DECEMBER 29, 2022

New Changes to Illinois Employment Law Effective January 1, 2023

Is your business ready for Illinois in 2023? With the start of each new year come new employment laws in Illinois. 2023 is no different. Here are three changes to Illinois employment law.

State Minimum Wage Increases to $13.00 per hour

Illinois is moving slowly towards a $15.00 per hour minimum wage across the state. In Chicago, the minimum wage already exceeds that threshold.

- For large Chicago businesses employing 21 or more people, the minimum wage for non-tipped employees is $15.40 (for tipped employees, the rate is $9.24 per hour)
- For smaller Chicago businesses employing between 4 and 20 workers, the minimum wage for non-tipped employees is $14.50 (for tipped employees, the rate is $8.70 per hour)
- For all other Chicago businesses, except those that employ domestic workers, the minimum wage is set at the state's minimum wage (domestic workers are paid no less than $15.40 per hour)

Cook County's minimum wage is based on the greatest rate among the federal minimum wage, the state minimum wage or the County's calculation using the Consumer Price Index. As of January 1, 2023, the minimum wage for non-tipped workers is $13.35 per hour, which was effective per County ordinance on July 1, 2022. The minimum wage for tipped workers increased to $7.80 per hour (in compliance with state law). Many communities in Cook County opted out of the County's minimum wage ordinance. For businesses in those communities and otherwise across the state, the minimum wage increased on January 1, 2023. **The new minimum wage for Illinois for non-tipped workers will be $13.00 per hour and it will be $7.80 per hour for tipped workers.**

State Expands Bereavement Leave Requirements

Illinois already mandated unpaid bereavement leave for employees suffering the loss of a child. Starting January 1, 2023, any employee eligible for leave under the federal Family Medical Leave Act (FMLA) will be eligible to receive up to two weeks (10 workdays) of unpaid days, up to a maximum of six weeks per 12-month period, for family bereavement leave. An employee is eligible for FMLA leave when they have worked 1250 hours in a 12-month period for an employer that employs at least 50 individuals within 75 miles. Under the new Family Bereavement Leave Act, family is broadly defined to include: an employee's child, stepchild, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent or stepparent. Child still is defined to include biological, adopted, foster or

step-relationships, or a legal ward or other child of a person standing in the position of a parent. An employee may take leave to (1) attend the funeral or alternative to a funeral, (2) make arrangements necessitated by the death, or (3) grieve the death. Family leave has been extended to allow an employee to take leave for an employee's loss related to pregnancy, adoption, surrogacy or fertility treatment. Employees also may take leave due to an employee's miscarriage, unsuccessful assisted reproductive procedure, failed or non-finalized adopted, failed surrogacy agreement or a diagnosis negatively impacting a pregnancy or fertility or stillbirth. Employers may require the leave to take place within no more than 60 days after the employee receives notice of the death or covered event. In some instances, employers may also require documentation for the leave and advance notice of the need for the leave.

State Strengthens Meal Break and Rest Day Requirements

The Illinois One Day Rest in Seven Act (ODRSA) governs meal breaks and regulates the number of days an employee may be scheduled to work in a week. Illinois law requires employers to provide employees with a minimum rest period of at least 24 hours during each work week and meal breaks of at least 20 minutes during every shift of 7.5 hours or longer. Under new changes to ODRSA, effective January 1, 2023, the work week has been redefined to include any consecutive seven-day period, rather than a calendar week. Additionally, extra meal breaks are mandated when an employee works more than 12 hours in a day. When an employee is scheduled to work 12 hours in a day, their employer must provide a second 20-minute meal break, which cannot include reasonable time using the restroom. Should an employee work a 16.5-hour shift, they would be entitled to a third 20-minute lunch break. Fines for violating the law have been increased to $250 per offense for small employers with fewer than 25 employees and up to $500 per offense for employers with 25 or more employees payable to the Illinois Department of Labor with similar fines payable to each affected employee as damages. The amendment also includes a new notice posting requirement for physical workplaces and electronic notice to remote workers. To ensure compliance with these changes in Illinois employment law, employers should revisit their pay practices and employment handbooks. For counseling and assistance in updating your employment policies and to ensure your practices are legally compliant, please reach out to Jeri Baran or a member of HMB's team .