

Chapter 141
of the Acts of 2024

T H E C O M M O N W E A L T H O F M A S S A C H U S E T T S

In the One Hundred and Ninety-Third General Court

AN ACT RELATIVE TO SALARY RANGE TRANSPARENCY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 9 of the General Laws is hereby amended by adding the following section:-

Section 32. (a) As used in this section, the words, "covered employer", "EEO-1 data report", "EEO-3 data report", "EEO-4 data report", "EEO-5 data report" and "wage data report" shall have the same meanings as defined in section 105E of chapter 149, unless the context clearly requires otherwise.

(b) (1) Annually, not later than April 1, the state secretary shall provide to the executive office of labor and workforce development the EEO-1 data reports submitted by covered employers.

(2) Not later than April 1 of each odd-numbered year, the state secretary shall provide to the executive office of labor and workforce development the EEO-3 data reports and EEO-5 data reports submitted by covered employers.

(3) Not later than April 1 of each even-numbered year, the state secretary shall provide to the executive office of labor and workforce development the EEO-4 data reports submitted by covered employers.

(c) (1) The state secretary shall accept wage data reports filed by covered employers subject to the filing requirements of an EEO-1 data report, EEO-3 data report, EEO-4 data report or EEO-5 data report through the least restrictive means available, including, but not limited to, web portals, email submissions or paper forms.

(2) The state secretary may establish a web portal, sample email submission or paper form to facilitate the submission of the wage data reports by covered employers.

(d) Wage data reports in the custody of the state secretary shall not be considered "public records" as defined by clause Twenty-sixth of section 7 of chapter 4 and shall not be subject to chapter 66 or chapter 66A.

SECTION 2. Chapter 23 of the General Laws is hereby amended by adding the following section:-

Section 27. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Aggregate wage and workforce data report", a report reflecting aggregate data from wage data reports, collected from covered employers pursuant to subsection (c) of section 32 of chapter 9 and provided to the executive office of labor and workforce development by the state secretary pursuant to subsection (b) of said section 32 of said chapter 9; provided, however, that an "aggregate wage and workforce data report" shall be separated by the following industries consistent with the North American Industry Classification System:

- (i) agriculture, forestry, fishing and hunting;
- (ii) mining;
- (iii) utilities;
- (iv) construction;
- (v) manufacturing;
- (vi) wholesale trade;
- (vii) retail trade;
- (viii) transportation and warehousing;
- (ix) information;
- (x) finance and insurance;
- (xi) real estate rental and leasing;
- (xii) professional, scientific and technical services;
- (xiii) management of companies and enterprises;
- (xiv) administrative support and waste management and remediation services;
- (xv) education services;
- (xvi) health care and social assistance;
- (xvii) arts, entertainment and recreation;
- (xviii) accommodation and food services;
- (xix) public administration; and
- (xx) other services.

"EEO-1 data report", as defined in section 105E of chapter 149.

"EEO-3 data report", as defined in section 105E of chapter 149.

"EEO-4 data report", as defined in section 105E of chapter 149.

"EEO-5 data report", as defined in section 105E of chapter 149.

"Wage data report", as defined in section 105E of chapter 149.

(b) The executive office of labor and workforce development shall publish on its website aggregate wage and workforce data reports consisting of data received pursuant to subsection (c) of section 105E of chapter 149 as follows:

(i) annually, not later than July 1, an aggregate wage and workforce data report consisting of data from all EEO-1 data reports;

(ii) every odd-numbered calendar year, not later than July 1, an aggregate wage and workforce data report consisting of data from all EEO-3 data reports and EEO-5 data reports; and

(iii) every even-numbered calendar year, not later than July 1, an aggregate wage and workforce data report consisting of data from all EEO-4 data reports.

SECTION 3. Section 5 of chapter 32 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by inserting after the word "law", in line 211, the following words:- , from a bona-fide increase in salary related to eliminating wage differentials as required pursuant to section 105A of chapter 149 or from an employer's systemic wage adjustments.

SECTION 4. Section 91 of said chapter 32, as so appearing, is hereby amended by inserting after the word "terminated", in line 100, the following words:- or the salary upon which the retirement allowance is based, whichever is greater,.

