Equal Pay in Focus: California's Pay Transparency and Reporting Rules

In September 2022, California Governor Gavin Newsom signed into law Senate Bill 1162 (SB 1162), also known as the California Pay Transparency Act. The law, codified in California Labor Code Section 432.3, went into effect on January 1, 2023. Its intent of the legislature is to ensure workers receive fair and equal pay. When passing the original precursor law, Senate Bill 973, the California Legislature noted the following:

- Despite significant progress in strengthening equal pay laws, the gender pay gap persists, resulting in billions of dollars in lost wages. In 2016, women working full-time earned, on average, 88 cents for every dollar earned by men, with women of color experiencing an even wider gap.
- According to 2020 California pay data, women were disproportionately represented among those earning less than $30,000 annually, while fewer than 10% of Latino and Black Californians were in the highest earning bracket (approximately $129,000 and above.) In contrast, nearly 30% of white Californians fell into this top earning bracket.

Under SB 1162, employers with more than 15 employees must include pay scales for all positions in job postings—both internal and those on third party websites—and must provide the pay scale for a position to applicants and current employees upon request.

Additionally, private employers with 100 or more employees are required to submit an annual pay data report to the California Civil Rights Department (CRD). This report must include detailed information on pay, hours worked, and the number of employees by race, ethnicity, and sex across various job categories. Reporting obligations extend not only to W2 employees but also to workers supplied by labor contractors. Employers must also indicate whether employees worked remotely. The CRD provides Excel templates, examples, and user guides for this reporting on its public portal. The deadline to submit the reports are the second Wednesday in May of the following calendar year.

The statute authorizes the CRD to impose monetary penalties on employers that fail to file required reports and on labor contractors that fail to supply necessary data to their client employers (LC 432(d)(4)). Penalties range from $100 to $10,000 per violation. The CRD is actively pursuing noncompliance.

For instance:

- In 2022, the CRD secured a set of first-of-a-kind stipulated judgments against a national bank and national retailer to ensure compliance with California's pay data reporting requirements.
- In October 2023, the CRD reached a $100,000 settlement in a lawsuit filed in Los Angeles Superior Court against a homecare company, over the company's alleged failure to report employee pay data.

Violations of pay scale notification requirements may also expose employers to individual and class action lawsuits.

FOR MORE INFORMATION

For additional information on SB 1162/Labor Code 432.3 or guidance on ensuring compliance, please contact:

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