

WASHINGTON LAWMAKERS CUT EMPLOYERS A BREAK FOR JOB POSTING NONCOMPLIANCE: 7 THINGS YOU SHOULD DO

Insights
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Washington employers will soon get some relief from the state's strict job posting requirements after lawmakers unanimously passed a law to mitigate some of the more onerous parts of the key state statute. Starting July 27, state law will provide a grace period to correct violations, limit the amount of damages that applicants and workers can receive if violations are found, and offer additional flexibility to comply with the law. What do you need to know about the new law signed into effect today, and what seven things should Washington employers do as a result of this fortunate development?

2023 Job Posting Rules Carry Steep Risk

Since January 1, 2023, Washington's Equal Pay and Opportunity Act (EPOA) has required that employers ensure their job postings include the "wage scale or salary range and general description of benefits and other compensation" to promote pay transparency as one way to combat pay inequity. These rules – and their consequences – are arguably the strictest in the country.

The current EPOA suggests that job "applicants" are entitled to at least \$5,000 each, plus their attorneys' fees, if the job posting was noncompliant. This led to a cascade of class action lawsuits seeking these damages on behalf of all "applicants," sometimes totaling millions of dollars depending on the size of the potential class.

2025 Amendment Changes the Consequences for Noncompliance

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In a rare bipartisan vote, the Washington legislature unanimously passed a law amending the EPOA on April 22. The Governor signed [SB 5408](#) into law on May 20, and it will take effect on July 27. While employers still must include certain compensation disclosures in their job postings or face monetary liability, the new version of the law mitigates the consequences for noncompliance. The clarifications include:

- **Fixed rates are okay.** If an employer offers on a “fixed wage amount” for the job opening, there is no need to disclose a scale or range.
- **Scraped postings.** A job “posting” does not include third-party reposts of the posting (e.g., Indeed or ZipRecruiter) if made without the employer’s consent. This process is also called “scraping.”
- **5-day grace period.** Until July 27, 2027, when another amendment is anticipated, employers must be afforded an opportunity to correct any postings before a lawsuit can be filed or Labor & Industries can pursue penalties. An employer has five business days to make corrections after receiving notice from “any person.”
- **Applicant’s recoverable damages.** Clarifying the ambiguity whether \$5,000 is a minimum recovery for each “applicant,” the amendment expressly states that an applicant may recover between \$100 and \$5,000 based on factors weighed by the court. These include whether the violation was willful or a repeat violation, the employer’s size, and what amount is “necessary to deter future noncompliance.” Functionally, plaintiffs will recover far less than \$5,000 each unless these factors weigh in favor of a greater award.

7 Ways to Address the 2025 Amendment

The changes described above offer welcome reprieve to the business community, and employers should act proactively to take advantage. Here are seven steps to consider:

1. **Audit current job postings** and revise any internal forms for future Washington-based jobs.
2. **Create a dedicated email** to include in job postings for receipt of notice of noncompliance while training others who might receive it. While SB 5408 provides a safe

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harbor to correct deficient job postings, it failed to specify the form and recipient of the required notice. Providing this email address should assist your compliance efforts. However, setting up such an email does not mean that allegedly aggrieved parties might not send notices elsewhere. You should train anyone who might receive notice of noncompliance about the need for an urgent response.

3. Consider whether to **send written notice to third parties** that republish or scrape their job postings demanding that they correct them. Alternatively, you might consider notifying certain providers that any scraped postings are done without express consent.
4. For so-called “fixed” wage or salaries rates, **consider adding express language to make it clear that no range exists.**
5. **Check for new rules or administrative enforcement policy** from Labor & Industries. The agency will likely respond to SB 5408 with new rules, and you may choose to offer comment in such rulemaking.
6. **Continue to monitor** for the Washington Supreme Court’s anticipated opinion in *Branson v. Washington Fine Wines and Spirits LLC*, No 103394-0. The Court is expected to determine whether an “applicant” must be a bona fide job seeker.
7. For employers in active litigation, **consult with your counsel** about the retroactive effect of the amendment.

Conclusion

If you have questions, please contact the authors of this Insight, your Fisher Phillips attorney, or any attorney in our [Seattle office](#). We will continue to monitor developments in this area. Make sure you subscribe to [Fisher Phillips’ Insight System](#) for the most up-to-date information sent directly in your inbox.