



Sen. Patricia Van Pelt

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LRB099 12727 JWD 48270 a

1 AMENDMENT TO SENATE BILL 3163

2 AMENDMENT NO. _____. Amend Senate Bill 3163 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Illinois Freedom to Work Act.

6 Section 5. Definitions. In this Act:

7 "Covenant not to compete" means an agreement:

8 (1) between an employer and a low-wage employee that
9 restricts such low-wage employee from performing:

10 (A) any work for another employer for a specified
11 period of time;

12 (B) any work in a specified geographical area; or

13 (C) work for another employer that is similar to
14 such low-wage employee's work for the employer
15 included as a party to the agreement; and

16 (2) that is entered into after the effective date of

1 this Act.

2 "Director" means the Director of Labor.

3 "Employer" has the meaning given to such term in subsection
4 (c) of Section 3 of the Minimum Wage Law. "Employer" does not
5 include governmental or quasi-governmental bodies.

6 "Low-wage employee" means an employee who earns the greater
7 of (1) the hourly rate equal to the minimum wage required by
8 the applicable federal, State, or local minimum wage law or (2)
9 \$13.00 per hour.

10 Section 10. Prohibiting covenants not to compete for
11 low-wage employees.

12 (a) No employer shall enter into a covenant not to compete
13 with any low-wage employee of the employer.

14 (b) A covenant not to compete entered into between an
15 employer and a low-wage employee is illegal and void.

16 Section 15. Director's duties. The Director, or his or her
17 authorized representatives, have the authority to:

18 (a) Investigate and may enter and inspect such places and
19 such records (and make copies thereof) at reasonable times
20 during regular business hours, not including an inconvenient
21 time at the employer's place of business, question employees,
22 and investigate those facts, conditions, practices, or matters
23 as he or she may deem necessary or appropriate to determine
24 whether any person has violated any provision of this Act, or

1 which may aid in the enforcement of this Act.

2 (b) Require from any employer full and correct statements
3 and reports in writing, including sworn statements, at such
4 times as the Director may deem necessary, regarding hiring,
5 covenants not to compete, names, addresses, and other
6 information pertaining to the employer's low-wage employees as
7 the Director may deem necessary for the enforcement of this
8 Act.

9 (c) Require by subpoena the attendance and testimony of
10 witnesses and the production of all books, records, and other
11 evidence relative to a matter under investigation or hearing.
12 The subpoena shall be signed and issued by the Director or his
13 or her authorized representative. If a person fails to comply
14 with any subpoena lawfully issued under this Section or a
15 witness refuses to produce evidence or testify to any matter
16 regarding which he or she may be lawfully interrogated, the
17 court may, upon application of the Director, or his or her
18 authorized representative, compel obedience by proceedings for
19 contempt.

20 Section 20. Employer duties. Every employer subject to any
21 provision of this Act or of any order issued under this Act
22 shall make and keep for a period of not less than 3 years, true
23 and accurate records of the name, address, and occupation of
24 each of the employer's low-wage employees, all interviews and
25 meetings pertaining to the hiring process, including, but not

1 limited to, discussions of covenants not to compete, and such
2 other information, and make such reports therefrom to the
3 Department, as the Department may by rule prescribe as
4 necessary or appropriate for the enforcement of the provisions
5 of this Act or of the rules adopted thereunder. Such records
6 shall be open for inspection or copying by the Director or his
7 or her authorized representative at any reasonable time as
8 limited by paragraph (a) of Section 15 of this Act. Every
9 employer shall furnish to the Director or his or her authorized
10 representative on demand a sworn statement of such records and
11 information upon forms prescribed or approved by the Director.

12 Section 25. Administrative rules.

13 The Department shall adopt rules under the Illinois
14 Administrative Procedure Act, including definitions of terms,
15 as appropriate to carry out the purposes of this Act, to
16 prevent the circumvention or evasion thereof, and to safeguard
17 the requirements governing covenants not to compete under the
18 Act.

19 Section 30. Violations; Department duties.

20 (a) Any employer, whether directly or through any officer,
21 employee, or agent, who:

22 (1) hinders or delays the Director or his or her
23 authorized representative in the performance of his or her
24 duties in the enforcement of this Act;

1 (2) refuses to admit the Director or his or her
2 authorized representative to any place of employment;

3 (3) fails to keep the records required under this Act
4 or to furnish such records required or any information to
5 be furnished under this Act to the Director or his or her
6 authorized representative upon request;

7 (4) falsifies any such record; or

8 (5) refuses to make such records available to the
9 Director or his authorized representative.

10 (b) Any employer, whether directly or through any officer,
11 employee, or agent, who discharges or in any other manner
12 discriminates against any low-wage employee because that
13 employee has made a complaint to his or her employer, or to the
14 Director or his or her authorized representative, or because
15 that employee has caused to be instituted or is about to cause
16 to be instituted any proceeding under or related to this Act,
17 or because that employee has testified or is about to testify
18 in an investigation or proceeding under this Act, is guilty of
19 a Class B misdemeanor.

20 (c) It is the duty of the Department to inquire diligently
21 for any violations of this Act, and to institute the action for
22 penalties herein provided, and to enforce generally the
23 provisions of this Act.

24 Section 35. Civil fine.

25 An employer that violates any provision of this Act or any

1 rule adopted under this Act is subject to a civil penalty for
2 each employee affected as follows:

3 (1) first violation, a civil penalty not to exceed
4 \$500;

5 (2) second or subsequent violation, a civil penalty not
6 to exceed \$1,000.

7 In determining the amount of any civil fine under this
8 Section, the Director shall consider the appropriateness of the
9 fine to the size of the employer subject to the fine and the
10 gravity of the applicable violation."