

QUESTIONS AND ANSWERS REGARDING PUBLIC ACT 21-30

Update 9/28/21

“AN ACT CONCERNING THE DISCLOSURE OF SALARY RANGE FOR A VACANT POSITION”

This guidance is designed to provide a service to the employers and employees of this state. It does not constitute legal advice. Although the Labor Department makes every effort to provide quality information, it makes no claims, promises or guarantees about the accuracy or completeness of the information contained herein. If a complaint is filed in court, the court may have a different interpretation.

1) When does this Public Act take effect?

October 1, 2021.

2) To whom does this Act apply?

Any employer *within the state* using the services of one or more employees for pay.

Any employee employed or permitted to work by an employer.

3) Does the Act apply to individuals outside the physical confines of the State of Connecticut who are applying for work by remote means with an employer in the state?

Yes, the Act applies to employers within the state using the services of one or more employees for pay even if such employees are located outside the physical confines of the state.

4) Does the Act apply to any out-of-state affiliates of a “national” employer who has at least one employee within the physical confines of the State of Connecticut to whom the Act does apply?

No, the Act does not apply to any out-of-state “national” employer which is not located within the State of Connecticut. However, the Act does apply to any subsidiary of the “national” employer which is located within the physical confines of the state and hiring employees.

5) Does the Act apply to “job applicants” as well as employees?

Yes, the Act applies to “applicants for employment,” but the term “applicant” is not defined in the Act.

6) May an employer define who is considered an “applicant” in an effort to safeguard employer proprietary or compensatory information?

No, the term “applicant” refers to any individual who applies for a job. The term “applicant” should be read broadly.

7) Does the term “wage range” include bonus and/or commission methods of compensation?

Yes, in this Act, “wages” are defined as “compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece, commission or other basis of calculation.”

8) If the compensation for a vacant position is based on a bonus or commission, what details of the compensation structure must be revealed to an applicant or employee?

The Act *requires* an employer to disclose the “wage range” that an employer anticipates relying on when setting wages for a position.

According to the Act, this *may* include reference to:

- Any applicable pay scale;
- Any previously determined range of wages for the position;
- Actual range of wages for current employees holding comparable positions; or
- The amount budgeted by the employer for the position.

9) Does the term “wage range” include discretionary pay from the employer?

Generally, discretionary pay does *not* constitute wages, such compensation is not required to be disclosed to an employee or applicant.

10) If an applicant asks for the wage range of any position outside of his or her prospective position or of any other employee, must an employer provide the applicant with that information?”

No, an applicant may *only* seek the wage range for “a position for which the applicant is applying.” The employer is not required to provide the applicant with information concerning the amount of wages paid to any other employees.

11) When must an employer provide an applicant for employment the wage range for a position for which the applicant is applying?

An employer must provide wage range information to an applicant upon the earliest of:

- The applicant's request; or
- Prior to or at the time the applicant is made an offer of compensation.

12) May an employee ask another employee for the range wage of his or her position without being subject to retaliation from the employer?

Yes, an employee may inquire of another employee the wages of that employee without being subjected to retaliation from the employer. However, the employer is not *required* to disclose the amount of wages paid to any employee.

13) When must an employer provide an employee the wage range for the employee's position?

An employer must provide an employee the wage range for the employee's position upon:

- The hiring of the employee;
- A change in the employee's position; or
- The employee's first request for a wage range.

14) What action may an applicant or employee take if he or she believes that an employer has violated the Act?

An applicant or employee may file a civil action within two (2) years of the date on which the alleged violation occurred for compensatory damages, attorney's fees and costs, punitive damages and such other relief as the court deems just and proper.

Any person who alleges a violation of this Act may file a complaint with the Labor Commissioner. However, under this law we are unable to seek damages for the applicant or employee but we may issue a civil penalty against the employer if a violation is found.