



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2339

Introduced 2/7/2025, by Sen. Javier L. Cervantes

SYNOPSIS AS INTRODUCED:

820 ILCS 55/12	
820 ILCS 55/13	
820 ILCS 55/15	from Ch. 48, par. 2865
820 ILCS 55/16 new	
820 ILCS 55/17 new	
820 ILCS 55/18 new	
820 ILCS 55/19 new	
820 ILCS 55/20	from Ch. 48, par. 2870

Amends the Right to Privacy in the Workplace Act. Provides that an employer enrolled in an Employment Eligibility Verification System, including the E-Verify program, shall not impose work authorization verification or re-verification requirements greater than those required by the Employment Eligibility Verification System. Provides that, if an employer receives notification from any federal agency or other outside third party not responsible for the enforcement of immigration law of a discrepancy as it relates to an employee's individual taxpayer identification number or other identifying documents, guarantees specified rights and protections to the employee. Makes changes in provisions concerning the administration and enforcement of the Act by the Department of Labor. Sets forth provisions concerning action for civil penalties brought by an interested party; private right of action; penalties; and review under the Administrative Review Law.

LRB104 09425 SPS 19485 b

1 AN ACT concerning employment.

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

4 Section 5. The Right to Privacy in the Workplace Act is
5 amended by changing Sections 12, 13, and 15 and by adding
6 Sections 16, 17, 18, 19 and 20 as follows:

7 (820 ILCS 55/12)

8 Sec. 12. Use of Employment Eligibility Verification
9 Systems.

10 (a) Prior to enrolling in any Electronic Employment
11 Verification System, including the E-Verify program or ~~and~~ the
12 Basic Pilot program, as authorized by 8 U.S.C. 1324a, Notes,
13 Pilot Programs for Employment Eligibility Confirmation
14 (enacted by P.L. 104-208, div. C, title IV, subtitle A),
15 employers are urged to consult the Illinois Department of
16 Labor's website for current information on the accuracy of the
17 E-Verify program and to review and understand an employer's
18 legal responsibilities relating to the use of the E-Verify
19 program. Nothing in this Act shall be construed to require an
20 employer to enroll in any Electronic Employment Verification
21 System, including the E-Verify program ~~and the Basic Pilot~~
22 ~~program, as authorized by 8 U.S.C. 1324a, Notes, Pilot~~
23 ~~Programs for Employment Eligibility Confirmation (enacted by~~

1 ~~P.L. 104-208, div. C, title IV, subtitle A)~~ beyond those
2 obligations that have been imposed upon them by federal law.
3 Nothing in this Act shall be construed to prohibit an employer
4 from enrolling in any Electronic Employment Verification
5 System, including the E-Verify program, as required or
6 permitted by federal law.

7 (a-1) The Illinois Department of Labor (IDOL) shall post
8 on its website information or links to information from the
9 United States Government Accountability Office, Westat, or a
10 similar reliable source independent of the Department of
11 Homeland Security regarding: (1) the accuracy of the E-Verify
12 databases; (2) the approximate financial burden and
13 expenditure of time that use of E-Verify requires from
14 employers; and (3) an overview of an employer's
15 responsibilities under federal and state law relating to the
16 use of E-Verify.

17 (b) Upon initial enrollment in an Employment Eligibility
18 Verification System or within 30 days after the effective date
19 of this amendatory Act of the 96th General Assembly, an
20 employer enrolled in E-Verify or any other Employment
21 Eligibility Verification System must attest, under penalty of
22 perjury, on a form prescribed by the IDOL available on the IDOL
23 website:

24 (1) that the employer has received the Basic Pilot or
25 E-Verify training materials from the Department of
26 Homeland Security (DHS), and that all employees who will

1 administer the program have completed the ~~Basic Pilot or~~
2 E-Verify Computer Based Tutorial (CBT); and

3 (2) that the employer has posted the notice from DHS
4 indicating that the employer is enrolled in the ~~Basic~~
5 ~~Pilot or~~ E-Verify program and the anti-discrimination
6 notice issued by the Office of Special Counsel for
7 Immigration-Related Unfair Employment Practices (OSC),
8 Civil Rights Division, U.S. Department of Justice in a
9 prominent place that is clearly visible to both
10 prospective and current employees. The employer must
11 maintain the signed original of the attestation form
12 prescribed by the IDOL, as well as all CBT certificates of
13 completion and make them available for inspection or
14 copying by the IDOL at any reasonable time.

