

## New York State Pay Transparency Law

New York Governor Kathy Hochul signed into law Senate Bill S9427A. The bill, now known as the New York State Pay Transparency Law, or Labor Law § 194-b, took effect on September 17, 2023. As we wrote about [here](#), New York City enforces a salary transparency law that requires New York City employers to include minimum and maximum salary information in job postings for any positions located within New York City. The New York State Pay Transparency Law, however, applies to almost every employer in all of New York State.

In passing this salary disclosure law, New York joins a number of other states, including Rhode Island, Washington, Illinois, Maryland, Connecticut, California, and Colorado.

### What Does the Law Provide?

The New York state law requires that employers disclose the minimum and maximum annual salary or hourly pay rate in both internal and external job postings, as well as in promotion or transfer opportunities. Employers must also include a job description with all pay disclosures, if such a job description exists (there does not appear to be an affirmative obligation to create a job description, though it is generally a best practice to have job descriptions for all positions). The minimum and maximum salary or hourly range must be what the employer “in good faith” believes at the time of the posting that it would pay for the advertised job, promotion, or transfer opportunity.

### Who, and What Postings, Does the Law Apply To?

The state law applies to employers with four or more employees, presumably (but not expressly) including employees who work outside of New York State.

The state law must be followed in any job posting, promotion, or transfer opportunity that will physically be performed, at least in part, in New York State. The pay disclosure is also required for any job that reports to a supervisor or site that is located in New York, regardless of where the job will be performed. This suggests that the state law applies to remote employees who do not physically work in New York State but nevertheless work with a company with a supervisor and/or site in New York.

### Consequences of Violating the Law

In the event that an employer violates the state law, the employer will be subjected to a civil fine totaling \$1,000 for the first violation, \$2,000 for the second violation, and \$3,000 for the third or any further violation.

Enforcement of the state law lies with the New York State Department of Labor (NYDOL). Specifically, an aggrieved private person must file a complaint with the NYDOL and cannot file a private action against an employer.

### Takeaways

Employers should immediately take steps to comply with the law’s requirements. Employers should review any current internal and external job postings and notices of promotion or transfer opportunities to ensure that all include a minimum and maximum annual salary or hourly range, and also carefully review any job descriptions to be included in postings to ensure that they are up to date and compliant with applicable law. Of course, employers should also ensure that all future applicable job postings and notices of promotion or transfer opportunities comply with the state law.

Additionally, given both the rise in the number of remote work employees and the fact that several other states have enacted their own salary disclosure laws, employers should ensure that their disclosures follow both New York State law and the laws of other states where they may have remote workers.

We will continue to monitor developments related to this law and will provide subsequent updates if more information becomes available.

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