

# Alert

## Connecticut Employers Required to Disclose Wage Ranges Under New Law

September 29, 2021

On Sept. 28, 2021, the Connecticut Department of Labor released [new guidance](#) (“Guidance”) regarding [Connecticut Public Act 21-30 “An Act Concerning The Disclosure Of Salary Range For A Vacant Position”](#) (“Act”). The Act, which goes into effect on Oct. 1, 2021, amends current Connecticut law to require all Connecticut employers to disclose the applicable “wage range” (defined below) to all job applicants and employees. The Act also expands Connecticut’s ban on discrimination in the amount of compensation paid to any employee on the basis of sex.

### Background

Connecticut General Statute § 31-40z, which the Act amends, bars employers from, among other things, prohibiting or penalizing employees from disclosing or discussing the amount of their wages with another employee. This statute defines “employer,” “employee,” and “wages” broadly to cover virtually every employer operating in Connecticut. The Act therefore applies to all employers located within the state of Connecticut who use the services of one or more employees for pay. The Guidance clarifies that the Act also applies to all employers within the state of Connecticut even if the employees are located outside of the state of Connecticut.

### The Act’s Requirements

The Act adds two new requirements for Connecticut employers:

1. Employers must provide an applicant for employment with the “wage range” of the position for which the applicant is applying “upon the earliest of (A) the applicant’s request, or (B) prior to or at the time the applicant is made an offer of compensation”; and
2. Employers must provide an employee with the wage range for the employee’s position “upon (A) the hiring of the employee, (B) a change in the employee’s position with the employer, or (C) the employee’s first request for a wage range.”

Employers are required only to provide the wage range for the position an employee holds or for which an applicant applied.

“Wage range” is defined as the “range of wages an employer anticipates relying on when setting wages for a position, and may include reference to any applicable pay scale, previously determined range of wages for the position, actual range of wages for those employees currently holding comparable positions or the employer’s budgeted amount for the position.” The Act defines “wages” 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.” Yesterday’s Guidance clarifies that “wage

range” includes compensation by bonus and commission, but generally does not include discretionary pay from an employer. Therefore, employers are required to disclose not only the salary range that they expect to pay for the position, but also any expected bonuses and range of compensation for commission based sales.

Connecticut employers should immediately identify applicable wage ranges for their positions, and be prepared to provide wage ranges to applicants and employees.

### **Failure to Comply**

If an employer fails to comply with these requirements, an applicant or employee may file a civil action within two 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. Affected applicants and employees may also file a complaint with the Connecticut Department of Labor, which may also issue a civil penalty against the employer if a violation is found.

### **Changes to Discrimination in Compensation on the Basis of Sex**

In addition to the new requirements concerning the disclosure of “wage ranges” to applicants and employees, the Act amends the definition of discrimination in compensation on the basis of sex under Connecticut law. The definition of sex-based discrimination in compensation now includes any difference in pay for employees of the opposite sex for “comparable work on a job,” unless the employer can demonstrate that such differential in pay is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential system based upon a bona fide factor other than sex, including, but not limited to, education, training, credential, skill, geographic location or experience.<sup>1</sup> Employers should ensure that their employees’ pay is consistent with the new definition.

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<sup>1</sup> This section of the Act amends Connecticut General Statute § 31-75.