

New Employment Law Obligations for Illinois Employers in 2019

Taking Effect in 2018

Illinois Human Rights Act

The Illinois' Human Rights Act was amended effective August 24, 2018 and it now requires all Illinois employers to advise employees of their right to be free from harassment, discrimination, and retaliation in the workplace.

Employers must post a notice titled "[You Have the Right to Be Free From Job Discrimination and Sexual Harassment](#)" and to include the same content from the notice in their employee handbooks. The content informs employees of:

- An employee's right to request reasonable accommodations based on pregnancy and/or disability.
- It is unlawful for employers to treat people differently because they reported discrimination, participated in a discrimination investigation, or helped someone else exercise their right to report discrimination.
- Details on how and where to report discrimination in the workplace.

Nursing Mothers in the Workplace Amended

Before the amendment, the Nursing Mothers in the Workplace Act required employers of more than five employees to provide nursing mothers with unpaid breaks to pump milk that must, if possible, run concurrently with other provided break times. With the amendment, employers are now required to provide reasonable breaks any time an employee has the need to pump milk for one year after a child's birth. The breaks may (not must) coincide with other provided breaks, but an employer cannot require an employee to schedule pumping breaks around scheduled breaks or deduct pay from an employee's wages for the time used to express milk.

Before the amendment, an employer could claim an exemption from the requirement if the break would "unduly disrupt the employer's operations". Now, to be exempt from the requirement, employers must prove "undue hardship".

Effective August 21, 2018.

Taking Effect in 2019

One Day Rest in Seven Act (Meal Breaks)

Illinois' One Day Rest in Seven Act was amended to allow an exemption for certain on-call employees. Under the law employers must provide employees with a minimum 20 minute meal break if the employee(s) worked 7 ½ hours or more during one shift.

To qualify as an on-call employee under the amendment, the employee(s) must be:

- employed by a private company,
- licensed under the Emergency Medical Services (EMS) Systems Act,
- required to be on call during an entire 8-hour work period,
- and is/are not local government employees.

Employers must allow these employees to eat a meal while on call. *Effective January 1, 2019.*

Illinois Service Member Employment and Reemployment Rights Act Enacted

Illinois enacted the Illinois Service Member Employment and Reemployment Rights Act (ISERRA) to consolidate the state's various protections for military service members.

Modeled after the Federal Uniformed Service Member Employment and Reemployment Act (USERRA), USERRA's benefits and protections are incorporated into ISERRA. Illinois takes it a step further, however, by expanding definitions and providing for other benefits. For example, the definition of "military service" was expanded to include:

- Service in a federally recognized auxiliary of the United States Armed Forces when performing official duties in support of military or civilian authorities as the result of an emergency.
- Service covered by the Illinois State Guard Act.
- A period during which service members are absent from employment for medical or dental treatment related to a condition, illness, or injury sustained or aggravated during a period of active service.

Illinois employers are now required to credit an employee on military leave with an average performance rating. To calculate the average, an employer must use the performance ratings or evaluations that the employee received over the three

years preceding the employee's active military service. The calculated average rating cannot be less than the rating that the employee received for the last rating period before his or her military leave.

In addition, if an employee elects to continue employer-provided group health insurance while on military leave, an employer must make employer contributions to the employee's premiums. And, for employees participating in annual military training, an employer must provide full salary continuation for the employee for up to 30 non-consecutive days per calendar year.

Illinois employers must post the [notice of rights](#) under ISERRA in a location where other employee notices are posted by *January 1, 2019*.

Illinois Wage Payment and Collection Act is Updated

An update to the Illinois Wage Payment and Collection Act requires employers to reimburse employees for "[all necessary expenses that are incurred by the employee within the employee's scope of employment and that are directly related to services performed for the employer.](#)" An in-depth review of this amendment may be found in our Learning Library post dated [October 24, 2018](#).

Final Takeaway

There have been few, if any, changes to Illinois labor and employment law over the past three and one half years of Governor Rauner's administration. Meanwhile, the Illinois legislature has been active this past six months and it is presumed it will be even more active with a super majority of Democrats. Governor Pritzker, a Democrat, take office in January 2019. Now is a good time for Illinois employers to get their "house in order" before the new year brings even more changes.

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