



SPONSOR: Rep. Ross Levin & Sen. Sturgeon

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO EMPLOYMENT PRACTICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 7, Title 19 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 709C. Transparency in pay rates, employment, and advancement opportunities.

4 (a) As used in this section:

5 (1) "Employer" means as defined in § 709A of this title.

6 (2) "Hourly or salary compensation range" means the minimum and maximum wage for the position, set in
7 good faith by reference to any applicable pay scale, previously determined range for the position, the actual range of
8 others currently holding equivalent positions, or the budgeted amount for the position, as applicable.

9 (b) (1) An employer shall announce, post, or otherwise make known each job opportunity to all employees. Where
10 a job opportunity is posted externally, it must be shared with all current employees on or before the day a job opportunity is
11 posted externally except where otherwise required by federal, state, or local law.

12 (2) If an external or internal posting for the job opportunity has not been made available to an applicant, the
13 employer must provide the applicant the hourly or salary compensation or the hourly or salary compensation range and
14 a general description of the benefits and other compensation for the job opportunity prior to any offer or discussion of
15 compensation and at any time at the applicant's request.

16 (3) Temporary, interim, or acting job opportunities that require an immediate hire are exempt from the
17 requirement of paragraph (b)(1) of this section. The Department of Labor may promulgate regulations for temporary,
18 interim, or acting job opportunities that necessitate immediate hire.

19 (c) (1) Except as provided under paragraph (c)(2) of this section, an employer must disclose all of the following in
20 the notification of each job opportunity in both internal and external job postings:

21 a. The hourly or salary compensation or the hourly or salary compensation range. The breadth of the
22 hourly or salary compensation range provided is one factor relevant to the analysis of whether an employer has
23 complied in good faith with this section.

24 b. A general description of the benefits and other compensation applicable to the job opportunity.

25 c. The date the application window is anticipated to close.

26 (2) a. A notification for a job opportunity that is paid on a commission basis, whether in whole or in part, must
27 disclose that fact and is not required to disclose the compensation or compensation range.

28 b. A notification for a job opportunity that is paid on a tipped basis shall disclose that fact and the base
29 wage or range of base wages for the job opportunity.

30 (d) An employer shall keep records of job descriptions and wage rate history for each employee for the duration of
31 the employment plus two years after the end of employment and shall make such record available to the Department of
32 Labor upon request.

33 (e) (1) a. The Department shall administer and enforce this section. The Department may investigate suspected
34 violations of this section and adjudicate alleged violations through administrative proceedings. The Department shall
35 adopt regulations to establish the administrative procedures. The regulations shall require the Secretary to issue a final
36 order, in writing, whenever the Secretary imposes a penalty and to provide prompt notice of the order.

37 b. A party aggrieved by a final order from the Secretary may appeal the order to the Superior Court
38 within 30 days from the date notice was sent. The appeal shall be on the record without a trial de novo. If the
39 Superior Court determines that the record is insufficient for its review, it shall remand the case to the Department
40 for further proceedings on the record. When factual determinations are at issue, the Superior Court shall take due
41 account of the Department's experience and specialized competence and of the purposes of the basic law under
42 which the Department has acted. In the absence of actual fraud, the Superior Court's review shall be limited to a
43 determination of whether the Department's decision was supported by substantial evidence on the record before it.

44 c. After an appeal to the Superior Court or the time for appeal has expired, if penalties are unpaid, the
45 Department may file an action in the Superior Court for execution upon the Secretary's final order as if the order
46 was a judgment of the court.

47 (2) Any employer who violates or fails to comply in good faith with any requirement of this section or any
48 regulation published thereunder shall be deemed in violation of this section. For a first offense, an employer shall
49 receive a written warning. For any second or subsequent offense an employer is subject to a civil penalty of not less
50 than \$2,000 nor more than \$20,000 for each such violation. An employer's failure to comply with this section for 1 job
51 opening is 1 violation regardless of the number of times it is posted.

52 (3) Any employer who discharges or in any manner discriminates against an employee or applicant because
53 that employee or applicant has made a complaint or has given information to the Department pursuant to this section,

54 or because the employee or applicant has caused to be instituted or is about to cause to be instituted any proceedings
55 under this section, or has testified or is about to testify in any such proceedings shall be subject to a civil penalty of not
56 less than \$2,000 nor more than \$20,000 for each such discharge or act of discrimination.

57 (f) Nothing in this section requires an employer to identify a selected candidate for a job opportunity in any
58 manner that violates the candidate's privacy rights under applicable local, state, or federal law or in a manner that would
59 place at risk the selected candidate's health or safety.

60 Section 2. This Act takes effect 180 days after its enactment into law.

SYNOPSIS

This Act requires that employers disclose all of the following in internal and external job postings: (1) The hourly or salary compensation or the hourly or salary compensation range; (2) A general description of the benefits and other compensation applicable to the job opportunity; and (3) The date the application window is anticipated to close. It also requires internal postings to be provided to all employees on the same day or earlier than an external posting. Employers are required to maintain records relating to job descriptions and wage rates.

The Department of Labor is empowered to enforce and investigate alleged violations of this section.