15 (c) It is a violation of this Act for an employer enrolled
16 in an Employment Eligibility Verification System, including
17 the E-Verify program ~~and the Basic Pilot program:~~

18 (1) to fail to display the notices supplied by DHS and
19 OSC in a prominent place that is clearly visible to both
20 prospective and current employees;

21 (2) to allow any employee to use an Employment
22 Eligibility Verification System prior to having completed
23 CBT;

24 (3) to fail to take reasonable steps to prevent an
25 employee from circumventing the requirement to complete
26 the CBT by assuming another employee's E-Verify or Basic

1 Pilot user identification or password;

2 (4) to use the Employment Eligibility Verification
3 System to verify the employment eligibility of job
4 applicants prior to hiring or to otherwise use the
5 Employment Eligibility Verification System to screen
6 individuals prior to hiring and prior to the completion of
7 a Form I-9;

8 (5) to terminate an employee or take any other adverse
9 employment action against an individual prior to receiving
10 a final nonconfirmation notice from the Social Security
11 Administration or the Department of Homeland Security;

12 (6) to fail to notify an individual, in writing, of
13 the employer's receipt of a tentative nonconfirmation
14 notice, of the individual's right to contest the tentative
15 nonconfirmation notice, and of the contact information for
16 the relevant government agency or agencies that the
17 individual must contact to resolve the tentative
18 nonconfirmation notice;

19 (7) to fail to safeguard the information contained in
20 the Employment Eligibility Verification System, and the
21 means of access to the system (such as passwords and other
22 privacy protections). An employer shall ensure that the
23 System is not used for any purpose other than employment
24 verification of newly hired employees and shall ensure
25 that the information contained in the System and the means
26 of access to the System are not disseminated to any person

1 other than employees who need such information and access
2 to perform the employer's employment verification
3 responsibilities.

4 (c-1) Any claim that an employer refused to hire,
5 segregated, or acted with respect to recruitment, hiring,
6 promotion, renewal or employment, selection for training or
7 apprenticeship, discharge, discipline, tenure or terms,
8 privileges, or conditions of employment without following the
9 procedures of the Employment Eligibility Verification System,
10 including ~~the Basic Pilot and the E-Verify program programs,~~
11 may be brought under paragraph (G) (2) of Section 2-102 of the
12 Illinois Human Rights Act.

13 (c-2) It is a violation of this Section for an individual
14 to falsely pose as an employer in order to enroll in an
15 Employment Eligibility Verification System or for an employer
16 to use an Employment Eligibility Verification System to access
17 information regarding an individual who is not an employee of
18 the employer.

19 (d) Preemption. Neither the State nor any of its political
20 subdivisions, nor any unit of local government, including a
21 home rule unit, may require any employer to use an Employment
22 Eligibility Verification System, including under the following
23 circumstances:

- 24 (1) as a condition of receiving a government contract;
25 (2) as a condition of receiving a business license; or
26 (3) as penalty for violating licensing or other

1 similar laws.

2 This subsection (d) is a denial and limitation of home
3 rule powers and functions under subsection (h) of Section 6 of
4 Article VII of the Illinois Constitution.

5 (Source: P.A. 103-879, eff. 1-1-25.)

6 (820 ILCS 55/13)

7 Sec. 13. Restrictions on the use of Employment Eligibility
8 Verification Systems.

9 (a) As used in this Section:

10 "Employee's authorized representative" means an exclusive
11 collective bargaining representative, an attorney or, upon
12 written notification to the employer, any other representative
13 authorized by the employee.

14 "Inspecting entity" means the U.S. Immigration and Customs
15 Enforcement, ~~United States Customs and Border Protection,~~ or
16 any other federal entity enforcing civil immigration
17 violations of an employer's I-9 Employment Eligibility
18 Verification forms.

19 (b) An employer shall not impose work authorization
20 verification or re-verification requirements greater than
21 those required by federal law or, if enrolled in an Employment
22 Eligibility Verification System, including the E-Verify
23 program, shall not impose work authorization verification or
24 re-verification requirements greater than those required by
25 the Employment Eligibility Verification System, including the

1 E-Verify program.

2 (c) If an employer contends that there is a discrepancy in
3 an employee's employment verification information, the
4 employer must provide the employee with:

5 (1) The specific document or documents, if made
6 available to the employer, that the employer deems to be
7 deficient and the reason why the document or documents are
8 deficient. Upon request by the employee or the employee's
9 authorized representative, the employer shall give to the
10 employee the original document forming the basis for the
11 employer's contention of deficiency within 7 business
12 days.

