



# **HAWAI‘I CIVIL RIGHTS COMMISSION** **KOMIKINA PONO KIWILA O HAWAI‘I**

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## **EFFECTIVE JANUARY 1, 2024, NEW HAWAI‘I LAW REGARDING PAY TRANSPARENCY & EQUAL PAY**

On July 3, 2023, Governor Green signed Act 203 (S.B. 1057, S.D.2, H.D.2, C.D.1), which adds a new section to Chapter 378 and amends Hawai‘i Revised Statute (HRS) § 378-2.3. The purpose of this Act is to reduce pay inequalities and increase pay transparency in Hawai‘i.

### **FREQUENTLY ASKED QUESTIONS (FAQs)**

#### **PAY TRANSPARENCY**

**Q: Under the new Pay Transparency Law, who has to post hourly compensation rate or salary range in its job listings and job advertisements?**

A: Employers with 50 or more employees who post job listings must post the hourly rate or salary range that reasonably reflects the actual expected compensation for the position.

**Q: Do the fifty or more employees need to be based in Hawai‘i?**

A: The law does not specify the location of the fifty or more employees.

**Q: Do the fifty or more employees need to be full-time employees?**

A: The law does not specify the type of employment.

**Q: Do job postings for internal promotions need to list hourly rate or salary range?**

A: No. This new section requiring disclosure of hourly rate/salary range does not apply to positions that are internal transfers or promotions within a current employer.

**Q: Do job listings for public employee positions need to post salary ranges or hourly compensation?**

A: No. Job listings for public employee positions for which salary, benefits, or other compensation are determined pursuant to collective bargaining are not subject to this section.

**Q: Can an employer ask about an applicant’s salary history or past wages?**

A: No. Since 2019, under HRS § 378-2.4, an employer cannot inquire about an applicant’s salary history or rely on the applicant’s salary history in determining salary, benefits, or other compensation for an applicant during the hiring process and/or during negotiations for an employment contract. However, an applicant may voluntarily and without prompting disclose his/her/their previous salary history to a potential employer during the hiring process.

*\*This flyer is a general summary and does not have the force or effect of administrative rules or Hawai‘i laws. If there are any inconsistencies, the rules and Hawai‘i law will control.*

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**Q: Can an employer prohibit employees from discussing their salary or hourly compensation?**

A: No. Under HRS § 378-2.3(b), an employer shall not retaliate, prohibit, or otherwise discriminate against an employee for disclosing or discussing wages amongst other employees.

**EQUAL PAY ACT AMENDMENTS**

**Q: Who is now protected under the amendments to Hawai'i's Equal Pay Act (EPA)?**

A: Act 203 expanded equal pay protections to prohibit discrimination on any protected category listed in HRS § 378-2(a) including: race, sex (including gender identity/expression), sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, reproductive health decision, or domestic or sexual violence victim status.

**Q: What is prohibited by Act 203's amendments to Hawai'i's EPA?**

A: An employer is prohibited from paying wages at a rate less than the rate paid to other employees on the basis of a protected category for substantially similar work.

**Q: What is substantially similar work?**

A: The substantially similar work standard includes jobs that require equal skill, effort, and responsibility, and that is performed under similar working conditions, and does not include minor or irrelevant differences in jobs.

**Q: What types of differences in pay do not violate Hawai'i's EPA?**

A: Differences in pay due to seniority system, a merit system, a system that measures earnings by quantity or quality of production, a bona fide occupational qualification, or other legitimate, non-discriminatory reason that is not based on a protected category listed in HRS § 378-2(a)(1).

**FURTHER INFORMATION & CONTACT INFO:**

The State Legislature established the Hawai'i Civil Rights Commission (HCRC) to enforce the state's anti-discrimination laws contained in Hawai'i Revised Statutes Chapters 368, 378 (part I), 489, and 515. For more information on these and other aspects of discrimination, contact the HCRC.

For persons who need language assistance or a sign language interpreter, an interpreter will be provided by the HCRC at no cost.

**Hawai'i Civil Rights Commission**  
**830 Punchbowl Street, Room 411**  
**Honolulu, HI 96813**  
Phone: (808) 586-8636  
TTY: (808) 586-8692  
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For more information on the HCRC and full-text versions of the state's anti-discrimination laws, find us online at:

<http://labor.hawaii.gov/hcrc>

Or email us at: [DLIR.HCRC.INFOR@hawaii.gov](mailto:DLIR.HCRC.INFOR@hawaii.gov)

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