

New Maryland Laws Expand Employees and Job Applicants' Access to Wage Information & Prohibit Discrimination Against Natural Hairstyles

By Hayes Edwards

Three bills of particular note for Maryland employers are set to take effect on October 1, 2020.

Equal Pay & Access to Wage Information

Two of those pieces of legislation are aimed at expanding workers' access to wage information—as part of a growing wave of legislation empowering workers to learn more about their peers' compensation and overcome historical differences in pay.

HB 14 is titled **Equal Pay for Equal Work – Inquiring About Wages**. This bill makes it illegal for a Maryland employer to prohibit its employees from asking about, discussing, or sharing the wages of themselves or other employees. Nor can employers refuse a worker's request for justification of their own wage amount. If employees take any of these actions, their employer is forbidden from retaliating or taking an adverse action in response. Likewise, employers may not request that employees sign a waiver or other document stating they may not share or discuss their wages.

By encouraging transparency, the General Assembly seeks to expose unreasonable or discriminatory differences in wages, or to deter those practices for fear of exposure. Similarly, another bill provides job applicants with full access to their peers' wages, and even ensures that new hires are not able to earn more than peers simply based on wage history.

HB 123 requires that employers must grant a job applicant's request for the existing wage ranges of other employees in the position applied for. In contrast, employers are not allowed to ask for the employee's own wage history or seek it from a current or former employer. Retaliation against employees who seek to exercise these rights, by not hiring or interviewing them, is expressly prohibited.

If an applicant elects to disclose their wage history, the employer may not rely on that information in screening the applicant, considering whether to hire them, or how much to pay them, with certain exceptions. Only after extending an initial offer of employment and a proposed wage may the employer review wage history in order to consider an applicant's request for a higher wage. In that way, employees would have the option of revealing that history or not, to aid in their wage negotiations. Employers are allowed to vet the wage history presented in response to the offer of employment. The bill further provides that even if the wage history justifies the higher rate, it cannot be relied upon if it will cause the applicant's wage to violate existing Equal Pay for Equal Work law in Maryland.

Employers would be wise to review their application and screening process to ensure compliance with these new rules and procedures. Violations are subject to injunctive action by the Maryland Commissioner of Labor and Industry. Repeat violations within a three-year window are subject to civil fines of up to \$600 per applicant.

The Crown Act

Also taking effect will be the Maryland version of the "Crown Act," HB 1444 / SB 531. This bill adds "protective hairstyles" and other "traits associated with race" to the definition of "race" in the State's anti-discrimination statutes. Protective hairstyles, or those traditionally worn by African-Americans, are defined to include braids, locks, and twists. The legislation also specifically includes afros in the protected category. Maryland joins other states, and Montgomery County, in passing this type of legislation, which

seeks to eliminate workplace rules or dress codes that serve to discriminate against people of certain races by prohibiting hairstyles common among them.