

HOUSE No. 4100

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, September 25, 2023.

The committee on Labor and Workforce Development to whom was referred the petition (accompanied by bill, Senate, No. 1181) of Paul R. Feeney, Liz Miranda, Jacob R. Oliveira, Patrick M. O'Connor and other members of the Senate for legislation relative to transparency in the workplace, the petition (accompanied by bill, Senate, No. 1191) of Patricia D. Jehlen, Patrick M. O'Connor, Rebecca L. Rausch, Michael J. Barrett and other members of the Senate for legislation relative to wage transparency, the petition (accompanied by bill, House, No. 1849) of Josh S. Cutler, Brandy Fluker Oakley and others relative to salary range transparency by certain employers and the petition (accompanied by bill, House, No. 1940) of David M. Rogers, Christine P. Barber and others relative to the publishing of aggregate wage data reports, reports recommending that the accompanying bill (House, No. 4100) ought to pass.

For the committee,

JOSH S. CUTLER.

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to salary range transparency.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. This act shall be known as The Frances Perkins Workplace Equity Act

2 SECTION 2. Chapter 23 of the General Laws is hereby amended by inserting after
3 section 26 the following section:-

4 Section 27. (a) As used in this section, the following words, unless the context clearly
5 requires otherwise, shall have the following meanings:

6 “Aggregate wage data report,” shall mean an industry-based wage data report reflecting
7 aggregate data from annual wage data reports, provided by the Secretary of State, pursuant to
8 chapter 149 section 105E(c), separated by the following industries:

- 9 1. Agriculture, Forestry, Fishing and Hunting
- 10 2. Mining
- 11 3. Utilities

12	4.	Construction
13	5.	Manufacturing
14	6.	Wholesale Trade
15	7.	Retail Trade
16	8.	Transportation and Warehousing
17	9.	Information
18	10.	Finance and Insurance
19	11.	Real Estate Rental and Leasing
20	12.	Professional, Scientific, and Technical Services
21	13.	Management of Companies and Enterprises
22	14.	Administrative Support and Waste Management and Remediation
23	Services	
24	15.	Education Services
25	16.	Health Care and Social Assistance
26	17.	Arts, Entertainment, and Recreation
27	18.	Accommodation and Food Services
28	19.	Public Administration
29	20.	Other Services

30 (b) No later than June 1st beginning calendar year 2024, the executive office of labor and
31 workforce development shall publish aggregate wage data reports on the executive office of
32 labor and workforce development website, provided however that aggregate wage data reports
33 for covered employers subject to the filing requirements of an EEO-3, EEO-4 or EEO-5 data
34 report will be published every other year.

35 SECTION 3. The eleventh paragraph of Section 1 of Chapter 149 of the General Laws is
36 hereby amended by striking out the words “to one hundred and five C” and inserting the words “,
37 one hundred and five C, one hundred and five E, and one hundred and five F”. The twelfth
38 paragraph of Section 1 of Chapter 149 of the General Laws is hereby amended by striking out
39 the words “to one hundred and five C” and inserting the words “, one hundred and five C, one
40 hundred and five E, and one hundred and five F”.

41 SECTION 4. Said chapter 149, as so appearing, is hereby further amended by inserting
42 after section 105D the following section:-

43 Section 105E (a) As used in this section, the following words, unless the context clearly
44 requires otherwise, shall have the following meanings:

45 “Covered Employer,” shall mean an employer with 100 or more full-time employees in
46 Massachusetts any time during the prior calendar year subject to the filing requirements of the
47 EEO-1 data report; subject to the filing requirements of the EEO-3 data report; subject to the
48 filing requirements of the EEO-4 data report; or subject to the filing requirements of the EEO-5
49 data report.

50 “EEO-1 data report” shall be a completed copy of all required components of the
51 employer’s Employer Information Report, otherwise known as an EEO-1 Report, as issued by

52 the U.S. Equal Employment Opportunity Commission, including any successor report containing
53 the same or substantially similar workforce demographic and pay data by race, gender identity
54 and employment category.

55 “EEO-3 data report” shall be a completed copy of all required components of the local
56 union’s Local Union Report, otherwise known as an EEO-3 Report, as issued by the U.S. Equal
57 Employment Opportunity Commission, including any successor report containing the same or
58 substantially similar workforce demographic and pay data by race, gender identity and
59 employment category.

60 “EEO-4 data report” shall be a completed copy of the State and Local Governmental
61 Information Report, otherwise known as an EEO-4 report, as issued by the U.S. Equal
62 Employment Opportunity Commission, including any successor report containing the same or
63 substantially similar workforce demographic and pay data by race, gender identity and
64 employment category.

