

Alert | Labor & Employment



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Spring Brings New Laws for New York Employers

New York employers, take note: two new laws will take effect in May 2022.

Notice of Electronic Monitoring

Effective May 7, 2022, New York state will require that covered employers provide notice to employees and new hires before engaging in electronic monitoring. A “covered employer” is any individual, corporation, partnership, firm, or association with a place of business within the state of New York. It does not include the state or any political subdivision. All employees must be given prior written notice upon hire if their employer chooses to monitor or otherwise intercept telephone conversations, emails, or internet access or usage on an electronic device or system. “Electronic device or system” includes but is not limited to computers, telephones, wires, radios, or electromagnetic, photoelectronic, or photo-optical systems.

The law requires the notice be provided to the new hire or employee in writing, in an electronic record, or in another electronic form, and receipt of the notice must be acknowledged in writing or electronically. Employers must also post the notice in a conspicuous place readily accessible by employees subject to the electronic monitoring. The notice must advise that the employee(s) may be subject to monitoring at any and all times by any lawful means.

The new law does not require notice be given for (1) processes designed to manage the type or volume of incoming or outgoing emails, telephone voicemail, or internet usage; (2) processes not targeted to

monitor or intercept the emails, telephone voicemail, or internet usage of a particular individual; and (3) processes performed solely for the purpose of computer system maintenance and/or protection.

If an employer violates the new law, the attorney general may impose civil penalties: \$500 for the first offense; \$1,000 for the second offense; and \$3,000 for the third offense and each subsequent offense thereafter.

New York City Salary Range Posting

After May 15, 2022, it will be an unlawful discriminatory practice in New York City for an employer with at least four employees to advertise a job, promotion, or transfer without including in the advertisement an estimate of the minimum and maximum salary the employer believes it would pay for the position. The salary range included can extend from the lowest to the highest salary the employer believes, in good faith, it would pay for the job, promotion, or transfer opportunity at the time of the posting.

This new law does not apply to employers with less than four employees or to job advertisements for temporary employment at a temporary help firm.

New York will join seven other jurisdictions with similar laws seeking to combat pay inequality and promote pay transparency.

Employers may want to examine their policies and procedures now to ensure compliance when the new laws become effective in May.

Authors

This GT Alert was prepared by:

- **Jerrold F. Goldberg** | +1 212.801.9209 | goldbergj@gtlaw.com
- **Nicholas A. Corsano** | +1 212.801.6827 | corsanon@gtlaw.com

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