

# Illinois employment law has changed

Employers should be aware that of certain statutes that regard the rights of employees which became effective in Illinois on Jan. 1, 2014.

The Compassionate Use of Medical Cannabis Pilot Program Act became effective Jan. 1, 2014. The Act authorizes a four-year pilot program for dispensing and using medical marijuana in Illinois.

The Act provides that individuals may obtain access to medical marijuana if they are diagnosed with one of the debilitating medical conditions listed in the statute and they register with the Illinois Department of Public Health.

Patients must possess a physician's recommendation, be diagnosed with one of the 40 "debilitating medical conditions" and must not possess a felony drug conviction to participate in the program. The Act prohibits employers from "penalizing" an individual for "his or her status as a registered qualifying patient." An employer may not discriminate against an individual in its drug policies "solely for his or her status as a registered qualifying patient."

As such, the employer may not refuse to hire, terminate or take adverse action against an individual because that individual is allowed access to medical marijuana. The only exception is if the failure to discipline the individual would cause the employer to lose monetary or licensing related benefits under federal law.

Employers may continue to enforce drug testing, zero-tolerance and drug-free workplace policies and may discipline a registered qualifying patient for violating a workplace drug policy.

Independent contractors are not covered by most employment laws since they are not "employees."

Also, since independent contractors are not subject to payroll taxes, this classification deprives federal and state governments of tax revenue for such individuals. Effective Jan. 1, 2014, the Illinois Employee Classification Act enhanced the reporting obligations and penalties for state construction contractors.

The law requires state construction contractors to file annual reports with the Illinois Department of Labor when a contractor pays an individual, sole proprietor or partnership for construction services if the payee is not classified as an employee.

The report requires contractors to disclose the contractor's name, contact information, and business identification number, the payee's name, contact information and identification number, and the amount the contractor paid to the individual in the taxable year.

If the department determines that a contractor failed to file the required reports, the department may impose a civil fine against the contractor.

Repeat violators may be disbarred from receiving state contracts.

Illinois has narrowed its social media privacy law. Effective on Jan. 1, 2014, S. B. 2306 amends the law amends the Right to Privacy in the Workplace Act which allows employers to access "professional" social media accounts where the employer has a duty to screen employees or applicants or monitor or retain employee communications to comply with the state insurance laws, federal laws, or rules of a self-regulatory organization as defined under the Securities Exchange Act of 1934.

Professional accounts are those “created, maintained, used, or accessed by a current or prospective employee for business purposes of the employer.”

Employers are still prohibited from requesting or requiring that an employee or applicant provide the login information for a “personal account” which means and “account, service or profile on a social networking website that is used by a current or prospective employee exclusively for personal communications unrelated to any business purpose of the employer.”

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