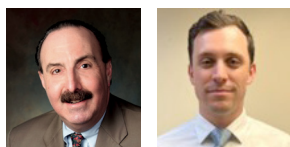


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Employment Law Insider Alert

NYS Enacts Pay Transparency Law, Effective September 17, 2023



By **Bennett Pine** and
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Key points:

Effective September 17, 2023, New York State employers must disclose salary information in job advertisements.

Ads must disclose actual compensation or a range of compensation.

Unlike similar New York City law, the state statute provides retaliation protections.

New York State recently joined a growing number of states and municipalities, including New York City, requiring transparency about pay in job advertisements. On December 21, 2022, New York State Governor Kathy Hochul signed legislation ([S.9427-A/A.10477](#)) requiring employers to disclose salary ranges in advertisements for available positions, promotions, or transfer opportunities. Effective on September 17, 2023, the new NYS law builds upon similar legislation such as the recent New York City's [Pay Transparency law](#), which went into effect on November 1, 2022. Employers should understand their rights and obligations under the new law to avoid costly monetary damages or civil penalties that may result from violations.

Requirements Under the New York State Law

Under the new law, employers advertising a job, promotion, or transfer opportunity that can or will be performed, at least in part, in the state of New York, are required to disclose the following:

- The actual compensation or a range of compensation for such job, promotion, or transfer opportunity. Where such job, promotion, or transfer opportunity is based solely



on commission, employers are required to disclose in a general written statement that the positions are commission based.

- The job description for such job, promotion, or transfer opportunity, if such description exists.

Under the new NYS law, an “employer” is defined as “any person, corporation, limited liability company, association, labor organization or entity employing four or more employees in an occupation, industry, trade, business or service, or any agent thereof.” This definition includes “any person, corporation, limited liability company, association or entity acting as an employment agent or recruiter.”

The term “range of compensation” is defined 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 advertisements positing.

Unlike NYC Pay Transparency Act, the new NYS law provides retaliation protections for individuals who file a complaint against an employer. The law stipulates that “No employer shall refuse to interview, hire, promote, employ, or otherwise retaliate against an applicant or current employee for exercising any rights” pursuant to the law. In addition, employers are required to keep and maintain records, including, but not limited to, the history of compensation ranges for each job, promotion, or transfer opportunity and the job descriptions for such positions, if such descriptions exist.

Enforcement and Penalties

Individuals who believe that an employer has violated the provisions of this law may file a complaint with the state Commissioner of Labor. Employers that violate the law may face civil penalties up to \$1,000 for a first-time violation, \$2,000 for a second violation, \$3,000 for the third and any subsequent violations.

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Conclusion

Covered employers in New York State should review their current hiring procedures regarding job postings and prepare to make necessary changes prior to September 17, 2023 to ensure compliance with New York State Pay Transparency law’s mandates. ▲

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