

ILLINOIS EMPLOYERS MUST REPORT GENDER, RACE, ETHNICITY AND COMPENSATION DATA AND PRACTICES

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Under amendments to the Illinois Business Corporation Act and the Illinois Equal Pay Act, certain corporations will be required, beginning in 2023 and continuing thereafter, to report data concerning the gender, race, and ethnicity makeup of their workforces, along with information about their compensation practices and efforts to comply with equal pay laws. Much of this information will become public, and failure to report the necessary information can lead to significant penalties.

EEO Data Reporting

Illinois domestic corporations and foreign corporations authorized to do business in Illinois are already required by the Illinois Business Corporation Act to file certain annual reports with the Secretary of State. Beginning with the corporation's annual report filed on and after January 1, 2023, any such corporations which are also required to file an Employer Information Report EEO-1 with the Equal Employment Opportunity Commission ("EEOC") must include with their annual report "information that is substantially similar to the employment data reported under Section D of the corporation's EEO-1" report.

Employers should be aware that data on the gender, race and ethnicity of each reporting corporation's employees will be published by the Secretary of State on its website within 90 days of receipt.

Equal Pay Registration and Reporting

Any private employer with more than 100 employees in Illinois (a "business") must obtain an "equal pay registration certificate" from the Illinois Department of Labor ("IDOL") within three years of the effective date (March 23, 2021) of amendments to the Illinois Equal Pay Act (or within three years of commencing operations in Illinois after the effective date), and recertify every two years thereafter.

To obtain the certificate, the business will have to: (a) pay a filing fee; (b) submit an "equal pay compliance statement," and (c) for businesses required to file Employer Information Report EEO-1 to the EEOC, submit a copy of the business's most recent EEO-1 reports, and submit a list of all

employees separated by gender, race and ethnicity categories as indicated in the EEO-1 report, and report the total wages paid to each employee during the past calendar year.

The “equal pay compliance statement” must include specific representations concerning the business’s compliance with applicable federal and state equal pay laws, along with statements concerning the business’s methods of setting compensation and benefits, frequency of evaluating wages and benefits to ensure compliance with applicable non-discrimination laws, and steps taken to correct any identified wage and benefit disparities.

Failure to comply with these requirements and/or failure to make a good faith effort to comply with applicable equal pay laws may result in the business’s request for an equal pay registration certificate being rejected, or the certificate being suspended or revoked. The IDOL has authority to audit a business’s compliance with these requirements, and may conduct witness (employee) interviews and subpoena records as part of an investigation into non-compliance.

Any business that does not obtain the required equal pay registration certificate, or whose certificate is suspended or revoked after an investigation, may be subject to a civil penalty in an amount equal to 1% of the business’s gross profits.

Bryan Cave Leighton Paisner LLP has a team of knowledgeable lawyers and other professionals prepared to help employers review their employee policies. If you or your organization would like more information on any state-specific laws or any other employment issue, please contact an attorney in the Employment and Labor practice group.

RELATED PRACTICE AREAS

- Employment & Labor

MEET THE TEAM



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