights

- Employers must include pay range, general description of benefits, and any other compensation offered for the role if they choose to post the position.
- The law applies to a posting for any position where work will be physically performed, at least in part, in the State of Maryland.
- If the position will only require occasional work in Maryland, such as attendance at a meeting or conference in the State or communicating with employees based in the State, the position would not be covered.

Maryland FAQ Highlights

- The law does not specify how employers must recruit. The law requires employers who do post for a position, either externally or internally, to disclose certain specified information.
- If the Commissioner of Labor and Industry determines that an employer has violated the law, the Commissioner has the authority for a first violation to issue an order compelling compliance for the first violation.
 - For a second violation, the Commissioner may assess a civil penalty for up to \$300 for each employee or applicant for whom the employer is not in compliance.
 - For each subsequent violation, the Commissioner may assess a civil penalty of up to \$600 for each employee or applicant for whom the employer is not in compliance if the violation has occurred within 3 years after a previous determination that a violation has occurred.



Massachusetts Pay Transparency

Massachusetts (H.4109)

- Takes effect on October 29, 2025
- Requires employers with 25 or more full-time workers in Massachusetts to disclose pay ranges in job postings
 - “Pay range” means the annual salary range or hourly wage range that the employer reasonably and in good faith expects to pay for such position at that time
 - “Posting” means any advertisement or job posting intended to recruit job applicants for a particular and specific employment position, including recruitment done directly by an employer or indirectly through a third party
 - Penalties include: warning for the first offense, not more than \$500 for the second offense, and not more than \$1,000 for a third offense. Subsequent violations carry significantly higher penalties up to \$25,000 per each offense.
- Adds **Pay Data Reporting requirement: Provide EEO-1 to state**



Minnesota Pay Transparency

Minnesota

- Took effect January 1, 2025
- Requires employers to disclose the pay range for a position in a job description.





New Jersey Pay Transparency

New Jersey

- Takes effect June 1, 2025
- The law applies to employers with 10 or more employees over 20 calendar weeks and who do business, employ persons, or takes application for employment within New Jersey.
- Even though the law is ambiguous, Littler expects that the enforcement agencies will take the position that employers with 10 or more out-of-state employees could be subject to the bill's posting requirements (regardless of whether they have any employees located in New Jersey) if they do any business in New Jersey or accept any employment applications in New Jersey.

New Jersey

- The law contains both a job postings requirement and a promotional opportunities requirement:
 - Employers will be required to disclose in each posting for new jobs and transfer opportunities the range of the hourly wage or salary for the position and a general description of benefits and other compensation programs for which the employee would be eligible.
 - Employers will also be required to make “reasonable efforts” to announce, post, or otherwise make known opportunities for promotion (whether advertised internally or externally) to all current employees in the affected department or departments of the employer’s business prior to making a promotion decision.
 - An employer’s failure to comply with the bill’s provisions in connection with a particular job opening or transfer opportunity would be considered one violation regardless of the number of postings that list, or forums that advertise, that job opening or transfer opportunity.
 - Similarly, an employer’s failure to comply with the bill’s provisions in connection with a particular promotional opportunity would be considered one violation for all listings of that promotion, even if that promotion is listed on multiple forums.
 - Any employer that fails to comply with the requirements of the bill would be subject to a civil penalty not to exceed \$300 for the first violation and \$600 for each subsequent violation.

NJ Ordinance

- Jersey City's Ordinance 22-045, which is already in effect, requires:
 - All employers with five or more employees in Jersey City include a minimum and maximum annual salary or hourly wage in all job postings for a Jersey City position.
 - The range may extend from the lowest to the highest salary the employer in good faith believes at the time of the posting it would pay for the advertised job, promotion or transfer opportunity.
 - Job postings include general employment opportunities, transfers, promotions, and even independent contractor opportunities – whether permanent or temporary.
 - The penalty for non-compliance of the Jersey City law is a fine up to \$2,000. Employers should anticipate that this ordinance will not be preempted by the new state law.



