

Get Your Acts Together, Act I: Illinois Human Rights Act

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The Illinois Human Rights Act "secures for all individuals within Illinois the freedom from discrimination against any individual because of his or her race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, **sexual orientation, pregnancy**, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations." As there's much that could be discussed about the Act and its implications, the **bolded** terms are of particular importance to small businesses.

The Act (IHRA) offers important protections to all, which means that smaller employers in Illinois are also required to know and abide by it. Under the IHRA, "employer" is defined as:

(a) Any person employing 15 or more employees within Illinois during 20 or more calendar weeks within the calendar year of or preceding the alleged violation;

OR ...

(b) Any person employing one or more employees

when a complainant alleges civil rights violation due to unlawful discrimination based upon his or her physical or mental disability unrelated to ability, pregnancy, or sexual harassment;

Therefore, the IHRA provides greater protections for Illinois workers who are disabled, pregnant, or facing sexual harassment. So while the Americans with Disabilities Act applies to employers with 15 or more employees, an Illinois employer of one employee must abide by the IHRA. And although FMLA benefits are not available to employees of companies with fewer than 50 employees, the IHRA's pregnancy accommodation provision is available to all women dealing with "pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth."

And finally, while there is a circuit split* (and, most certainly, not-too-distant Supreme Court decision) over whether **sexual orientation** discrimination is sex discrimination (and thereby prohibited by Title VII), under the IHRA, there is much more clarity (both sex and sexual orientation are listed).

*In April, 2017, the Seventh Circuit in *Hively v. Ivy Tech* held that discrimination based on sexual orientation is sex discrimination.