

LEGAL UPDATES

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Service

Labor & Employment

New Illinois Law Expands Rights for Gender-Based Claims

On August 14, 2009, Illinois Governor Pat Quinn signed HB 3634, which expands rights of employees filing gender-based wage discrimination claims in the state of Illinois. The new legislation amends the Illinois Equal Pay Act of 2003 in several key areas. First, the new law more than doubles the amount of time in which an employee may file a claim for a gender-based wage discrimination claim with the Department of Labor from 180 days to one year. The limitation period for filing a claim at the Illinois Department of Labor will run from the date of the alleged underpayment.

Second, HB 3634 creates a longer period of time for employers to maintain records related to compliance. The new law provides that an employer must maintain relevant records for no less than five years, as opposed to the previous law requiring a three-year retention period. The new law also obligates an employer under investigation related to the enforcement of this law to maintain the records until the Department of Labor, or a court, authorizes their destruction.

Finally, HB 3634 creates a new statute of limitation for employees to file wage claims in court based upon gender-based wage discrimination. Employees now have five years to bring a claim against their employer from the date of the underpayment of wages. Previously, the limitation period had been three years. Furthermore, HB 3634 adopts the standard established by the Ledbetter Act, where an underpayment of wages is defined as each time the wages are underpaid.

This law should encourage employers with operations in Illinois to review their practices regarding maintenance of employment records related to payroll, evaluations, promotions and justifications for setting employee wages and increases.

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