

AN ACT in relation to equal pay.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 1. Short Title. This Act may be cited as the
Equal Pay Act of 2003.

Section 5. Definitions. As used in this Act:

"Director" means the Director of Labor.

"Department" means the Department of Labor.

"Employee" means any individual permitted to work by an
employer.

"Employer" means an individual, partnership, corporation,
association, business, trust, person, or entity for whom 4 or
more employees are gainfully employed in Illinois and
includes the State of Illinois, any state officer,
department, or agency, any unit of local government, and any
school district.

Section 10. Prohibited acts.

(a) No employer may discriminate between employees on
the basis of sex by paying wages to an employee at a rate
less than the rate at which the employer pays wages to
another employee of the opposite sex for the same or
substantially similar work on jobs the performance of which
requires equal skill, effort, and responsibility, and which
are performed under similar working conditions, except where
the payment is made under:

(1) a seniority system;

(2) a merit system;

(3) a system that measures earnings by quantity or
quality of production; or

(4) a differential based on any other factor other

than: (i) sex or (ii) a factor that would constitute unlawful discrimination under the Illinois Human Rights Act.

An employer who is paying wages in violation of this Act may not, to comply with this Act, reduce the wages of any other employee.

Nothing in this Act may be construed to require an employer to pay, to any employee at a workplace in a particular county, wages that are equal to the wages paid by that employer at a workplace in another county to employees in jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

(b) It is unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided under this Act. It is unlawful for any employer to discharge or in any other manner discriminate against any individual for inquiring about, disclosing, comparing, or otherwise discussing the employee's wages or the wages of any other employee, or aiding or encouraging any person to exercise his or her rights under this Act.

(c) It is unlawful for any person to discharge or in any other manner discriminate against any individual because the individual:

(1) has filed any charge or has instituted or caused to be instituted any proceeding under or related to this Act;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this Act; or

(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this Act.

Section 15. Enforcement. The Director or his or her authorized representative shall administer and enforce the provisions of this Act. The Director of Labor shall adopt rules necessary to administer and enforce this Act.

The Department has the power to conduct investigations in connection with the administration and enforcement of this Act and the authorized officers and employees of the Department are authorized to investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this Act, and may enter and inspect such places and such records at reasonable times during regular business hours, question the employees and investigate the facts, conditions, practices, or matters as he or she may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of this Act.

Section 20. Recordkeeping requirements. An employer subject to any provision of this Act shall make and preserve records that document the name, address, and occupation of each employee, the wages paid to each employee, and any other information the Director may by rule deem necessary and appropriate for enforcement of this Act. An employer subject to any provision of this Act shall preserve those records for a period of not less than 3 years and shall make reports from the records as prescribed by rule or order of the Director.

Section 25. Witnesses; subpoena. The Director of Labor or his or her authorized representative may administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses and the production of all books, records, and other evidence relative to the matter under investigation. A subpoena issued under this Section shall be signed and issued by the

Director of Labor or his or her authorized representative.

In case of failure of any person to comply with any subpoena lawfully issued under this Section or on the refusal of any witness to produce evidence or to testify to any matter regarding which he or she may be lawfully interrogated, it is the duty of any circuit court, upon application of the Director, or his or her authorized representative, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. The Director may certify to official acts.

Section 30. Violations; fines and penalties.

(a) If an employee is paid by his or her employer less than the wage to which he or she is entitled in violation of Section 10 of this Act, the employee may recover in a civil action the entire amount of any underpayment together with interest and the costs and reasonable attorney's fees as may be allowed by the court and as necessary to make the employee whole. At the request of the employee or on a motion of the Director, the Department may make an assignment of the wage claim in trust for the assigning employee and may bring any legal action necessary to collect the claim, and the employer shall be required to pay the costs incurred in collecting the claim. Every such action shall be brought within 3 years from the date the employee learned of the underpayment.

(b) The Director is authorized to supervise the payment of the unpaid wages owing to any employee or employees under this Act and may bring any legal action necessary to recover the amount of unpaid wages and penalties and the employer shall be required to pay the costs. Any sums recovered by the Director on behalf of an employee under this Section shall be paid to the employee or employees affected.

(c) Any employer who violates any provision of this Act

or any rule adopted under the Act is subject to a civil penalty not to exceed \$2,500 for each violation for each employee affected. In determining the amount of the penalty, the appropriateness of the penalty to the size of the business of the employer charged and the gravity of the violation shall be considered. The penalty may be recovered in a civil action brought by the Director in any circuit court.

Section 35. Refusal to pay wages or final compensation; retaliatory discharge or discrimination.

(a) Any employer who has been ordered by the Director of Labor or the court to pay wages due an employee and who fails to do so within 15 days after the order is entered is liable to pay a penalty of 1% per calendar day to the employee for each day of delay in paying the wages to the employee, up to an amount equal to twice the sum of unpaid wages due the employee.

(b) Any employer, or any agent of an employer, who knowingly discharges or in any other manner knowingly discriminates against any employee because that employee has made a complaint to his or her employer, or to the Director or his or her authorized representative, that he or she or any employee of the employer has not been paid in accordance with the provisions of this Act, or because that employee has instituted or caused to be instituted any proceeding under or related to this Act or consulted counsel for such purposes, or because that employee has testified or is about to testify in an investigation or proceeding under this Act, or offers any evidence of any violation of this Act, shall be liable to the employee for such legal and equitable relief as may be appropriate to effectuate the purposes of this Section, the value of any lost benefits, backpay, and front pay as appropriate so long as the employee has made reasonable

efforts to mitigate his or her damages and an additional equal amount as liquidated damages.

Section 40. Notification. Every employer covered by this Act shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees are customarily posted, a notice, to be prepared or approved by the Director, summarizing the requirements of this Act and information pertaining to the filing of a charge. The Director shall furnish copies of summaries and rules to employers upon request without charge.

Section 45. Outreach and education efforts. The Department of Labor shall conduct ongoing outreach and education efforts concerning this Act targeted toward employers, labor organizations, and other appropriate organizations. In addition, the Department of Labor shall conduct studies and provide information biennially to employers, labor organizations, and the general public concerning the means available to eliminate pay disparities between men and women, including:

(1) conducting and promoting research to develop the means to correct the conditions leading to the pay disparities;

(2) publishing and otherwise making available to employers, labor organizations, professional associations, educational institutions, the legislature, the media, and the general public the findings resulting from studies and other materials, relating to the pay disparities;

(3) providing information to employers, labor organizations, and other interested persons on the means of eliminating pay disparities; and

(4) developing guidelines to enable employers to

evaluate job categories based on objective criteria such as educational requirements, skill requirements, independence, working conditions, and responsibility. These guidelines shall be designed to enable employers to voluntarily compare wages paid for different jobs to determine if the pay scales involved adequately and fairly reflect the educational requirements, skill requirements, independence, working conditions, and responsibility for each such job with the goal of eliminating unfair pay disparities between occupations traditionally dominated by men or women.

Section 50. Annual Report. The Department shall file with the Governor and the General Assembly, no later than January 1 of each year, a report of its activities regarding administration and enforcement of this Act for the preceding fiscal year.

Section 90. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.