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Maryland's Pay Disparity Data Reporting Act: What Employers Need to Know About Record-keeping Requirements

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***Maryland's Pay Disparity
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Maryland employers need to know of their new statutory requirement to collect workforce data that previously was not required. Currently, Maryland employers are required under §3-305 of the Labor and Employer Article subtitled "Equal Pay for Equal Work," to maintain records related to the wages of their employees and their employees' job classifications. The maintenance requirement for those records is three years.

However, effective October 1, 2008, (courtesy of Maryland General Assembly House Bill 1156), employers will also be required by law to maintain records related to their employees' racial classifications and gender. Those records must also be maintained for a period of at least 3 years. The purpose of the bill is to facilitate the Maryland Labor Commissioner's 5-year review and analysis of pay disparities in the State of Maryland.

Employers should also be reminded of their obligations under the Maryland's Wage and Hour Laws to retain employee records that include (a) the name, address and occupation of each employee; (b) each employee's rate of pay; (c) the amount that each employee is paid each pay period; and (d) the number of hours each employee works on a daily and weekly basis. In addition to the statutory mandate, employers should be aware that failure to retain accurate records reflecting the number of hours an employee (exempt or non-exempt) works on a daily and weekly basis can have serious adverse effects if/when an employee files a wage complaint claiming, for instance, unpaid overtime. In these cases where an employer fails to maintain proper wage and hour records, the solution is not to punish the employee by denying him/her recovery on the ground that he/she is unable to prove the precise extent of uncompensated work. Instead, if the employee can produce sufficient evidence to show the amount and extent of the work he performed, a court will give credence to his/her testimony and/or evidence, and the employer will not be permitted to complain about a lack of precision and exactness in calculating damages.

Finally, Maryland employers are also cautioned that the Department of Labor and Licensing has the authority to enter any place of business for the purpose of inspecting and copying wage and hour records.

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