



Rep. Jay Hoffman

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10000HB0582ham001

LRB100 07081 JLS 22429 a

1 AMENDMENT TO HOUSE BILL 582

2 AMENDMENT NO. _____. Amend House Bill 582 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Employee Classification Act is amended by
5 changing Sections 40, 42, and 45 as follows:

6 (820 ILCS 185/40)

7 Sec. 40. Penalties.

8 (a) An employer or entity that violates any of the
9 provisions of this Act or any rule adopted under this Act shall
10 be subject to a civil penalty not to exceed \$1,500 ~~\$1,000~~ for
11 each violation found in the first audit by the Department.
12 Following a first audit, an employer or entity shall be subject
13 to a civil penalty not to exceed \$2,500 ~~\$2,000~~ for each repeat
14 violation found by the Department within a 5 year period. For
15 purposes of this Section, each violation of this Act for each
16 person and for each day the violation continues shall

1 constitute a separate and distinct violation. In determining
2 the amount of a penalty, the Director shall consider the
3 appropriateness of the penalty to the employer or entity
4 charged, upon the determination of the gravity of the
5 violations.

6 (b) The amount of the penalty, when finally determined, may
7 be recovered in any administrative proceeding or a civil action
8 filed in any circuit court by the Director of Labor, or a
9 person aggrieved by a violation of this Act or any rule adopted
10 under this Act.

11 (1) The Department shall distribute to all affected
12 employees 10% of the civil penalty recovered as a result of
13 any administrative proceeding or civil action brought by
14 the Department. The remaining 90% of the amount recovered
15 shall be submitted to the Director of Labor.

16 (2) In any civil action brought by an interested party
17 pursuant to this Section, the circuit court shall award the
18 interested party 10% of the amount recovered. In such case,
19 the remaining amount recovered shall be submitted to the
20 Director of Labor.

21 (c) Any uncollected amount shall be subject to the
22 provisions of the Illinois State Collection Act of 1986.

23 (Source: P.A. 98-106, eff. 1-1-14.)

24 (820 ILCS 185/42)

25 Sec. 42. Debarments. For any second or subsequent violation

1 determined by the Department which is within 5 years of an
2 earlier violation, or a violation in accordance with the
3 provisions of Section 45 of this Act, the Department shall add
4 the employer or entity's name to a list to be posted on the
5 Department's official website. Upon such notice, the
6 Department shall notify the violating employer or entity. No
7 state contract shall be awarded to an employer or entity
8 appearing on the list until 5 ~~4~~ years have elapsed from the
9 date of the last violation.

10 (Source: P.A. 95-26, eff. 1-1-08.)

11 (820 ILCS 185/45)

12 Sec. 45. Willful violations.

13 (a) Whoever willfully violates any of the provisions of
14 this Act or any rule adopted under this Act or whoever
15 obstructs the Director of Labor, or his or her representatives,
16 or any other person authorized to inspect places of employment
17 under this Act shall be liable for penalties up to triple
18 ~~double~~ the statutory amount.

19 (b) Whoever willfully violates any of the provisions of
20 this Act or any rule adopted under this Act shall be liable to
21 the employee for punitive damages in an amount equal to the
22 penalties assessed in subsection (a) of this Section.

23 (c) The penalty shall be imposed in cases in which an
24 employer or entity's conduct is proven by a preponderance of
25 the evidence to be willful. The penalty may be recovered in a

1 civil action brought by the Director of Labor in any circuit
2 court. In any such action, the Director of Labor shall be
3 represented by the Attorney General. Any uncollected amount
4 shall be subject to the provisions of the Illinois State
5 Collection Act of 1986.

6 (d) An entity or employer that willfully violates any
7 provision of this Act or any rule adopted under this Act
8 commits a Class C misdemeanor. An entity or employer that
9 commits a second or subsequent violation within a 5 year period
10 commits a Class 4 felony.

11 (e) An entity or employer that is found to have willfully
12 violated any provision of this Act shall be debarred from being
13 awarded a State contract as provided under Section 42 of this
14 Act.

15 (Source: P.A. 95-26, eff. 1-1-08.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law."