

# Employee Benefit Plan Review

## Massachusetts Pay Transparency Law Now Fully in Effect: 5 Action Steps for Employers

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**M**assachusetts has officially joined the ranks of states that have implemented pay equity and transparency initiatives, as new transparency requirements just took effect to add to employers' existing data reporting requirements. Most large employers have been required to file a wage data report with the Commonwealth as of February, but now all employers with at least 25 employees must also disclose wage range information on job postings and upon request to employees and applicants. These new obligations, which took effect on October 29, 2025, significantly impact employers and require you to navigate new challenges and potential employee unrest as previously opaque wage information becomes more accessible. This article explains what you need to know and provides five key action steps to consider to ensure compliance with the new law.

### BRIEF BACKGROUND

Governor Maura Healy signed legislation<sup>1</sup> in 2024 that amended the Massachusetts Equal Pay Act (MEPA) by adding requirements to take effect in 2025. The new data reporting obligations became effective February 1, 2025, and the new pay transparency rules took effect October 29. These requirements are discussed further below.

### DATA REPORTING

In effect since February 1, 2025, most employers with 100 or more employees in the Commonwealth must now annually file an equal employment opportunity (EEO) report that contains workforce demographic and pay data categorized by race, ethnicity, sex, and job category.

- Private employers can fulfill this requirement by submitting a completed federal EEO-1 Employer Report with the state secretary.
- Note that wage data submissions will not be considered “public records,” meaning individual employer data should not be subject to information requests, nor otherwise made available to the public. However, the secretary of labor and workforce development will publish “aggregate wage and workforce data” on its website by July of each year.

### NEW PAY TRANSPARENCY REQUIREMENTS

Massachusetts employers with 25 or more employees in the Commonwealth are now required to:

- Include the pay range for a position on all job postings;
- Disclose the pay range for a position to existing employees who receive a promotion or a transfer to a new position with different responsibilities; and
- Provide pay range information for a particular position to an employee who holds the position or to an applicant upon receipt of a request.

### Pay Range, Defined

The law defines “pay range” as the annual salary range or hourly wage range that the employer reasonably and in good faith expects to pay for the position at the time of posting or request. Unlike many other states with similar laws, the Massachusetts law will not require disclosure of bonus, commission, benefits, or equity grant information.

Although the statute does not make mention of other forms of compensation, recent guidance from the Massachusetts Department of Labor Standards has clarified that if the position’s hourly or salary wage is based on a piece rate or commission, then the piece rate or commission range the employer reasonably expects to pay for the position must also be included in the job posting.

### Coverage of New Law

The law applies to private and public employers with 25 or more employees with a primary place of work in Massachusetts during the prior calendar year. For purposes of counting employees, all full-time, part-time, seasonal, and temporary employees are included.

### Remote Workers

The pay disclosure law applies equally to positions that can be performed remotely to a Massachusetts worksite as well as remote workers

with a primary place of work in Massachusetts. This means that remote workers who telecommute to a Massachusetts worksite, even if they reside elsewhere, are included in the law. Moreover, if a remote workers’ primary location for a job is in Massachusetts, they are also covered by the law – even if they live outside the state.

### 5 ACTION STEPS FOR MASSACHUSETTS EMPLOYERS

With new pay transparency and data reporting requirements now in effect in Massachusetts, employers should ensure compliance with the new law. Here are a few key action steps for you to consider:

- *Conduct a Proactive Pay Equity Audit.* Employers with significant discrepancies in wages may face discrimination suits if they do not act to remedy the discrepancies prior to the publication of wages. Accordingly, you should strongly consider conducting a privileged pay equity audit in consultation with employment counsel to identify and redress problematic pay discrepancies before they go public.
- *Consider Employee Relations and Recruitment Efforts.* How will posting pay ranges impact internal employee relations and your recruitment efforts? For example, although posting a pay range that is relatively low may have the effect of limiting employee unrest as employees may be less likely to request higher salaries, it may also make it more difficult to recruit top talent. On the other hand, a relatively high wage range posting may have the opposite effect.
- *Take Advantage of the First-Year Compliance Cushion.* Employers

do have some cushion in terms of compliance efforts and any related hiccups. During the first year the law is enforceable, employers can cure any job posting violations within 48 hours to avoid penalties.

- *Beware of Consequences for Noncompliance.* Employers are otherwise subject to warnings for first-offense failures to post job ranges. The attorney general may then fine offenders \$500 for second offenses, \$1,000 for third offenses, and up to \$25,000 for fourth and subsequent offenses. The law defines an offense as “1 or more job postings for positions made by the same employer during a 48-hour period.”

Accordingly, an employer who fails to post required wage ranges on, say, a dozen job postings would be liable for only one offense if all of those postings were published within a single 48-hour timeframe. This may often end up being the case for larger employers regularly posting for multiple job openings.

- *Don’t Retaliate.* Finally, the law contains anti-retaliation provisions to ensure employers do not terminate, discriminate against, or otherwise act against any individual for seeking pay range information. Employees who believe they have been retaliated against have a private right of action, meaning they can file suit against the company. ☀

### NOTE

1. <https://malegislature.gov/Laws/SessionLaws/Acts/2024/Chapter141>.

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