

Law Update: Colorado Equal Pay Act – Are you ready?

Colorado Joins 17 other states by enacting a new Equal Pay Act which will take effect as of January 2021. The act will prohibit discrimination based on sex or gender identity by paying less for similar work in terms of skill and responsibility.

All Colorado cannabis employers will need to comply with the Equal Pay Act. You will want to ensure that your current compensation structure complies with the law and correct any practices that are not in compliance, prior to 2021.

How does this impact my business?

- Employers can no longer ask candidates their current salary, to set pay rates
- Job Descriptions are required
- Pay differences must be justified by certain criteria, there are six factors; Seniority, Merit, Quantity/quality of production, Geographic location, Travel Requirements, KSA's, market factors no longer apply
- Additional Update: The minimum salary threshold has increased as of July 1, 2021: \$42,500

What do I need to do?

Evaluate exempt positions, ensure they are at the new minimum salary threshold. Review and evaluate the following:

- Current job descriptions and pay rates
- Current process for pay increases – how are they determined?
- Current performance review process – do these come with pay increases?
- Job postings; allowing internal staff to apply for a promotion opportunity
- Recruiting & interview processes

How can Wurk Help me with this?

Download the compliance checklist, then reach out to your HR Business Partner to get started on evaluating your current pay practices.

Comply with State and Local Equal Pay Act Laws

Checklist / Action Items

Practices and Policies

- Evaluate existing policies and practices to ensure compliance with the relevant state and local laws (CO Equal Pay Act). Examples of practices that are impacted by this law are performance reviews process (if they come with an increase), and the hiring process (when setting pay rates). *See more on these below.*
- Designate personnel (e.g., HR, compliance, payroll, etc.) to review the necessary data and documentation (e.g., pay scales, job descriptions, handbooks, hiring checklists, payroll list

with wages and total compensation, etc.) to assess compliance with the requirements of state equal pay laws.

Recruiting and Hiring Processes

- Applications: Should not require an applicant to provide current salary or salary history.
- Current or upcoming Job Postings as of 1/1/21:
 - Internal Job Boards and process for internal candidates to apply
 - Ensure you have job descriptions for each position
 - Be sure that job postings include the pay range
- Train and inform any managers and/or employees who are involved in the interview process on the new state law that prohibits employers from seeking salary history.
- Be sure to document and record salary history information if an applicant voluntarily discloses salary history information during an interview.
- Avoid providing salary history information when responding to reference checks.
- Eliminate salary history completely when setting compensation.

Discussion of Wages

- Review any current policies that prohibit employees from discussing wages or disclosing wages to other employees.
- Be sure your managers are trained on the new regulations of wage disclosure information.
- Identify those employees (such as payroll or HR) who will be prohibited from discussing employees' wages with other employees based on their position as this will still apply to them for confidentiality purposes.

Current Job Descriptions and Job Postings

- Review all current job descriptions for accuracy, evaluate which positions you may not currently have a job description for and put one in place. This will help establish pay grades and will also help evaluate equal pay for equal work.
- After reviewing all job descriptions, evaluate and update job titles as needed.
- Remove any references to gender or sex in job descriptions and job postings.

Review Current Compensation

- Geographical Location and Cost of Living: Do you have any pay rates where this is a factor? If so, obtain written data/ documentation, and reasons for pay differences for equal work that may be based on this.
- Seniority Systems: Review your current policies and practices to verify that they are not discriminatory. For example: Do you have a seniority policy that is linked to pay increases that is impacted or reduces seniority for someone out on a pregnancy or protected job leave?
- Knowledge, Skills, Ability: Is current compensation based on education, skill, and experience?

Audit Review

- Who will perform the audit?
- Compare similarly situated employees who perform similar duties and responsibilities.
- Determine whether protected class members are paid equally as compared to those employees outside any protected class.
- Determine whether sex or any other protected characteristic impact pay decisions.
- Identify and track any pay inequities.
- Ensure any wage differentials are based on legitimate and nondiscriminatory factors and supported by documentation.
- Determine what types of data will be reviewed, including compensation systems, performance evaluations, relational data measuring how employees interact with each other and contribute to the organization, job descriptions and training programs.