SECTION 5. Section 1 of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in lines 31 and 32, the words "one hundred and five A to one hundred and five C, inclusive" and inserting in place thereof the following words:- 105A to 105C, inclusive, 105E and 105F.

SECTION 6. Said section 1 of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 39 and 40, the words "one hundred and five A to one hundred and five C, inclusive" and inserting in place thereof the following words:- 105A to 105C, inclusive, 105E and 105F.

SECTION 7. Said chapter 149 is hereby further amended by inserting after section 105D the following 2 sections:-

Section 105E. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Covered employer", an employer: (i) with not less than 100 employees in the commonwealth at any time during the prior calendar year; and (ii) subject to the federal filing requirements of a wage data report.

"EEO-1 data report", a completed copy of all required components of an employer's Employer Information Report, as issued by the U.S. Equal Employment Opportunity Commission, including any successor report containing the same or substantially similar workforce demographic and pay data categorized by race, ethnicity, sex and job category.

"EEO-3 data report", a completed copy of all required components of a local union's Local Union Report, as issued by the U.S. Equal Employment Opportunity Commission, including any successor report containing the same or substantially similar workforce demographic and pay data categorized by race, ethnicity, sex and job category.

"EEO-4 data report", a completed copy of a State and Local Governmental Information Report, as issued by the U.S. Equal Employment Opportunity Commission, including any successor report containing the same or substantially similar workforce demographic and pay data categorized by race, ethnicity, sex and job category.

"EEO-5 data report", a completed copy of an Elementary-Secondary Staff Information Report, as issued by the U.S. Equal Employment Opportunity Commission, including any successor report containing the same or substantially similar workforce demographic and pay data categorized by race, ethnicity, sex and job category.

"State secretary", as defined in chapter 9.

"Wage data report", an EEO-1, EEO-3, EEO-4 or EEO-5 data report.

(b) (1) Annually, not later than February 1, a covered employer, subject to EEO-1 data report filing requirements, shall submit to the state secretary a copy of its EEO-1 data report for the prior year pursuant to section 32 of chapter 9.

(2) In each odd-numbered year, not later than February 1, a covered employer, subject to federal EEO-3 data report or EEO-5 data report filing requirements, shall submit to the state secretary a copy of its EEO-3 data report or EEO-5 data report, as applicable, covering the most recent filing period pursuant to section 32 of chapter 9.

(3) In each even-numbered year, not later than February 1, a covered employer, subject to federal EEO-4 data report filing requirements, shall submit to the state secretary a copy of its EEO-4 data report covering the most recent filing period pursuant to section 32 of chapter 9.

(c) Annually, not later than April 1, the state secretary shall submit to the executive office of labor and workforce development the wage data reports submitted by covered employers pursuant to section 32 of chapter 9.

(d) Wage data reports in the custody of the secretary of labor and workforce development shall not be considered "public records" as defined by clause Twenty-sixth of section 7 of chapter 4 and shall not be subject to chapter 66 or chapter 66A; provided, however, that the publishing of aggregate wage and workforce data reports, as defined in section 27 of chapter 23, by the executive office of labor and workforce development on its website pursuant to said section 27 of said chapter 23 shall be considered public records as defined by said clause Twenty-sixth of said section 7 of said chapter 4.

(e)(1) The attorney general shall have the exclusive jurisdiction to enforce this section and may obtain injunctive or declaratory relief for this purpose. Any covered employer who violates this section shall be punished by a warning for the first offense, by a fine of not more than \$500 for the second offense and by a fine of not more than \$1,000 for the third offense. A fourth or subsequent offense shall be subject to paragraphs (1) and (2) of subsection (b) of section 27C.

(2) No violation of this section shall be construed to carry treble damages pursuant to section 150.

Section 105F. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Covered employer", any employer, public or private, that employs 25 or more employees in the commonwealth.

"Pay range", the annual salary range or hourly wage range that the covered employer reasonably and in good faith expects to pay for such position at that time.

"Posting", any advertisement or job posting intended to recruit job applicants for a particular and specific employment position, including, but not limited to, recruitment done directly by a covered employer or indirectly through a third party.