13 (2) Instructions on how the employee can correct the
14 alleged deficient documents if required to do so by law.

15 (3) An explanation of the employee's right to have
16 representation present during related meetings,
17 discussions, or proceedings with the employer. If the
18 alleged discrepancy is based on information obtained
19 through the employer's participation in the E-Verify
20 program, the right to representation shall apply unless
21 not, —if allowed by a memorandum of understanding
22 concerning the federal E-Verify system.

23 (4) An explanation of any other rights that the
24 employee may have in connection with the employer's
25 contention.

26 (d) If ~~When~~ an employer receives notification from an

1 ~~inspecting entity any federal or State agency, including, but~~
2 ~~not limited to, the Social Security Administration or the~~
3 ~~Internal Revenue Service,~~ of a discrepancy as it relates to
4 work authorization, the following rights and protections are
5 granted to the employee:

6 (1) The employer must not take any adverse action
7 against the employee, including re-verification, based on
8 the receipt of the notification.

9 (2) The employer must provide a notice to the employee
10 unless not ~~and, if~~ allowed by a memorandum of
11 understanding concerning the federal E-Verify system, to
12 the employee or the employee's authorized representative,
13 if any, as soon as practicable, but not more than 5
14 business days after the date of receipt of the
15 notification, unless a shorter timeline is provided for
16 under federal law or a collective bargaining agreement.
17 The notice to the employee shall include, but not be
18 limited to: (i) an explanation that the inspecting entity
19 ~~federal or State agency~~ has notified the employer that the
20 employee's work authorization documents presented by the
21 employee do not appear to be valid or reasonably relate to
22 the employee; and (ii) the time period the employee has to
23 contest the inspecting entity's federal or State agency's
24 determination, if any time period is required by federal
25 law. The employer shall notify the employee in person and
26 deliver the notification by hand, if possible. If hand

1 delivery is not possible, then the employer shall notify
2 the employee by mail and email, if the email address of the
3 employee is known, and shall notify the employee's
4 authorized representative. Upon request by the employee or
5 the employee's authorized representative, the employer
6 shall give to the employee the original notice from the
7 inspecting entity ~~federal or State agency, including, but~~
8 ~~not limited to, the Social Security Administration or the~~
9 ~~Internal Revenue Service,~~ within 7 business days. This
10 original notice shall be redacted in compliance with State
11 and federal privacy laws and shall relate only to the
12 employee receiving the notification.

13 (3) The employee may have a representative of the
14 employee's choosing in any meetings, discussions, or
15 proceedings with the employer.

16 The procedures described in this subsection do not apply
17 to inspections of an employer's I-9 Employment Verification
18 Forms by an inspecting entity or any relevant procedure
19 otherwise described in subsection (g).

20 (d-1) If an employer receives notification from any
21 federal agency or other outside third party not responsible
22 for the enforcement of immigration law, including, but not
23 limited to, the Social Security Administration, the Internal
24 Revenue Service, or an insurance company, of a discrepancy as
25 it relates to an employee's individual taxpayer identification
26 number or other identifying documents, the following rights

1 and protections are granted to the employee:

2 (1) The employer shall not take any adverse action
3 against the employee, including re-verification, based on
4 the receipt of the notification.

5 (2) The employer shall provide a notice to the
6 employee and to the employee's authorized representative,
7 if any, as soon as practicable, but not more than 5
8 business days after the date of receipt of the
9 notification, unless a shorter timeline is provided for
10 under federal law or a collective bargaining agreement.
11 The notice to the employee shall include, but not be
12 limited to: (A) an explanation that the federal agency or
13 outside third party has notified the employer that the
14 identification documents presented by the employee do not
15 appear to match; and () the time period the employee has to
16 contest the disputed information, if any such time period
17 is required by federal law.

18 (3) The employee may have a representative of the
19 employee's choosing in any meetings, discussions, or
20 proceedings with the employer.

21 (e) Except as otherwise required by federal law, an
22 employer shall provide a notice to each current employee, by
23 posting in English and in any language commonly used in the
24 workplace, of any inspections of I-9 Employment Eligibility
25 Verification forms or other employment records conducted by
26 the inspecting entity within 72 hours after receiving notice

1 of the inspection. Written notice shall also be given within
2 72 hours to the employee's authorized representative, if any.
3 The posted notice shall contain the following information:

4 (1) the name of the entity conducting the inspections
5 of I-9 Employment Eligibility Verification forms or other
6 employment records;

7 (2) the date that the employer received notice of the
8 inspection;

9 (3) the nature of the inspection to the extent known
10 by the employer; and

11 (4) a copy of the notice received by the employer.

