KAUFMAN DOLOWICH LLP

EMPLOYER ALERT: New York City Pay Transparency Law Requires Employers to Include Salary Range in Job Postings

New York City Mayor Eric Adams recently signed into law an amendment to the New York City Human Rights Law ("NYCHRL") which makes it an "unlawful discriminatory practice" for an employer to advertise a job, promotion, or transfer opportunity without stating the minimum and maximum salary for the position in the advertisement. This amendment is set to take effect on May 15, 2022.

The New York City Pay Transparency Law:

The law makes it an "unlawful discriminatory practice for an employment agency, employer, employee or agent thereof to advertise a job, promotion or transfer opportunity without stating the minimum and maximum salary for" the position in the advertisement.

The law states that "the range may extend from the lowest to the highest salary the employer in good faith believes at the time of the posting it would pay for the advertised job, promotion or transfer opportunity."

Covered Employers:

The law applies to employers who have four or more employees within the twelve months prior to the job posting and continuing until the end of the "unlawful discriminatory practice." For purposes of counting the number of employees, the law states that "natural persons working as independent contractors in furtherance of an employer's business enterprise" and "the employer's parent, spouse, domestic partner or child if employed by the employer" count towards the number of employees.

The law "does not apply to job advertisements for temporary employment at a temporary help firm."

The law is currently silent as to whether employers will have to provide salary ranges in postings for remote workers. In addition, the law has not yet addressed if it will apply to employers located outside of New York City who are conducting business in New York City. As such, best practices will be for any employer seeking employees for any job located in New York City to comply with this new pay transparency law.

The New York City Commission on Human Rights will likely release additional guidance before the law goes into effect.

Cost to New York City Employer of Violating Pay Transparency Law:

An individual who feels that this new law was violated may file a claim in Court or with the New York City Commission on Human Rights ("NYCCHR" or the "Commission"). Courts may award damages, including punitive damages, injunctive relief, and/or other appropriate remedies.

For claims filed with the NYCCHR, if the Commission finds that an "unlawful discriminatory practice" took place, they can also impose a civil penalty of up to $125,000, unless the Commission finds that "an unlawful discriminatory practice was the result of the [employer's] willful, wanton or malicious act," in which case a penalty of up to $250,000 can be imposed.

WHAT MUST NEW YORK CITY EMPLOYERS DO?

In response to this new law, New York City employers should:

1. Update their advertisements for jobs, promotions, or transfer opportunities to include salary range information.
2. Review any other human resource related documents (i.e. job descriptions and compensation policies) to ensure that salary representations are consistent with the salary range set for the job position.
3. Train their managers, recruiters, and Human Resources on the new law.

KD IS HERE TO HELP

The experienced Labor and Employment attorneys at Kaufman, Dolowich & Voluck are available to assist with any questions you may have regarding the New York City Pay Transparency Law. If you need assistance updating your company's policies or have any questions regarding the new law, please contact Keith Gutstein at kgutstein@kaufmandolowich.com, Matthew Cohen at mcohen@kaufmandolowich.com, or Saranicole Duaban at sduaban@kaufmandolowich.com.

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