Vermont Pay Transparency

Vermont: H.704

- This law takes effect July 1, 2025.
- Requires employers to disclose compensation or range of compensation in job openings.
- Requires the job description to be posted, if one exists.
- Potential applicants include both current employees and the general public.
- The geographic scope is limited to jobs in Vermont or jobs that report to a supervisor, office, or worksite in Vermont.

Pending Legislation

- Indiana
- Maine
- Missouri
- Ohio/Cleveland
- Oregon
- Virginia
- Washington and New York: amendments to existing laws



**What's an
Employer to Do?**

Pay Transparency Laws & Virtual Work



Pay transparency laws apply to the location where the job will be performed

Example: if you have an applicant for a virtual position in New York, you must comply with New York law



If it's not clear for a virtual position the location from which the person intends to perform the job, include a question asking where the applicant would intend to work

Add this question to all positions where virtual work is possible



Can tell applicants/new hires that they would be approved to work from X location, but would need advance approval to move to another location because Company does not conduct business in all jurisdictions

Pay Transparency Laws & Virtual Work

- If the candidate **volunteers** their current pay, and states a minimum salary they would require to move to your company **based upon their current pay**:
 - **Your response:** “Company does not set pay based upon wage history” and steer the dialogue to the candidate’s expectations for what they want to earn at Company”
- You **can** base pay decisions on the applicant’s **salary expectations** and, based on their skills, education, training, experience (or if travel is a regular and necessary part of the work performed)



Can discuss salary expectations



**Don't discuss wage history
(not based upon current pay)**

Strategies for Posting Pay Range/Pay Scale

- Post lower range initially to determine what kind of candidate the lower range attracts, if it's a low to mid-level role
- Re-post with a higher pay range if lower range does not attract qualified candidates
- Develop several levels within each position (e.g., HR Generalist I, HR Generalist II, Sr. HR Generalist) with pay ranges for each level
 - Instead of a larger pay range that applies to all roles

Practical Considerations for Employers

- Modify policies (disciplinary, compensation, retaliation, EEO, etc.) regarding disclosing and/or requesting salary information (i.e don't prohibit or discourage)
- Review compensation and compensation-related policies and guidelines for compliance with fair pay requirements.



Evaluate Internal Practices and Train

- How is initial compensation set?
- What factors dictate where employees fall on scale?
- Recruiters/Managers trained on FAQs?
- How is compensation evaluated once employed?
- Is pay subsequently evaluated to spot potential discrepancies?
- Are justified discrepancies documented?



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2. Visit our website: Compliancehr.com
3. Email our team at demo@compliancehr.com

Benefits of a custom demo:

- Discuss your organization’s requirements/challenges
- Review Navigator Suite Solutions
- Share compliance methodologies

Resources

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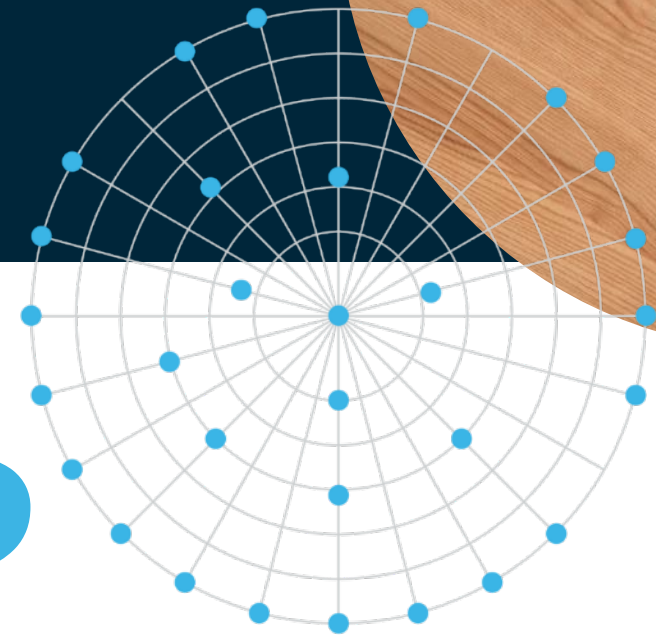
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Questions?

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