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IN ILLINOIS ON BEHALF OF BUSINESS INTERESTS

APSA of Illinois Veto Session Wrap-up

December 11, 2018

APSA of Illinois Membership/Advocacy at the Capitol Needed More than Ever

As the veto session concluded last month, signs of things to come for Illinois businesses from the General Assembly and Governor-Elect JB Pritzker became more evident. Several workplace issues that could have been voted upon last month were put over to 2019 to allow political credit to go to the new Governor. In addition, nearly 1 of 4 legislators to be sworn in next month will be new to the process. Many have little understanding of the risk and investment business owners undertake in doing business in Illinois. Some see business as a cow to milk, some as a cow to be slaughtered. Too few see business as the source of economic security and growth.

At the top of the list for priorities early in 2019 are more government regulation, legalized cannabis, expanded gaming and higher taxes, fees and elimination of business tax incentives.

Veto Session Issues

Employment Discrimination: The Governor's amendatory veto of [HB 4743](#), sponsored by Rep. Ford and Sen. Lightford, was overridden by the General Assembly and is effective January 1, 2019. This measure amends the Equal Pay Act providing that no employer may discriminate between employees by paying wages to an African-American employee at a rate less than the rate at which the employer pays wages to another employee who is not African-American for the same or substantially similar work on a job that requires equal skill, effort, and responsibility and is performed under similar working conditions.

Two other proposals that were not considered during the Veto Session and are now dead but we believe they will be advanced early in the new General Assembly are:

- HB 4163, sponsored by Rep. Moeller and Sen. Castro, amends the Equal Pay Act of 2003 prohibiting an employer from inquiring about salary and wage history. Also adds new standards that limit employer defenses and adding new compensatory and punitive damage penalties on businesses who are not compliant.
- HB 4572, sponsored by Rep. Guzzardi and Sen. Castro, amends the Illinois Human Rights Act to redefine "employer" to include any person employing one (currently 15) or more employees within Illinois during 20 or more calendar weeks within the calendar year of or preceding the alleged violation.

Workers' Compensation Changes: The General Assembly overrode the Governor's amendatory veto of [SB 904](#) on Tuesday, November 27th. With the override, the legislation became effective on November 27th. SB 904 provides extensive changes to medical billing process that benefit medical providers under the WC Act, including access to Circuit Court. Two trailer bills amending SB 904, [HB 3452](#) and [HB 200](#) also were approved and will be sent to the Governor. HB 3452 clarifies access by medical providers to the Circuit Court and limits access to the courts to a bill collection action for interest penalties due to the provider. HB 200 expands the requirement of providing an explanation of benefits to the medical provider to include the injured worker or their designee.

2019 Issues

Below are issues impacting APSA of Illinois members that in recent years were vetoed by Gov. Rauner or because of a threat of a veto were not approved. We anticipate that these issues will be revived and without education and pushback from APSA of Illinois members will quickly become law. **That's why your membership in APSA of Illinois is so critical at this time.** Not only are your dues supporting advocacy at the state capital, but legislative alerts, member meetings and newsletters to provide you the latest on the key issues and public policy officials you need to be engaged with.

Non-OEM Parts:

Prohibit non-OEM aftermarket crash parts to be included in an estimate for repair of a motor vehicle unless the customer is advised in writing and requires the use of OEM specifications.

Workplace Mandates:

- Mandated paid sick leave
- Expansion of FMLA to smaller employers and making it paid leave
- Mandating how employers establish and implement employee work schedules
- Minimum wage increase

Wage Payment & Collection:

- Increased criminal penalties for violation of the Wage Payment & Collection Act, including barring of state contractors for 5 years from bidding on any state procurement for violating certain Illinois employment laws, any comparable laws in other states or the federal FLSA.
- Creation of wage lien rights against corporate officers and a company owner's personal property

Tax:

- Elimination of business tax incentives
- Increased income tax
- Service tax, mileage tax, etc.

