

New York City's Pay Transparency Law Takes Effect November 1, 2022

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In what is becoming a growing trend among local and state legislative bodies – New York City passed the Pay Transparency Law (the “Law”), otherwise known as Local Law 32 of 2022. The Law was passed in an effort to improve wage transparency, balance the bargaining power between applicants and employers and narrow the wage gap. The Law requires covered employers to list minimum and maximum potential salary amounts in job postings.

What You Need to Know:

Effective Date: The Law, which amended the NYC Human Rights Law and was enacted on January 15, 2022, was initially scheduled to take effect on May 15, 2022 – but was later amended to take effect on November 1, 2022.

Required Information/Disclosures: Employers must state the minimum and maximum salary range for the advertised position that the employer, “in good faith,” believes at the time of the posting it would pay for the position. Open-ended salary ranges (i.e., “a maximum of \$50,000” or “15/hour and up”) are not acceptable. Salary ranges should be posted for each opportunity where advertisements cover multiple positions. “Salary” refers to base annual or hourly wage. It does NOT include: (a) health, life or other insurance, (b) paid or unpaid time off, sick or vacation days or employer-funded pension plans, (c) severance pay, (d) overtime, (e) commissions, tips, bonuses, stock or the value of employer-provided meals or lodging.

Covered Employers: All employers with four (4) or more employees or at least one domestic worker. Not all employees must work at the same location, as long as at least one employee works in NYC. Owners and individual employers count toward the four (4) employee minimum, as do independent contractors, part-time employees, paid interns and domestic workers. Temporary employment agencies are exempted from the Law. The Commission defines temporary agencies as businesses that recruit and hire their own employees and assign those employees to perform work at or perform services for other organizations or businesses.

Covered Postings: Any advertisement for a job, promotion or transfer opportunity for a job that would be performed in NYC. An “advertisement” is any written description of an available job, promotion or transfer opportunity –regardless of how disseminated. Importantly, the Law applies not only to public advertisements but also to any internally advertised job, promotion and transfer opportunities. And the Law applies equally to temporary and part-time positions as it does to “permanent” and full-time positions. Employers are not required to post for a position they seek to fill.

Geographic Scope: Positions that can or will be performed, in whole or in part, in New York City, whether from an office, in the field, or remotely from the employee’s home.

Violations and Enforcement: Violation of the Law is considered an unlawful discriminatory practice. The NYC Commission on

Human Rights has the authority to enforce the Law. There will be no penalty for first-time violations if the employer corrects the violation within 30 days. However, an employer's submission of proof that the violation was corrected "shall be deemed an admission of liability for all purposes." Future violations will subject an employer to monetary damages and civil penalties of up to \$250,000.

We Can Help:

Should you have any questions regarding NYC's Pay Transparency Law or any other employment matter – please feel free to reach out to Offit Kurman's Employment Group.