

# **Understanding Maryland's New Wage Laws**

**Pay Statement (S.B. 38) and Job Posting (S.B. 525)**

**WEBINAR**

**Wage and Labor Standards Enforcement Unit**

Division of Labor & Industry

Maryland Department of Labor

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# General information

Both laws....

- Were passed in the 2024 Session
- Are effective October 1, 2024
- Are enforced solely by Labor & Industry (no private right of action)
- Require employers to provide workers with more information, or more specific information, in writing

# **Paystubs and Pay Statements – Required Information (S.B. 38, Ch. 305)**

# Paystubs and Pay Statements

## Overview

Amends Wage Payment and Collection Law, Title 3, subtit. 5, 3-504

### *What's new:*

- **Written** notice at time of hire of rate of pay, regular paydays, and leave benefits
- **Written pay statement** for each pay period, including specified information

# Paystubs and Pay Statements Coverage

Employers covered under the Wage Payment and Collection Law, Title 3,  
subtit. 5 (Most private sector employers, but not public sector employers)

# Paystubs and Pay Statements

## Form and Frequency

***Form:*** May be physical **or** electronic (or both)

***Frequency:*** Statement or paystub must be provided **each payday**. Note: if all of the information is continuously and independently available to the worker (ex., by logging into a timekeeping system), that will likely also satisfy the law.

# Paystubs and Pay Statements

## Earnings Information

- **Hours:** hours paid during the pay period must be included
- **Rates:** If workers received pay at different rates during the pay period (e.g., overtime, work in different classifications, etc.), **each rate should be listed, and hours paid at each rate should be broken out**
- All piece rates must be listed and the basis described (e.g., \$20 per bushel, or \$100 per window), and the number of units must be broken out for each basis
- Note: hours worked at piece rates must be included, to ensure minimum wage and overtime compliance
- All other compensation, including commissions, bonuses, and tips, must be described and the amount must be listed

# Paystubs and Pay Statements

## Form and Content of Pay Stub or Statement (cont'd)

***Deductions:*** The name and amount of each deduction must be listed separately

***Gross and Net Pay:*** The amounts of gross pay and net pay earned during the period must be listed

***Leave:*** Under the Healthy Working Families Act, employers must provide workers with a written statement of their available leave balance. (As under the paystub law, this statement may be written or electronic, such as through an online portal.)



# Paystubs and Pay Statements

## Optional Template and Instructions

- Template was developed to assist employers with compliance
- “Safe harbor”: Employers are not required to use the template; however, if they complete the template correctly, they will be considered compliant with the law
- Template is available in a downloadable Excel spreadsheet on our website
- Note: the template is a “best practice” document – not everything on the template is required, but everything that is required is on the template

# Optional Template General Information

Pay Date:		<b>Pay Statement</b>	
Pay Period Start Date:			
Pay Period End Date:			
<b>EMPLOYER AND EMPLOYEE INFORMATION</b>			
<b>EMPLOYER NAME</b>		<b>EMPLOYEE NAME</b>	
<b>ADDRESS</b>			
<b>TELEPHONE NUMBER</b>		<b>EXEMPT? (Y/N)*</b>	
		*Respond Yes only if all work performed is exempt from federal and state overtime laws	
<b>EARNINGS (USE ALL THAT APPLY)</b>			

**Notes:** (1) Employer name => as registered in SDAT (required by law) (2) Pay date, and start/end of pay period are required by law (3) Note whether employee is exempt – “exempt” means not subject to either federal **or** state overtime laws

# Optional Template Earnings

EARNINGS (USE ALL THAT APPLY)									
HOURLY OR SALARY EARNINGS					PIECE RATE EARNINGS				
TYPE	RATE	HOURS	GROSS EARNINGS	YTD	BASIS/UNIT OF PAY (describe)	RATE	UNITS	GROSS EARNINGS	YTD
Regular			0						
Overtime			0						
Other Hourly Pay			0						
Salary									
					HOURS WORKED AT PIECE RATES THIS				
OTHER COMPENSATION					TOTAL GROSS EARNINGS				
TYPE	GROSS AMOUNT	YTD			THIS PERIOD				
Bonus					YTD				
Commission									
Tips									
Other									
Other									
Other									
DEDUCTIONS AND LEAVE									

