

Pay Equity Issues & Insights Blog



Maryland Passes One of Nation's Most Expansive Equal Pay Laws

By Annette Tyman, Katherine Mendez, and Christopher W. Kelleher

Seyfarth Synopsis: Maryland Governor Hogan has signed into law a new pay equity bill that strengthens protection against pay discrimination in the workplace, and prohibits employers from providing less favorable employment opportunities because of sex or gender identity.

Maryland has joined states such as California and New York by passing one of the country's most aggressive equal pay laws. Governor Hogan signed Senate Bill 481 (cross- filed with House Bill 1003) on Thursday, May 19, 2016. The law will go into effect in October.

While federal law has long prohibited pay discrimination for equal work on the "basis of sex" for employees working at the same location and under similar working conditions, Maryland's updated Equal Pay for Equal Work Act prohibits pay discrimination on the "basis of sex or gender identity," and covers employees who work for the same employer at workplaces located in the same county of the state and who "perform work of comparable character or work in the same operation, in the same business, or of the same type." Thus, the new measure drastically expands protections for Marylanders.

The law covers more than just pay disparities. It also prohibits employers from "providing less favorable employment opportunities," which includes placing employees into "less favorable career tracks" or positions, "failing to provide information about promotions or advancement," and "limiting or depriving" employees of employment opportunities because of sex or gender identity. Additionally, employers may not forbid employees from "inquiring about, discussing, or disclosing" their wages or the wages of other employees.

Additionally, Governor Hogan also signed into law House Bill 1004, which established an Equal Pay Commission. The Commission will:

1. Evaluate wage disparities between individuals of one race, sex, or gender identity and individuals of another race, sex, or gender identity, based on all available data;
2. Establish a mechanism for the Commissioner to collect data from employers in the state to assist the Commission in its efforts to evaluate the disparities listed in item (1);
3. Develop a strategy to determine and recommend best practices regarding equal pay for equal work to individuals, employers, and policymakers;
4. Study and make recommendations regarding whether and to what extent administrative and legal processes and remedies can be streamlined with other anti-discrimination laws;

5. Develop partnerships with private sector entities to identify: (a) methods of developing data collection; (b) methods raising employer awareness; and (c) potential fundraising sources;
6. Share data and findings with the Commissioner to assist in enforcement actions.

With states like Maryland joining efforts on the federal landscape to collect compensation data from employers in an effort to evaluate pay disparities, savvy employers should carefully conduct proactive pay assessments to ensure they understand reasons for pay differences. This may include conducting internal audits, evaluating permitted hiring criteria, and modifying policies. The Commissioner of Labor and Industry, which is responsible for enforcement of the Act, will consult with the Maryland Commission on Civil Rights to develop educational and training materials to help employers comply with the updated law.

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