12 An employer, upon reasonable request, shall provide an
13 employee a copy of the Notice of Inspection of I-9 Employment
14 Eligibility Verification forms.

15 (f) On or before 6 months after the effective date of this
16 amendatory Act of the 103rd General Assembly, the Department
17 shall develop a template posting that employers may use to
18 comply with the requirements of subsection (e) to inform
19 employees of a notice of inspection to be conducted of I-9
20 Employment Eligibility Verification forms or other employment
21 records conducted by the inspecting entity. The Department
22 shall make the template available on its website so that it is
23 accessible to any employer.

24 (g) Except as otherwise required by federal law, if during
25 an inspection of the employer's I-9 Employment Eligibility
26 Verification forms by an inspecting entity, the inspecting

1 entity makes a determination that the employee's work
2 authorization documents do not establish that the employee is
3 authorized to work in the United States and provide the
4 employer with notice of that determination, the employer shall
5 provide a written notice as set forth in this subsection to the
6 employee within 5 business days, unless a shorter timeline is
7 provided for under federal law or a collective bargaining
8 agreement. The employer's notice to the employee shall relate
9 to the employee only. The employer shall notify the employee
10 in person and deliver the notification by hand, if possible.
11 If hand delivery is not possible, then the employer shall
12 notify the employee by mail and email, if the email address of
13 the employee is known, and shall notify the employee's
14 authorized representative. The employer's notice to the
15 employee shall contain the following information:

16 (1) an explanation that the inspecting entity has
17 determined that the employee's work authorization
18 documents presented by the employee do not appear to be
19 valid or reasonably relate to the employee;

20 (2) the time period for the employee to notify the
21 employer whether the employee is contesting or not
22 contesting the determination by the inspecting entity, if
23 any time period is required by federal law;

24 (3) if known by the employer, the time and date of any
25 meeting with the employer and employee or with the
26 inspecting entity and employee related to the correction

1 of the inspecting entity's determination that the
2 employee's work authorization documents presented by the
3 employee do not appear to be valid or reasonably relate to
4 the employee; and

5 (4) notice that the employee has the right to
6 representation during any meeting scheduled with the
7 employer and the inspecting entity.

8 If the employee contests the inspecting entity's
9 determination, the employer will notify the employee within 72
10 hours after receipt of any final determination by the
11 inspecting entity related to the employee's work authorization
12 status. Upon request by the employee or the employee's
13 authorized representative, the employer shall give the
14 employee the original notice from the inspecting entity within
15 7 business days. This original notice shall be redacted in
16 compliance with State and federal privacy laws and shall
17 relate only to the employee receiving the notification.

18 (h) This Section does not require a penalty to be imposed
19 upon an employer or person who fails to provide notice to an
20 employee at the express and specific direction or request of
21 the federal government. ~~In determining the amount of the~~
22 ~~penalty, the appropriateness of the penalty to the size of the~~
23 ~~business of the employer charged and the gravity of the~~
24 ~~violation shall be considered. The penalty may be recovered in~~
25 ~~a civil action brought by the Director in any circuit court.~~
26 Upon request by the employee or the employee's authorized

1 representative, the employer shall give the employee the
2 original notice from the inspecting entity within 7 business
3 days.

4 (i) This Section applies to public and private employers.

5 (j) Nothing in this Section shall be interpreted,
6 construed, or applied to restrict or limit an employer's
7 compliance with a memorandum of understanding concerning the
8 use of the federal E-Verify system.

9 (Source: P.A. 103-879, eff. 1-1-25.)