65 “EEO-5 data report” shall be a completed copy of the Elementary-Secondary Staff
66 Information Report, otherwise known as an EEO-5 report, as issued by the U.S. Equal
67 Employment Opportunity Commission, including any successor report containing the same or
68 substantially similar workforce demographic and pay data by race, gender identity and
69 employment category.

70 “Secretary” shall mean the State secretary under chapter 9.

71 “Wage data report” shall be an EEO-1, EEO-3, EEO-4 or EEO-5 data report.

72 (b)(1) Beginning in 2024 and for each year thereafter, a covered employer subject to
73 EEO-1 filing requirements shall submit the EEO-1 data report to the secretary covering the prior
74 calendar year as a supplement to their annual report, due to be filed at the same time as their
75 annual report.

76 (b)(2) Beginning in 2024 and each even-numbered year thereafter, a covered employer
77 subject to EEO-3 or EEO-5 filing requirements shall submit the EEO-3 data report or EEO-5
78 data report, as applicable, to the secretary covering the prior two calendar years.

79 (b)(3) Beginning in 2025 and each odd-numbered year thereafter, a covered employer
80 subject to EEO-4 filing requirements shall submit the EEO-4 data report to the secretary
81 covering the prior two calendar years.

82 (c) The secretary shall provide to the executive office of labor and workforce
83 development the wage data reports of each covered employer for the prior calendar year no later
84 than April 1st of each calendar year beginning in 2024. The secretary may establish a web portal
85 or online form to facilitate the submission of the wage data reports. The state secretary shall
86 accept reports filed by covered employers subject to the filing requirements of an EEO-3, EEO-4
87 or EEO-5 through the least restrictive means, and reports by these employers may be submitted
88 through a web portal established by the secretary for submission, through email submission, or in
89 paper form from the employer.

90 (d) Except for the publishing of aggregate reports by the executive office of labor and
91 workforce development on the department's website as directed in this section, wage data reports
92 in the custody of the secretary of state or the secretary of labor and workforce development shall

93 not be considered “public records” as defined by chapter 4 section 7 clause 26 and shall not be
94 subject to chapter 66 nor chapter 66A of the General Laws.

95 SECTION 5. Said chapter 149, as so appearing is hereby further amended by inserting
96 after section 105E the following section:-

97 Section 105F. (a) As used in this section, the following words shall have the following
98 meanings:

99 “covered employer” shall mean any employer, public or private, that employs 25 or more
100 employees in Massachusetts.

101 “pay range” shall mean the annual salary range or hourly wage range that the employer
102 reasonably and in good faith expects to pay for such position at that time.

103 “posting” shall mean any advertisement or job posting intended to recruit job applicants
104 for a particular and specific employment position, including recruitment done directly by an
105 employer or indirectly through a third party.

106 (b) A covered employer, or agent of said employer, shall disclose the pay range for a
107 particular and specific employment position within the advertising or posting of the position.

108 (c) A covered employer, or agent of said employer, shall provide the pay range for a
109 particular and specific employment position to an employee offered a promotion, or transfer, to a
110 new position with different job responsibilities.

111 (d) A covered employer, or agent of said employer, shall provide the pay range for a
112 particular and specific employment position to an employee holding such position, or to an
113 applicant for such position, upon request.

114 (e) It shall be an unlawful practice for any employer to discharge or in any other manner
115 retaliate or discriminate against any employee or applicant because such employee or applicant
116 has opposed any act or practice made unlawful by this section, or has made any complaint to
117 their employer, an agent of the employer, or the attorney general, or instituted, or caused to be
118 instituted, any proceeding under this section, or has testified or is about to testify in any such
119 proceeding.

120 (f) The Attorney General shall exclusively enforce section 105E of Chapter 149 and
121 subsections (b) through (d) of this section and may obtain injunctive or declaratory relief for this
122 purpose. Any covered employer who violates this section shall be punished by a warning for the
123 first offense, not more than \$500 for the second offense, and not more than \$1000 for a third
124 offense. For a fourth or subsequent offense, violation of this section shall be subject to section
125 27C(b)(1) and (2) of chapter 149. No violation of this section shall be construed to carry treble
126 damages in section 150 of chapter 149.

127 SECTION 6. The Attorney General shall conduct a public awareness outreach campaign,
128 which shall include, but not be limited to, making information available on its website and
129 otherwise informing employers of the provisions of this section.

130 SECTION 7. Sections 5 and 6 shall take effect 6 months after the effective date of this
131 act.