

EMPLOYMENT LAW ALERT
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MASSACHUSETTS ENACTS "AN ACT TO ESTABLISH PAY EQUITY"

On August 1, 2016, Massachusetts Governor Charlie Baker signed into law a bill amending the Commonwealth's Equal Pay Act. The purpose of the new law is to ensure that all workers in Massachusetts are paid equally for comparable work performed and to provide the opportunity to earn competitive salaries in the workplace. This new law imposes strict equal pay obligations on employers and limits certain information employers can request regarding the salary history of job applicants. Below is a summary of the new law and recommended steps for employers.

SUMMARY OF MASSACHUSETTS EQUAL PAY ACT

The law requires employers to pay men and women equally when their work is "comparable," (i.e., when the work is "substantially similar" in skill, effort, responsibility, and working conditions). Employers must post about an employee's rights under the law.

Wage variations are allowed if based on:

- ▶ Seniority;
- ▶ A bona fide merit system;
- ▶ A bona fide system which measures earnings by quantity or quality of production or sales;
- ▶ Geographic location;
- ▶ Education, training, or experience to the extent such factors are reasonably related to the job in question and consistent with business necessity; and/or
- ▶ Travel.

A violation of the statute will result in liability for the amount of the unpaid compensation wages, plus an equal amount in liquidated damages and attorney's fees.

An employer is also prohibited from:

- ▶ Banning employees from discussing their compensation;
- ▶ Requesting that an applicant disclose prior wages or salary history;
- ▶ Seeking a prospective employee's salary history from a former employer, except after presenting a formal offer and with the written consent of the prospective employee; and/or
- ▶ Retaliating against an employee.

The law creates an affirmative defense for employers who timely complete a self-evaluation of its pay practices and can demonstrate reasonable progress eliminating gender-based pay disparities.

WHAT SHOULD I DO NOW?

The law does not go into effect until July 1, 2018. However, employers should review their job applications and hiring forms now and eliminate mandatory wage or salary history disclosure. Policies should also be revised to eliminate any ban on employee discussion of compensation and benefits. Most importantly, employers should proceed to conduct a self-evaluation of their pay practices.

CONTACT

Please contact a member of our [Employment Law Practice](#) to discuss the impact of this new law on your company's policies and practices.

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