10 (820 ILCS 55/15) (from Ch. 48, par. 2865)

11 Sec. 15. Administration and enforcement by the Department.

12 (a) It shall be the duty of the Department to enforce the
13 provisions of this Act when, in the Department's judgment,
14 there is cause and sufficient resources for investigation. The
15 Department shall have the power to conduct investigations in
16 connection with the administration and enforcement of this Act
17 and any investigator with the Department shall be authorized
18 to visit and inspect, at all reasonable times, any places
19 covered by this Act and shall be authorized to inspect, at all
20 reasonable times, records of the employer or prospective
21 employer related to its employees or prospective employees and
22 related to its participation in and compliance with the
23 E-Verify program. The Department shall have the authority to
24 request the issuance of a search warrant or subpoena to
25 inspect the files of the employer or prospective employer, if

1 necessary. The Department shall conduct hearings in accordance
2 with the Illinois Administrative Procedure Act upon written
3 complaint by an investigator of the Department. After the
4 hearing, if supported by the evidence, the Department may (i)
5 issue and cause to be served on any party an order to cease and
6 desist from further violation of the Act, (ii) take
7 affirmative or other action as deemed reasonable to eliminate
8 the effect of the violation, and (iii) determine the amount of
9 any civil penalty allowed by the Act. The Director of Labor or
10 his or her representative may compel, by subpoena, the
11 attendance and testimony of witnesses and the production of
12 books, payrolls, records, papers, and other evidence in any
13 investigation or hearing and may administer oaths to witnesses
14 ~~The Director of Labor or his authorized representative shall~~
15 ~~administer and enforce the provisions of this Act. The~~
16 ~~Director of Labor may issue rules and regulations necessary to~~
17 ~~administer and enforce the provisions of this Act.~~

18 (b) If an employee or applicant for employment alleges
19 that he or she has been denied his or her rights under this
20 Act, he or she may file a complaint with the Department of
21 Labor. The Department shall investigate the complaint pursuant
22 to its authority under subsection (a) and shall have authority
23 ~~to request the issuance of a search warrant or subpoena to~~
24 ~~inspect the files of the employer or prospective employer, if~~
25 ~~necessary.~~ The Department shall attempt to resolve the
26 complaint by conference, conciliation, or persuasion. If the

1 complaint is not so resolved and the Department finds the
2 employer or prospective employer has violated the Act, the
3 Department may commence an action in the circuit court to
4 enforce the provisions of this Act including an action to
5 compel compliance. The circuit court for the county in which
6 the complainant resides or in which the complainant is
7 employed shall have jurisdiction in such actions.

8 (c) (Blank). ~~If an employer or prospective employer~~
9 ~~violates this Act, an employee or applicant for employment may~~
10 ~~commence an action in the circuit court to enforce the~~
11 ~~provisions of this Act, including actions to compel~~
12 ~~compliance, where efforts to resolve the employee's or~~
13 ~~applicant for employment's complaint concerning the violation~~
14 ~~by conference, conciliation or persuasion under subsection (b)~~
15 ~~have failed and the Department has not commenced an action in~~
16 ~~circuit court to redress the violation. The circuit court for~~
17 ~~the county in which the complainant resides or in which the~~
18 ~~complainant is employed shall have jurisdiction in such~~
19 ~~actions.~~

20 (d) (Blank). ~~Failure to comply with an order of the court~~
21 ~~may be punished as contempt. In addition, the court shall~~
22 ~~award an employee or applicant for employment prevailing in an~~
23 ~~action under this Act the following damages:~~

24 ~~(1) Actual damages plus costs.~~

25 ~~(2) For a willful and knowing violation of this Act,~~
26 ~~\$200 plus costs, reasonable attorney's fees, and actual~~

1 ~~damages.~~

2 ~~(3) For a willful and knowing violation of Section~~
3 ~~12(c) or Section 12(c-2) of this Act, \$500 per affected~~
4 ~~employee plus costs, reasonable attorney's fees, and~~
5 ~~actual damages.~~

6 ~~(4) For a willful and knowing violation of Section 13,~~
7 ~~a civil penalty of a minimum of \$2,000 up to a maximum of~~
8 ~~\$5,000 for a first violation and a civil penalty of a~~
9 ~~minimum of \$5,000 up to a maximum of \$10,000 for each~~
10 ~~subsequent violation per affected employee plus costs,~~
11 ~~reasonable attorney's fees, and actual damages.~~

12 (e) Any employer or prospective employer or his agent who
13 violates the provisions of this Act is guilty of a petty
14 offense.

15 (f) Any employer or prospective employer, or the officer
16 or agent of any employer or prospective employer, who
17 discharges or in any other manner discriminates against any
18 employee or applicant for employment because that employee or
19 applicant for employment has made a complaint to his employer,
20 or to the Director of Labor or his authorized representative,
21 or because that employee or applicant for employment has
22 caused to be instituted or is about to cause to be instituted
23 any proceeding under or related to this Act, or because that
24 employee or applicant for employment has testified or is about
25 to testify in an investigation or proceeding under this Act,
26 is guilty of a petty offense.

