



A Robinson+Cole Legal Update

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New York State Adopts Salary Disclosure for September 2023

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On December 21, 2022, Governor Kathy Hochul [signed](#) New York State Senate Bill S9427A into law. This new law, which becomes effective during September 2023, requires employers with four or more employees to include the compensation or “range of compensation” for every advertisement for a job, promotion, or transfer opportunity if the job can or will be performed, at least in part, in the state of New York. The law also requires employers to include the job description for every advertisement for a job, promotion, or transfer opportunity, if such description exists. The law defines “range of compensation” as the minimum and maximum annual salary or hourly range of compensation for a job, promotion, or transfer opportunity that the employer in good faith believes to be accurate at the time of the posting. Employers will be required to maintain a historical record of compensation ranges and job descriptions, if they exist, advertised for jobs, promotions, and transfers. Any person claiming to be aggrieved by a violation of the law may file a complaint with the New York State Labor Commissioner regarding such alleged violation for an investigation of such complaint and statement setting the appropriate remedy, if any. Employers that violate the law will be subject to civil penalties under New York labor law. The law requires that the Labor Commissioner promulgate rules and regulations to effectuate the new law. Thus, we expect more guidance will be available regarding the aspects of New York State’s salary disclosure law before the effective date.

This new law is similar to New York City’s salary disclosure law, which took effect on November 1, 2022. That law similarly requires that employers with four or more employees post the minimum and maximum annual salary or hourly wage for every advertisement for a job, promotion or transfer opportunity that can or will be performed, in whole or in part, in New York City. The NYC Commission on Human Right’s guidance on the law states that “salary” includes the base wage or rate of pay, regardless of the frequency of payment, and does not include other forms of compensation or benefits. Under NYC’s law, employees are explicitly provided with a private right of action against their current employer for an alleged violation of the law. New York City’s law provides for no civil penalty for a first violation, provided the violation is cured within 30 days of service of a complaint, with specific requirements surrounding the submission of proof of a cure. Notably, the bill states that the submission of proof of a cure “shall be deemed an admission of liability for all purposes.”

New York joins a growing number of states in imposing various requirements on employers to disclose anticipated wages to prospective employees. As a result of these new laws, employers will be required to establish, or have some sense of, salary or hourly ranges for positions within their organizations. They will also need to incorporate these disclosures into their hiring processes and those of any third-party providing hiring/recruiting services to the employer. To accomplish these objectives, employers may wish to consider reviewing and, if necessary, modifying their existing policies, practices, and processes related to recruitment, hiring, and compensation, and training personnel engaged in hiring/recruiting. To ensure compliance with the above-referenced laws and other wage disclosure laws, employers are encouraged to seek competent legal counsel.

For more information, contact either of the authors listed above.

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