

WILLIAMS, BAX & SALTZMAN, P.C.

SWEEPING CHANGES TO ILLINOIS EMPLOYMENT LAWS IN 2020 AFFECTING ALL EMPLOYERS

There have been several significant employment laws have been added to the books in 2020 that significantly impact Illinois companies. Please contact Kerry Saltzman (saltzman@wbs-law.com) or Aaron Chaet (chaet@wbs-law.com) with any employment questions regarding these or any other laws.

The Illinois Human Rights Act (IHRA)

- Effective July 1, 2020, the Illinois Human Rights Act will cover all Illinois employers with at least one employee. Previously, the IHRA primarily covered Illinois employers with fifteen or more employees.
- Effective January 1, 2020, Illinois employers are required to report annually to the Illinois Department of Human Rights all adverse decisions or judgments imposed on them by a court or an administrative agency in a harassment or discrimination claim.
- Effective January 1, 2020, Illinois employers are required to provide sexual harassment prevention training to all employees every year. Illinois restaurants, bars, hotels and casinos are subject to more obligations than other Illinois employers. A failure to comply can result in fines ranging from \$500 - \$5,000.
- Additional amendments, also effective January 1, 2020, broaden employee protections by: (1) prohibiting discrimination on the basis of one's "actual or *perceived*" race, religion, national origin or other protected status; (2) expanding coverage to include non-employers, such as independent contractors, consultants, and anyone "directly performing services for the employer pursuant to a contract with that employer;" (3) expand coverage to include conduct that takes place "off-site" from where employees regularly perform their duties.

The Illinois Workplace Transparency Act (IWTA)

- Effective January 1, 2020, employers are restricted from including confidentiality/non-disclosure provisions in employment agreements, separation agreements and settlement agreements unless certain conditions are met, including providing additional consideration to support the provisions.
- The IWTA also limits an employer's ability to unilaterally require mandatory arbitration clauses without additional consideration.
- The IWTA also prohibits employers from forbidding employees from making truthful statements about alleged unlawful employment practices or criminal activity.

WILLIAMS, BAX & SALTZMAN, P.C.

The Illinois Cannabis Regulation and Tax Act (ICRTA)

- The ICRTA allows recreational cannabis use for individuals age 21 and older. ICRTA nevertheless permits employers to enforce reasonable zero tolerance or drug free workplace policies that prohibit employees from being under the influence of cannabis while at work or on-call.
- The ICRTA provides that employees may be considered under the influence of cannabis if the employer “has a good faith belief that an employee manifests specific, articulable symptoms” of being under the influence. Employers must allow employees to contest the basis for the employer’s determination that the employee was under the influence.
- The ICRTA permits reasonable suspicion and post-accident drug testing.

Illinois Right to Privacy in the Workplace Act (IRPWA)

- The IRPWA prohibits employers from terminating, refusing to hire, or changing the terms and benefits of employment for any individual who used lawful products (including cannabis) off of the work premises, during non-work hours, and while not on-call.

Kerry E. Saltzman (saltzman@wbs-law.com)

Aaron W. Chaet (chaet@wbs-law.com)

Williams, Bax & Saltzman, P.C.

221 N. LaSalle St., Ste. 3700

Chicago, IL 60601