

LAWS OF DELAWARE
VOLUME 85
CHAPTER 228
153rd GENERAL ASSEMBLY
FORMERLY
HOUSE SUBSTITUTE NO. 2
FOR
HOUSE BILL NO. 105

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:

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

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

(a) As used in this section:

(1) “Employer” means as defined in § 709A of this title.

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

(b) (1) If an employer announces, posts, or otherwise makes known a job opportunity, the employer must include the hourly or salary compensation range and a general description of the benefits and other compensation.

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

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

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

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

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

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

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

c. A notification for a job opportunity that is covered by a collective bargaining agreement must disclose the compensation or compensation range that has been approved for disclosure under this section in the collective bargaining agreement.

(d) An employer shall make, keep, and preserve records of job descriptions and salary or wage rate history for each employee for a period of not less than 3 years and shall make such record available to the Department of Labor upon request.

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

b. A party aggrieved by a final order from the Secretary may appeal the order to the Superior Court within 30 days from the date notice was sent. The appeal shall be on the record without a trial de novo. If the Superior Court determines that the record is insufficient for its review, it shall remand the case to the Department for further proceedings on the record. When factual determinations are at issue, the Superior Court shall take due account of the

Department's experience and specialized competence and of the purposes of the basic law under which the Department has acted. In the absence of actual fraud, the Superior Court's review shall be limited to a determination of whether the Department's decision was supported by substantial evidence on the record before it.

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

(2) An employer who violates or fails to comply in good faith with any requirement of this section or any regulation published thereunder is in violation of this section. For a first offense, an employer shall receive a written warning. For any second or subsequent offense, an employer is subject to a civil penalty of not less than \$500 nor more than \$10,000 for each such violation. An employer's failure to comply with this section for 1 job opportunity is 1 violation regardless of the number of times it is posted.

(3) An employer who discharges or in any manner discriminates against an individual because that individual has made a complaint or has given information to the Department pursuant to this section, or because the individual has caused to be instituted or is about to cause to be instituted any proceedings under this section, or has testified or is about to testify in any such proceedings is subject to a civil penalty of not less than \$500 nor more than \$10,000 for each such discharge or act of discrimination.

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

(g) (1) A third party who posts or reposts a notification regarding a job opportunity is not subject to liability or enforcement under this section.

(2) An employer is not liable for job postings that are digitally replicated and published without the employer's consent.

(h) (1) This section does not apply to an employer with 25 or fewer employees.

(2) For an employer with 26 or more employees, this section applies to jobs located in Delaware and non-international remote positions offered by an employer based in Delaware.

(i) This section applies to the posting of job opportunities covered by a collective bargaining agreement only after the collective bargaining agreement is executed, amended, modified, renewed, or replaced after [the effective date of this Act].

Section 2. This Act takes effect 2 years after its enactment into law.

Approved September 26, 2025