(b) A covered employer, or its agent, shall disclose the pay range for a particular and specific employment position in the posting of the position.

(c) A covered employer, or its agent, shall provide the pay range for a particular and specific employment position to an employee who is offered a promotion, or transfer, to a new position with different job responsibilities.

(d) A covered employer, or its agent, shall provide the pay range for a particular and specific employment position to an employee holding such position, or to an applicant for such position, upon request.

(e) It shall be unlawful for a covered employer to discharge or in any other manner retaliate or discriminate against any employee or applicant because the employee or applicant has: (i) taken action to enforce their rights pursuant to this section; (ii) made any complaint to their employer, an agent of their employer or the attorney general regarding an alleged violation of this section; (iii) instituted, or caused to be instituted, any proceeding under this section; or (iv) testified or is about to testify in any such proceeding.

(f)(1) The attorney general shall have the exclusive jurisdiction to enforce subsections (b) to (d), inclusive, and may obtain injunctive or declaratory relief for this purpose. Any covered employer who violates this section shall be punished by a warning for the first offense, by a fine of not more than \$500 for the second offense and by a fine of not more than \$1,000 for the third offense. A fourth or subsequent offense shall be subject to paragraphs (1) and (2) of subsection (b) of section 27C.

(2) For enforcement pursuant to paragraph (1), an offense shall include 1 or more job postings for positions made by the same employer during a 48-hour period.

(3) No violation of this section shall be construed to carry treble damages pursuant to section 150.

SECTION 8. Not later than 6 months after the effective date of this act, the attorney general shall conduct a public awareness campaign to provide information to covered employers regarding the requirements of sections 105E and 105F of chapter 149 of the General Laws, which shall include, but not be limited to, making information available on the attorney general's website and otherwise informing covered employers of said sections 105E and 105F of said chapter 149.

SECTION 9. (a)(1) Not later than April 1, 2025, the state secretary shall provide the executive office of labor and workforce development with initial EEO-1, EEO-3 and EEO-5 data reports pursuant to paragraphs (1) and (2) of subsection (b) of section 32 of chapter 9 of the General Laws.

(2) Not later than April 1, 2026, the state secretary shall provide the executive office of labor and workforce development with initial EEO-4 data reports pursuant to paragraph (3) of subsection (b) of section 32 of chapter 9 of the General Laws.

(b)(1) Not later than June 1, 2025, the executive office of labor and workforce development shall publish the first aggregate wage and workforce

data reports pursuant to clauses (i) and (ii) of subsection (b) of section 27 of chapter 23 of the General Laws.

(2) Not later than June 1, 2026, the executive office of labor and workforce development shall publish the first aggregate wage and workforce data report pursuant to clause (iii) of subsection (b) of section 27 of chapter 23 of the General Laws.

(c)(1) Not later than February 1, 2025, covered employers subject to EEO-1, EEO-3 and EEO-5 data report requirements shall submit the first reports to the state secretary pursuant to paragraphs (1) and (2) of subsection (b) of section 105E of chapter 149 of the General Laws.

(2) Not later than February 1, 2026, covered employers subject to EEO-4 data report requirements shall submit the first report to the state secretary pursuant to paragraph (3) of subsection (b) of section 105E of chapter 149 of the General Laws.

SECTION 10. For the first 2 years after the effective date of sections 105E and 105F of chapter 149 of the General Laws, a covered employer shall have 2 business days after notice of a violation to cure any defect before a fine is imposed.

SECTION 11. Anyone who had their earnings capacity calculated under section 91 of chapter 32 of the General Laws using the salary upon which their retirement allowance was based prior to the effective date of this act shall not have their earnings capacity recalculated.

SECTION 12. Section 3 shall take effect as of July 1, 2018.

SECTION 13. Section 105F of chapter 149 of the General Laws, as inserted by section 7, shall take effect 1 year after the effective date of this act.

House of Representatives, July 24, 2024.

Passed to be enacted,

Kate H., Speaker.

In Senate, July 24, 2024.

Passed to be enacted,

Carol Sa..., President.

July 31, 2024.

Approved,

M. T. Hoag, Governor.