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Illinois becomes second state to enact AI law for employers

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On August 9, 2024, Illinois Governor JB Pritzker signed HB 3773, which amends the Illinois Human Rights Act to address employers' use of artificial intelligence (AI). Illinois employers that use any automated tools to make employment-related decisions are encouraged to prepare for compliance with the new law, which takes effect on January 1, 2026.

AI requirements

The amendment makes it unlawful for an employer to use AI that has the effect of discriminating on the basis of protected classes or to use "zip codes as a proxy for protected classes."

"Artificial intelligence" is defined broadly as "a machine-based system that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments." It also includes generative AI.

In addition, the amendment requires employers to "provide notice" to employees when they use AI for purposes of "recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or the terms, privileges, or conditions of employment."

The law directs the Illinois Department of Human Rights to adopt "rules on the circumstances and conditions that require notice, the time period for providing notice, and the means for providing notice."

Actions to consider

The new Illinois law comes in the wake of increased efforts across multiple levels of government to regulate AI, which includes [Colorado's more comprehensive AI law](#), and [New York City's AI law](#). Federal and state lawmakers are swiftly constructing a regulatory framework outlining requirements that must be followed by those adopting automated decision-making technologies. Failure to comply with these requirements may result in penalties, costly litigation, and reputational harm.

Employers are encouraged to monitor legislative and regulatory developments – numerous bills are pending at the federal and state levels – and take proactive measures to ensure AI tools do not unlawfully discriminate against applicants and employees. Actions may include:

- Ensuring that ethical considerations and fairness have been taken into account in the design of any AI tools.
- Understanding the tool and its limitations and limiting the use of a tool to its designated functions.
- Training users, quality control reviewers/auditors, and subjects (where appropriate) on anti-discrimination/anti-bias laws and policies that will impact their interaction with the tool and analyzing how company inputs might lead to bias.
- Using AI tools for lower-risk tasks, ensuring human involvement, and auditing the task both randomly and on a regular basis.
- Ensuring that humans are reviewing recommendations and serving as the final decisionmakers, and documenting the bases for AI-assisted recommendations.

For more information on AI and the emerging legal and regulatory standards, visit DLA Piper's [focus](#)

page on AI.

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