Each rate paid, including overtime, listed separately

Hours reported for each rate paid

Total hours worked at piece rates required

Each additional type of compensation reported separately

# Optional Template Deductions and Leave

DEDUCTIONS AND LEAVE			
<b>DEDUCTIONS</b>			
PURPOSE	THIS PERIOD	YTD	
Federal tax			
State tax			
FICA			
Medicare			
Insurance (select)			
Retirement (select)			
Other (describe)			
Other (describe)			
Other (describe)			
Other (describe)			
<b>TOTAL DEDUCTIONS</b>	0	0	
<b>LEAVE</b>			
BALANCE AT START OF PERIOD	HOURS USED THIS PERIOD	HOURS ACCRUED THIS PERIOD	BALANCE AT END OF PERIOD
Sick and Safe Leave			
Annual Leave			
Other (describe)			
PAY			
	THIS PERIOD	YTD	
GROSS EARNINGS			
DEDUCTIONS			
NET PAY			

Purpose and amount of each deduction must be listed separately

SSL available balance required under HWFA, unless employer provides info elsewhere. Other leave information optional under the paystub law.

Template provides dropdown menus for insurance, retirement, other deductions

Gross and net pay required for each pay period

# Paystubs and Pay Statements Enforcement

- Labor & Industry has sole enforcement authority (no private right of action)
- Enforcement is via an administrative order process.
- Where deficiencies are found, an order may issue to direct the employer to provide the required information to the employee(s) affected
- Commissioner also has power to impose an administrative penalty of up to \$500 per employee, with amount based on gravity, size of business, good faith, and history of violations under the subtitle
- If notice of contest is provided within 15 days of receipt, hearing will be held
- If no notice of contest is filed, order becomes a final order.

# Paystubs and Pay Statements

**What's the point? To make sure workers have enough information to figure out if they were paid correctly!**

**Employers: “show your work”!**

# **Equal Pay – Posting Transparency Law (S.B. 525, Ch. 272)**

# Job Posting Transparency

## Overview

Amends Equal Pay Law, Title 3, subtit. 3

### *What's new:*

- Mandates disclosure of the wage/salary range and “general description” of benefits, and “any other compensation offered” in job postings
- Pay range must be set “in good faith”
- Applies to external and internal postings, whether posted directly or through a third party



# Job Posting Transparency

## Overview – Scope and Coverage

***Employer coverage:*** Applies to public sector employers as well as private sector employers (same coverage as Equal Pay law)

### ***Postings covered:***

- Applies to external and internal postings, whether posted directly or through a third party
- Applies to repostings by the employer (ex., if initial posting did not result in a hire)
- Does *not* apply to repostings, aggregations, or scrapes by third parties without the employer's consent.

***Job location:*** The position must physically performed, at least in part, in the State of Maryland. Out of state companies who recruit for remote workers in Maryland may be covered.

# Job Posting Transparency

## Overview – “Good Faith” Wage/Salary Range

Must be set “in good faith.” “Good faith” can be satisfied if the employer sets the range by using a reasonable method, such as the following (not an exclusive list):

- Using a salary scale
- Using a range previously determined for the position, or budgeted for the position
- Using the actual pay received by people doing the same or similar positions

# Job Posting Transparency

## Overview – Benefits and Other Compensation

### *Which benefits must be included?*

Need not include benefits mandated by law (SSL, jury leave, e.g.)

### *How detailed must the description be?*

The law requires only a “general description” of benefits. Employers are not required to list all details of, e.g., their medical plan. But the fact that a medical plan is offered for single and family should be included on the posting.

### **What does “any other compensation” include?**

The FAQs have examples. The law is intended to be broad: “any” other compensation.

# Job Posting Transparency

What if the posting does not have the required disclosures?

If the posting does not contain the required information, the employer is required to make the disclosures to any applicant

- before a discussion of compensation is held, and
- at any other time on request of an applicant.

