

Employment & Labor Law Alert

September 2022

California Enacts New Employer Pay Transparency Requirements

Governor Gavin Newsom this week signed Senate Bill 1162 into law, amending Government Code Section 12999 and Labor Code Section 432.3 relating to salaries and wages.

The amendments make substantial changes in pay transparency reporting. In general, employers will be required to disclose more pay data, as well as provide pay ranges to requesting employees and in job postings, with the aim of increasing pay transparency for applicants and employees.

The changes, which are effective Jan. 1, 2023, include the following:

- Private employers with 100 or more employees must submit a pay data report that includes the median and mean hourly rates for each combination of race, ethnicity and sex within each job category. The report must be submitted on or before the second Wednesday of May of each year beginning May 10, 2023.
- Private employers with 100 or more employees hired through labor contractors must submit a separate pay data report for those employees in the same time frame.
- The provision requiring employers with multiple establishments to submit a consolidated report has been deleted. Employers must continue to submit a report for each establishment.
- The provision authorizing an employer to submit an EEO-1 in lieu of a pay data report is eliminated.
- Employers with 15 or more employees must include the pay scale for a position in any job posting, and they



must provide pay scale information to any third parties that post those jobs.

- Employers must maintain records of job title and wage history for each employee for the duration of employment plus three years. These records may be inspected by the California Labor Commissioner.
- Employers that fail to file the required report could face a civil penalty of up to \$100 per employee for initial failure to file and not more than \$200 per employee for subsequent failures to file the required report.
- Upon request, an employer shall also provide an employee with the pay scale for the position in which the employee is currently employed.

SB 1162 requires the California Labor Commissioner to investigate complaints alleging violations of these requirements and authorizes the commissioner to order an employer to pay a civil penalty upon finding the employer has violated these provisions. SB 1162 also authorizes a person aggrieved by a violation of these provisions to bring a civil action for injunctive and any other appropriate relief.

Attorney Advertising



LOS ANGELES
NEW YORK
CHICAGO
NASHVILLE

WASHINGTON, DC
SAN FRANCISCO
BEIJING
HONG KONG

loeb.com

EMPLOYMENT & LABOR LAW ALERT

Failure to comply with these requirements may result in employers being assessed civil penalties ranging from \$100 to \$10,000 per violation.

In light of the detailed submissions now required for pay transparency in California, employers should immediately review their workforce statistics. Disparities in pay that appear to be tied to a protected category such as race or sex may give rise to claims of discrimination. These submissions undoubtedly will find their way into the courthouse, so employers should review any disparities carefully with counsel and correct them by year-end.

Client alert prepared by Michelle La Mar, Sarina Saluja, and Kimberly Stallworth.



Related Professionals

Michelle La Mar mlamar@loeb.com
Sarina Saluja ssaluja@loeb.com



This is a publication of Loeb & Loeb and is intended to provide information on recent legal developments. This publication does not create or continue an attorney client relationship nor should it be construed as legal advice or an opinion on specific situations.

© 2022 Loeb & Loeb LLP. All rights reserved.
7099 REV1 09-30-2022