Workers' Compensation:

Codification of current bad case law for "causation" and "traveling employee"

Employment Discrimination:

- Prohibit an employer from seeking information about a job applicant's wage, salary and benefit history., reducing employer defenses and increased financial penalties and remedies under the Equal Pay Act.
- Expand "employer" definition under the Illinois Human Rights Act to employers of 1 or more employees.
- Prohibit a sexual harassment settlement from including or agreeing to include any term or condition that would prevent the disclosure of the underlying facts and circumstances of the claim or action unless the condition of confidentiality is the plaintiff's preference or other specified conditions are met.
- Change the definition of "employee" under the Illinois Human Rights Act to include independent contractors
- Creation of the Limitations on Forced Arbitration Act limiting the use of forced arbitration agreements on entities doing business with the State.

Legalization of marijuana: APSA of Illinois will work to protect members in their ability to maintain a safe and drug-free workplace.

2019 New Laws

HB 2617/[P.A. 100-1102](#) (Rep. Gabel/Sen. Murphy) **Health Insurance: Fertility Preservation:** requires a policy of accident or health insurance to provide coverage for medically necessary expenses for standard fertility preservation services when a necessary medical treatment may directly or indirectly cause iatrogenic infertility to an enrollee. Prohibits a policy from imposing a deductible, coinsurance, copayment, or any other cost-sharing requiring on coverage for contraceptives and does not apply to coverage of voluntary male sterilization procedures to the extent that such coverage would disqualify a high-deductible health plan from eligibility for a health savings account. *Effective January 1, 2019*

HB 4259/[P.A. 100-0986](#) (Rep. Batinick/Sen. McConchie) **Multi Year Registration:** allows the owner of a first division motor vehicle, a second division motor vehicle weighing no more than 8,000 pounds, or applying for a C class registration plate to register the motor vehicle for a 2-year period. Beginning January 1, 2021, the Secretary of State can permit the owner of a trailer to register a trailer for a period of one year or an extended period of up to 5 years. Allows for transfer of an extended registration of a trailer between trailers of the same weight class. *Effective January 1, 2021*

HB 4944/[P.A. 100-0683](#) (Rep. Sauer/Sen. Tracy) **Vehicle Safety Test:** requires a safety test at least every 12 months for truck tractors, semitrailers, and property-carrying vehicles weighing more than 10,000 pounds but less than 26,001 pounds. *Effective January 1, 2019*

HB 5057/[P.A. 100-0830](#) (Rep. Evans/Sen. McConnaughay) **Truck Inspection:** allows any civilian employee of the Department of State Police who is not a State policeman to be a truck weighing inspector with the power of enforcing the issuance of a special permit authorizing the applicant to operate or move a vehicle or combination

of vehicles of a size or weight of vehicle or load exceeding the maximum permitted or otherwise not in conformity with the Illinois Vehicle Code. *Effective January 1, 2019*

SB 2511/P.A. 100-0707 (Sen. McConnaughay/Rep. Butler) **Backup Lamp Amber Light** amends the Illinois Vehicle Code requires a back-up lamp equipped on a motor vehicle to emit a white or amber light without glare. *Effective January 1, 2019*

SB 2999/P.A. 100-1094 (Sen. Van Pelt/Rep. Conyears-Ervin) **Employee Expenses Reimbursement:** amends the Wage Payment and Collection Act to require an employer to reimburse an employee for all necessary expenditures or losses incurred by the employee directly related to services performed for the employer. The expenditure must be within the scope of employment. An employer is not responsible for losses due to an employee's own negligence, losses due to normal wear, or losses due to theft unless the theft was the result of the employer's negligence. If an employer has a written expense reimbursement policy that establishes specifications or guidelines for necessary expenditures, then the employer is not liable for the portion of the expenditure amount that exceeds the specifications or guidelines of the policy. *Effective January 1, 2019*

SB 1737/P.A. 100-1118 Insurance Changes: makes changes to the workers' compensation insurance rates overseen by the Illinois Department of Insurance (DOI). Those changes will take Illinois from its current competitive marketplace approach to requiring an insurer/rating organization to file its rates, manuals, rules, etc. with DOI 30 days before their use. Also requires workers' compensation insurers to provide 30-day advance notice of any premium increase of 5% or more. The following additional non-workers' compensation changes are in this legislation as well:

- Creates the Short-Term, Limited-Duration Health Insurance Coverage Act;
- Creates the Domestic Stock Company Division Law in the Insurance Code; and
- Amends the Domestic Captive Insurance Companies Article of the Insurance Code regarding the authority and restrictions on captive insurers. *Effective: certain provisions November 27, 2018; certain provisions February 1, 2019*

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