

Legal Update

January 2012

SIGNIFICANT CHANGES IN THE LAW

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We wish our clients and friends much health, happiness, and prosperity in the New Year. To ring in the New Year, there have been developments in federal law, and the Illinois legislature passed over two hundred new laws that took effect on January 1, 2012. In keeping with FVLD tradition, here is a selection of new federal and state law developments that may affect you and your business in 2012 and beyond.

Labor Updates

Federal NLRB Poster Postponed and Union Representative Elections

As we reported in November, the NLRB adopted a rule requiring most employers to post a notice in the workplace setting forth employee rights under the National Labor Relations Act (NLRA). The deadline for posting the notice had been postponed to January 31, 2012. That deadline has now been extended to April 30, 2012.

Things look like they will continue to get tougher for employers on the labor front. On December 21, 2011, the NLRB issued a final rule amending its union representation election procedures. The rule will limit the NLRB's pre-election hearing process. Moreover, it will provide the NLRB with authority to decline an appeal of a post-election dispute. The rule is scheduled to go into effect on April 30, 2012. Business groups have filed challenges to the rule. Stay tuned.

Illinois Commitment to Protecting Pregnant Employees

Pregnant employees in Illinois are now expressly protected from employment discrimination under the recent amendment to the Illinois Human Rights Act (IHRA). The IHRA's prohibition of sex discrimination already covered pregnancy, but the amended Act now also prohibits discrimination against employees with medical conditions related to their pregnancies. Accordingly, an employer who refuses to hire or promote a pregnant candidate or employee or in any way treats a pregnant employee differently on account of the pregnancy or a related medical condition violates the IHRA.

Estate and Tax Planning Updates

In 2012, the federal gift tax exemption, estate tax exemption, and generation-skipping tax amounts increase from \$5 million to \$5,120,000 due to adjustments for inflation. Recent amendments to the

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Illinois Estate and Generation-Skipping Transfer Tax Act also increase the Illinois estate tax exemptions to \$3.5 million in 2012 and to \$4 million in 2013.

It has been decades since American taxpayers could transfer assets of this value without a tax, and there could well be a drop in the federal exemption amounts in 2013. There are pros and cons to using one's entire gift tax exemption while the amounts are this high. If assets appreciate, wealthy individuals and married couples can use the gift tax exemption to make gifts and transfer assets (e.g. millions of dollars) during their lives. This means that the appreciated value of the assets would not be included in their estates at the time of death. At the same time, if the value of the assets given as gifts declines substantially, a donor would be using up available estate tax exemption amounts to transfer property that at their death would be worth less than the exemption amount used. That would result in a higher overall tax on the individual's total transfers. Readers interested in planning their estates should contact counsel to help them make a decision that is appropriate for their situations.

Illinois Electronic Waste

Obsolete electronic devices represent the fastest-growing segment of the solid waste stream. Illinois has expanded the types of electronic products that may not be thrown out in a landfill. Items such as television sets, computer monitors, and printers were already prohibited. Now, under the amended Electronic Products Recycling and Reuse Act, items such as keyboards, portable music devices, scanners, VCRs, video game consoles, and other electronic devices are included in the list of items that must be specifically disposed of, bringing the total to 17. As a practical matter, this means that consumers should not discard such items in their trash but rather take them to a recycler. All manufacturers of covered electronic products must register with the Illinois Environmental Protection Agency and meet an annual recycling goal. Manufacturers of covered electronic devices are responsible for collecting and recycling or reusing a percentage of the weight of products they sold in Illinois in the two preceding years. This year, 40% of the weight of items that each manufacturer sold in Illinois in 2010 must be recycled or reused. For a list of electronics recycling centers, please see http://www.illinoisrecycles.org/byteback_list.html.

Illinois Laws Regarding Vehicles in Motion

Buckle Up and Be Alert for Motorcyclists and Bicyclists at Red Lights

For many years, Illinois has required the driver and passenger riding in the front seat of a vehicle to wear seat belts. It has also required passengers 19 and under in the back seat to wear a seat belt. Effective January 1, 2012, all individuals, whatever their ages, riding in the back seat must now buckle up (unless riding in an emergency vehicle or taxi cab).

Illinois law applicable to municipalities with populations of less than two million now also permits motorcyclists and bicyclists who are stopped at a red light to proceed through the light if, after waiting a reasonable length of time, the red light fails to change to a green light due to a signal malfunction or because the signal fails to detect the motorcycle or bicycle due to its weight or size. Before proceeding,

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the motorcyclist or bicyclist must yield the right of way to oncoming traffic and must also obey the rules applicable after making a stop at a stop sign.

No-Texting While Driving but Videos may be OK

Although texting while driving is still illegal, a recent amendment to the Illinois Vehicle Code provides that a video screen that transmits entertainment or business applications may be displayed in the front of a vehicle as long as the driver is unable to view the images while the vehicle is in motion. While this new law may be unsettling to those of us who are more safety-conscious, they may be somewhat consoled by the law requiring backseat passengers to buckle up.

Speed Limit for Trucks on the Rise

Truck drivers on most Illinois highways are no longer limited to the 55 mile per hour speed limit. Like other motorists, truck drivers may now drive at 65-mph on Illinois highways. The lower 55-mph limit still applies to highways in the counties of Cook, DuPage, Kane, Lake, McHenry and Will. Illinois joins more than 40 other states in enacting a uniform speed limit for most highways.

We look forward to sharing with you additional informative *Legal Updates* in 2012.

FVLD publishes updates on legal issues and summaries of legal topics for its clients and friends. They are merely informational and do not constitute legal advice. We welcome comments or questions. If we can be of assistance, please call or write Jon Vegosen 312.701.6860 jvegosen@fvldlaw.com, Glenn Rice 312.701.6895 grice@fvldlaw.com, or Orley Desser 312.701.6873 odesser@fvldlaw.com, or your regular FVLD contact.

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