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Flurry of New Illinois Laws in 2019 Suggest It's Time To Update Your Employee Handbook

Human Resources & Employment

Throughout 2019, Illinois has adopted a number of laws imposing new requirements and restrictions on employers, meaning that prudent Illinois employers should consider updating their employee handbooks to ensure compliance with new laws in effect now and as of Jan. 1, 2020. Following are brief recaps of the new laws:

Salary History Ban

On Sept. 29, 2019, an amendment to the Equal Pay Act of 2003 went into effect prohibiting Illinois employers from asking job applicants or their previous employers about salary history. The law also ensures that employees can discuss their salary, benefits and other compensation with co-workers.

The No Salary History Law carves out exceptions for what employers may discuss. Employers can provide information about the wages, benefits, compensation and salary offered in relation to a position and they may discuss with an applicant any expectations relating to wages, benefits and other compensation.

Employers should review their handbooks and application materials to ensure compliance with the newly enacted law. If an employer violates the No Salary History Law, an employee may recover up to \$10,000 in damages, and employers may be subject to civil penalties. See our blog post for more information on the Salary History Ban [here](#).

Illinois Cannabis Regulation and Tax Act

As of Jan. 1, 2020, it will be legal for individuals 21 and older to purchase, possess and consume cannabis in Illinois. The new law also amends Illinois' Right to Privacy Workplace Act, commonly referred to as the smokers' rights law, to include cannabis as a "lawful product." Under that law, employers may not refuse to hire, discharge or take other adverse action against any individual because the person used cannabis outside of work.

However, the Cannabis Act does allow employers to maintain reasonable zero-tolerance policies concerning marijuana as they relate to drug testing and being under the influence of or using cannabis in the workplace while performing job duties or while on call. Any employee that violates such policies can be disciplined or discharged. The Cannabis Act protects employers against disciplinary action founded on an employer's "good faith belief" that an employee is impaired or under the influence of cannabis at work and provides examples.

Before the law goes into effect, employers should evaluate whether and how the legalization of marijuana in Illinois will affect their workplace policies and employment policies currently in place.

Amendments to the Illinois Human Rights Act

Effective Jan. 1, 2020, the Illinois Human Rights Act (IHRA) will now apply to any employer in the state with one or more employees (it previously only applied to employers with 15 or more employees). In addition, the IHRA will now require all Illinois employers to provide sexual harassment training to all employees annually. The Illinois Department of Human Rights (IDHR) has been tasked with creating a model training program that employers can use. Employers may create their own training program, but it must include the

statutory minimums. See our blog post for more information on employers' responsibilities in providing sexual harassment training [here](#).

The IHRA has also been amended to prohibit discrimination or harassment due to an individual's *perceived* membership in a protected class and to protect nonemployees from harassment in the workplace (including contractors or consultants). The amended act will also have a new definition of what is harassment and where it may occur (so as not to limit it to the physical location where the employee works).

Starting on July 1, 2020, employers will also be required to report annually to the IDHR any adverse judgments or rulings against them in the prior year, which will be compiled for publication in an annual report.

Employers should be prepared to comply with the new IHRA amendments. Penalties could be imposed for the failure to provide annual harassment training to employees and failing to provide the necessary disclosures to the IDHR.

Other New Laws and Amendments

Also effective Jan. 1, 2020, the Workplace Transparency Act limits an employer's ability to contractually restrict an employee's disclosure of alleged unlawful conduct, including claims of harassment or discrimination. It also applies to nonemployees such as contractors and consultants.

The Illinois' Victims' Economic Security and Safety Act will, as of Jan. 1, 2020, permit employees to take leave in connection with gender violence and sexual harassment in addition to domestic or sexual violence.

To prepare for 2020, employers should update their employee handbooks, policies on discrimination and harassment, employment contracts, separation agreements and arbitration agreements. Employers should also evaluate their sexual harassment training program to meet the requirements listed above.