# Job Posting Transparency

## Optional Template and Instructions

- Template developed to assist employers with compliance
- “Safe harbor”: Employers are not required to use the template; however, if they complete the template correctly, they will be considered compliant with the law
- Template is available in a downloadable fillable PDF on our website
- Note: the template is a “best practice” document – not everything on the template is required, but everything that is required is on the template

# Optional Template – General Information

Options for recruiters or agents if an employer does not want to identify themselves

COMPENSATION DISCLOSURE FORM	
Select one: <input type="text" value="Employer"/>	Post Date: <input type="text"/>
Name	<input type="text"/>
Address	<input type="text"/>
Email	<input type="text"/>
Telephone	<input type="text"/>
POSITION INFORMATION	
Position Title: <input type="text"/>	Class/Grade: <input type="text"/>
	(if applicable)
Position Location: <input type="text"/>	Schedule (select): <input type="text" value="Full time"/>
	Other schedule (describe here): <input type="text"/>

# Optional Template – Compensation and Benefits

WAGE/SALARY AND COMPENSATION INFORMATION			
Choose one:			
<input type="radio"/> Hourly	Min. Hourly Rate:		Max. Hourly Rate:
<input type="radio"/> Salaried	Min. Annual Salary:		Max. Annual Salary:
<input type="radio"/> Other arrangement [describe]:			
<b>OTHER COMPENSATION: This position is eligible for the following (check all that apply):</b>			
<input type="checkbox"/> Overtime	<input type="checkbox"/> Tips	<input type="checkbox"/> Commission	
<input type="checkbox"/> Comp. time	<input type="checkbox"/> Shift Differential	<input type="checkbox"/> Other Premium Pay	
<input type="checkbox"/> Other [describe]:			
BENEFITS			
This position is eligible for the following [check all that apply]:			
<input type="checkbox"/> Health insurance	<input type="checkbox"/> Dental insurance	<input type="checkbox"/> Vision insurance	<input type="checkbox"/> Other insurance (describe)
<input type="checkbox"/> Single	<input type="checkbox"/> Single	<input type="checkbox"/> Single	Life insurance
<input type="checkbox"/> Family	<input type="checkbox"/> Family	<input type="checkbox"/> Family	
<input type="checkbox"/> Vacation [Amount]:		<input type="checkbox"/> Sick Leave [Amount]:	
<input type="checkbox"/> Holidays [Number]:		<input type="checkbox"/> Parental/ Family [Amount]:	
<input type="checkbox"/> Other leave [describe]:			
<input type="checkbox"/> Pension	<input type="checkbox"/> Other benefit [describe]:		
<input type="checkbox"/> 401(k)			

“Any other compensation” –inclusive

“General description” of benefits means an overview – does not necessarily include the number of holidays, etc. Our template encourages employers to include this information as a best practice

# Job Posting Transparency

## Alternatives to the template

- An employer **need not use the template**. The template is optional.
- An employer may use their own form, or include the information in a narrative – examples in the FAQs



# Job Posting Transparency

## Recordkeeping

- Law requires employers to maintain records of compliance for at least three years after the position is filled, or
- If position was not filled, three years after the position was initially posted
- “Records of compliance” may include the postings themselves, with the required disclosures; and may also include the “good faith” basis on which the pay was set

# Job Posting Transparency Enforcement

- Labor & Industry has sole enforcement authority
- Enforcement is the same process as under the existing Equal Pay law. If there is a determination of violation -
  - Commissioner **shall** “issue an order compelling compliance”
  - **May**, for a second violation, assess a civil penalty of up to \$300 “for each employee or applicant for employment for whom the employer is not in compliance,” and up to \$600 for a third violation
- Factors in setting the penalty (gravity, size, good faith, history)
- Penalty assessment to employer is subject to the notice and hearing requirements (OAH)

# Job Posting Transparency

**What's the point? To make sure applicants/workers have information about the terms that the employer is offering, and that the terms are offered to the entire applicant pool.**

# Closing points...

**Retaliation is prohibited!** Employers may not take adverse action against applicants or employees who exercise their right to information, or who file or support a complaint or participate in an investigation – under these laws, or any other Maryland wage or labor standard!

**Many paths to compliance!** Use your existing system and tools, use the template, create something new, or use a combination. Use electronic format or hard copy – or both. What matters is that employers provide the required information, to the people entitled to receive it, at the time it should be provided.

# Questions?

**Please use the  
Q&A function to  
pose questions!**