WHAT EMPLOYERS SHOULD DO BEFORE 29 OCTOBER 2025 TO PREPARE FOR MASSACHUSETTS' PAY TRANSPARENCY LAW

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US Labor, Employment, and Workplace Safety Alert

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Starting 29 October 2025, Massachusetts's pay transparency law[1] will require employers with 25 or more Massachusetts employees to disclose wage ranges in all job postings to job applicants and current employees upon request.

Following the law's July 2024 passage, the Massachusetts Office of the Attorney General (AGO) released FAQs[2] and held a webinar[3] to clarify employers' obligations and provide guidance. This alert summarizes the law's key provisions, as clarified by the AGO.[4]

WHO IS A COVERED EMPLOYER?

Employers with at least 25 employees whose primary place of work was in Massachusetts during the prior calendar year are subject to the law's pay transparency requirements.

An employee's "primary place of work" means the location where the employee performs the majority of their work. The AGO adopted this definition from the Massachusetts Earned Sick Time Law FAQs.[5]

HOW SHOULD EMPLOYERS COUNT EMPLOYEES?

To determine whether they meet the 25-employee threshold, employers must count all individuals who performed services for wages, remuneration, or other compensation, including full-time, part-time, and seasonal workers, whose primary place of work is in Massachusetts.

This includes (1) remote or hybrid employees located in Massachusetts who work for an out-of-state employer, and (2) out-of-state remote or hybrid employees whose primary place of work is Massachusetts (e.g., they report to or are assigned a Massachusetts worksite).

Employers should calculate their headcount once a year by averaging the number of employees on the payroll across all pay periods within that same year.

WHAT ARE THE PAY RANGE DISCLOSURE REQUIREMENTS?

Employers must disclose the pay range in any advertisement or job posting for any position where the primary place of work is in Massachusetts. Similar to employee headcount, this includes any positions that can be

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performed remotely by employees whose primary place of work is Massachusetts, either because they are located in Massachusetts or are located out-of-state but are assigned or report to a Massachusetts worksite.

Employers also must disclose the pay range of such positions:

- To employees who are offered promotions or transfers to new positions with different job responsibilities; and
- On request, to an employee who already holds an employment position with the organization or to an applicant for such position, even if there is no vacancy in that role.

HOW IS "PAY RANGE" DEFINED?

In stating the minimum and maximum annual salary or hourly wage for a position, the range may extend from the lowest to the highest annual salary or hourly wage *the employer "reasonably and in good faith"* believes at the time of the posting it would pay for the advertised job, promotion, or transfer opportunity.

For commission-based positions, the commission range the employer *reasonably expects* to pay for the position must be included in the job posting.

The law does not require the posting to contain bonus or benefits information.

WHAT ARE EMPLOYERS' PAY REPORTING OBLIGATIONS?

In addition to the pay disclosure obligations, employers covered under the law also must comply with pay reporting requirements. Employers who are required to submit equal employment opportunity (EEO) reports to the Equal Employment Opportunity Commission are also required to submit the same reports to the secretary of the commonwealth as well, according to the schedule outlined below:

Employers Who File:	Must File EEO Report With the Secretary:	By:	Starting in Year:
EEO-1	Annually	1 February	2025
EEO-3	Odd Numbered Years	1 February	2025
EEO-4	Even Years	1 February	2025
EEO-5	Odd Numbered Years	1 February	2025

WHAT ARE THE CONSEQUENCES FOR NON-COMPLIANCE?

Covered employers who do not comply with the law or retaliate against employees for seeking to exercise their rights under the law can be subject to the following penalties:

- Warning for the first offense;
- A fine of up to US$500 for the second offense;
- A fine of up to US$1,000 for the third offense; and

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- Additional penalties under M.G.L. Ch. 149, § 27C(b)(1-2) for the fourth offense and subsequent offenses.

The law is enforced by the AGO and there is no private right of action under the law. However, the pay data disclosed under the law can provide employees with support for a wage-based discrimination claim. Employees also may bring claims under the Massachusetts Equal Pay Act.

Through 29 October 2027, employers who receive notice from the AGO of any violation(s) will have a two business-day grace period to correct said violations to avoid a fine.

RECOMMENDATIONS FOR EMPLOYERS

Before the pay disclosure requirements of the new law take effect, employers should take the following steps:

1. Determine whether their company is covered under the pay transparency law by calculating the number of employees whose primary place of employment is in Massachusetts.
2. Conduct a pay equity audit and identify and correct any pay disparities. The increased availability of pay information is likely to increase the risk of claims under Massachusetts' Equal Pay Law. Employers facing such claims are protected if they have conducted self-evaluations of their pay practices and taken meaningful steps to eliminate wage disparities before claims.
3. Use the results of the pay equity audit or a pay analysis and market research to develop pay ranges for all positions, and ensure those ranges are what is expected to be paid for the role.
4. Update job postings for Massachusetts-based roles to include pay ranges and ensure the job postings accurately reflect the job duties and educational and experience requirements of the role.
5. Audit and, if necessary, update job descriptions and job titles to ensure they accurately reflect the positions being described.
6. Implement policies regarding how pay ranges are set and adjusted, how requests for pay range disclosures will be addressed by the company, and anti-retaliation provisions.
7. Set a schedule to analyze/audit and update pay ranges.
8. Train human resources staff and managers on appliable policies and laws, including (i) how to discuss pay ranges with candidates and employees, (ii) how to respond to pay range requests from existing employees, (iii) avoiding asking for prior salary history until after a job offer is made, and (iv) refraining from retaliation or bias in pay discussions.

FOOTNOTES

[1] Mass. Gen. Laws c. 149, § 105F.

[2] Massachusetts Office of the Attorney General, *Pay Transparency in Massachusetts*, MASS.GOV, https://www.mass.gov/info-details/pay-transparency-in-massachusetts#pay-transparency-faq (last visited Sept. 22, 2025).

[3] MASSACHUSETTS ATTORNEY GENERAL'S OFFICE, *Guidance on Employers' Obligations and Employees'*

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Rights under the Wage Transparency Act, (YouTube, Apr. 15, 2025), https://www.youtube.com/watch?v=YwmLkoRzfhU&feature=youtu.be.

[4] Check out our August 2024 alert for information about the law's passage and its pay reporting requirement. See Kathleen D. Parker, Mark D. Pomfret, & Natalya R. Minoff, *Massachusetts Joins Growing Number of States with a Pay Transparency Law*, K&L GATES HUB (Aug. 2, 2024), https://www.klgates.com/Massachusetts-Joins-Growing-Number-of-States-With-a-Pay-Transparency-Law-8-2-2024.

[5] *See* Massachusetts Office of the Attorney General, *Earned Sick Time in Massachusetts Frequently Asked Questions*, MASS.GOV,. https://www.mass.gov/doc/earned-sick-time-faqs/download.

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