

# Employer FAQ: Massachusetts's New Pay Transparency And Pay Data Reporting Requirements

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**UPDATE:** Please find our blog on [Massachusetts Pay Data Reporting, as of January 2025, here](#).

Massachusetts has passed into law An Act Relative to Salary Range Transparency (the "[Act](#)"), which means that pay transparency and pay data reporting requirements will soon become official. In advance of the effective dates in 2025, covered businesses must understand and prepare for new compliance obligations.

We previously wrote about this Act in its legislation phase [here](#). In addition, information regarding other jurisdictions requiring wage transparency, such as California, New York, and Washington, are available in our previous articles [here](#) and [here](#).

## Frequently Asked Questions

### [Pay Transparency](#)

#### Which Employers Are Covered?

Private and public employers with at least twenty-five (25) employees in Massachusetts are covered under the Act. However, questions remain regarding the threshold calculation of "employees." For example, the law does not address whether a hybrid employee, i.e., an employee working a hybrid schedule that includes periodic remote work from Massachusetts, would be included in the employee count.

#### What Are the Key Provisions?

The Act requires employers to include the "annual salary range or hourly wage range," i.e., the "pay range" that the employer "reasonably and in good faith expects to pay for such position" at the time of posting, in all postings. Postings are not required to include other compensation information, such as bonuses, commissions, or benefits. The Act defines "posting" as "any advertisement or job posting intended to recruit job applicants for a particular and specific employment position". This includes any recruitment by the employer or a third party on the employer's behalf. Although not expressly stated, the definition of posting may also include informal or private postings, such as a post on social media sites by an employer or an employee about job opportunities at an employer, as it is directed at "any advertisement or job posting intended to recruit" applicants for a specific role. Applicants may also request the pay range information regarding a particular position.

Further, the Act prohibits an employer from retaliating or discriminating against any employee or applicant for taking "action to enforce their rights" under this portion of the law (e.g., by requesting the pay range of the applicant's prospective position or the employee's current position), "mak[ing] a complaint" regarding the employer to the employer or to the Attorney General regarding an alleged violation, or participating in any proceeding or testimony regarding any alleged violation by an employer.

This portion of the law goes into effect on October 29, 2025 (previously July 2025).

### Is There A Notification Requirement for Existing Employees?

No, the Act does not contain a general notification requirement. Covered employers are, however, required to disclose pay range information to existing employees if:

- An employee, who holds a particular position, requests the pay range information for their particular position; or
- An employee receives a promotion or transfer to a new position with different job responsibilities.

### What Relief is Provided to Employees?

The Act does **not** create a private right of action, but it does provide the Attorney General with exclusive authority over noncompliance. The Act also allows the Attorney General to seek and obtain injunctive or declaratory relief, as well as statutory penalties, if an employer fails to comply. The Act does limit the statutory penalties (starting with a warning for a first offense and increasing to fines of up to \$25,000 for a fourth or subsequent offense) and makes plain that a violation of the Act is not akin to a violation of the Wage Act, and therefore does not carry treble damages.

### Pay Data Reporting

### What Do Employers Need to Do for Pay Data Reporting?

The Act mandates that employers with at least 100 employees in Massachusetts at any time during the prior calendar year who are already subject to federal EEO disclosures (either EEO-1, EEO-3, EEO-4 or EEO-5 reporting requirements) must also file a wage data report (annually or, for certain categories of employers, biannually) with the Commonwealth of Massachusetts. The Massachusetts Executive Office of Labor and Workforce Development will publish aggregated reports on its website.

This portion of the law goes into effect on February 1, 2025. At that time, employers must submit their first round of EEO and pay data to the Commonwealth.

### Next Steps

### What Should Employers Do Now?

Even though the Act does not take effect until next year (with pay data reporting requirements due on February 1, 2025 and pay range disclosure required on July 31, 2025), employers should begin developing comprehensive compensation strategies now to ensure compliance with the Act.

In consultation with counsel, covered business can begin taking these steps:

- Develop and calculate a pay range for each current and prospective role in the business that reflects the range the employer reasonably expects to pay for each position. While reasonableness may depend on the specific facts and circumstances of the business and the role, a range should be grounded in concrete data, such as the current salary or hourly rate for a position, the current salary or hourly rate for positions just above and/or below the position being posted, market data reflecting what other employers in similar industries in the same location are advertising for the same or similar position, and internal information, like the budget for the position.
- Develop a process to consistently post the required information in job postings through both internal and external channels.
- Develop a training for all employees involved in the recruitment process, including those who may post informal social media postings alerting applicants to job opportunities.
- Draft proposed language to include the requisite pay range information, including any necessary disclaimers regarding the posted pay range (i.e., the advertised pay range is not a promise of a particular wage).
- Consider and prepare to answer questions from both employees and applicants regarding pay ranges and other information relevant to the position and circumstances. For example, employers should be prepared to explain why an individual applicant or employee qualified for salary on the lower range of the pay scale. Regarding existing employees, consider whether a proactive communication regarding their salary as compared to the advertised pay ranges makes sense.
- Consider conducting a pay audit with counsel to determine whether salary adjustments should be made prior to the publication of salary information.
- Prepare appropriate processes to compile the demographic and wage information required for the wage data report due by February 1, 2025.

Mintz's Employment Practice will continue to monitor updates, including any clarification around open questions, and stands ready to assist with any pay transparency questions or compliance concerns you may have.

## Authors



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