1 (Source: P.A. 103-879, eff. 1-1-25.)

2 (820 ILCS 55/16 new)

3 Sec. 16. Action for civil penalties brought by an
4 interested party.

5 (a) Upon a reasonable belief that an employer or
6 prospective employer covered by this Act is in violation of
7 any part of this Act, an interested party may initiate a civil
8 action in the county where the alleged offenses occurred or
9 where any party to the action resides, asserting that a
10 violation of the Act has occurred, pursuant to the following
11 sequence of events:

12 (1) The interested party submits to the Department of
13 Labor a complaint describing the violation and employer or
14 prospective employer alleged to have violated this Act.

15 (2) The Department sends notice of complaint to the
16 named parties alleged to have violated this Act and the
17 interested party. The named parties may either contest the
18 alleged violation or attempt to cure the alleged
19 violation.

20 (3) The named parties contest or cure the alleged
21 violation within 30 days after the receipt of the notice
22 of complaint or, if the named party does not respond
23 within 30 days, the Department issues a notice of right to
24 sue to the interested party as described in paragraph (4).

25 (4) The Department issues a notice of right to sue to

1 the interested party, if one or more of the following has
2 occurred:

3 (i) the named party has cured the alleged
4 violation to the satisfaction of the Director;

5 (ii) the Director has determined that the
6 allegation is unjustified or that the Department does
7 not have jurisdiction over the matter or the parties;
8 or

9 (iii) the Director has determined that the
10 allegation is justified or has not made a
11 determination, and either has decided not to exercise
12 jurisdiction over the matter or has concluded
13 administrative enforcement of the matter.

14 (b) If within 180 days after service of the notice of
15 complaint to the parties, the Department has not (i) resolved
16 the contest and cure period, (ii) with the mutual agreement of
17 the parties, extended the time for the named party to cure the
18 violation and resolve the complaint, or (iii) issued a right
19 to sue letter, the interested party may initiate a civil
20 action for penalties. The parties may extend the 180-day
21 period by mutual agreement. The limitations period for the
22 interested party to bring an action for the alleged violation
23 of the Act shall be tolled for the 180-day period and for the
24 period of any mutually agreed extensions. At the end of the
25 180-day period, or any mutually agreed extensions, the
26 Department shall issue a right to sue letter to the interested

1 party.

2 (c) Upon receipt of a right to sue letter from the
3 Department, an interested party may bring a civil action in
4 the county where the alleged offenses occurred or where any
5 party to the action resides, in the name of the State and for
6 the benefit of any impacted day or temporary laborers.

7 (1) No later than 30 days after filing an action, the
8 interested party shall serve upon the State through the
9 Attorney General a copy of the complaint and written
10 disclosure of substantially all material evidence and
11 information the interested party possesses.

12 (2) The State may elect to intervene and proceed with
13 the action no later than 60 days after it receives both the
14 complaint and the material evidence and information. The
15 State may, for good cause shown, move the court for an
16 extension of the time to intervene and proceed with the
17 action.

18 (3) Before the expiration of the 60-day period or any
19 extensions under subparagraph (2), the State shall:

20 (i) proceed with the action, in which case the
21 action shall be conducted by the State; or

22 (ii) notify the court that it declines to take the
23 action, in which case the interested party bringing
24 the action shall have the right to conduct the action.

25 (4) When the State conducts the action, the interested
26 party shall have the right to continue as a party to the

1 action subject to the following limitations:

2 (i) the State may dismiss the action
3 notwithstanding the objections of the interested party
4 initiating the action if the interested party has been
5 notified by the State of the filing of the motion and
6 the court has provided the interested party with an
7 opportunity for a hearing on the motion; and

8 (ii) the State may settle the action with the
9 defendant notwithstanding the objections of the person
10 initiating the action if the court determines, after a
11 hearing, that the proposed settlement is fair,
12 adequate, and reasonable under all the circumstances.

13 (5) If an interested party brings an action under this
14 Section, no person other than the State may intervene or
15 bring a related action on behalf of the State based on the
16 facts underlying the pending action.

17 (6) An action brought in court by an interested party
18 under this Section may be dismissed if the court and the
19 Attorney General give written consent to the dismissal and
20 their reasons for consenting.

21 (d) Any claim or action filed by an interested party under
22 this Section shall be made no later 3 years after the alleged
23 conduct resulting in the complaint, plus any period for which
24 the limitations period has been tolled.

25 (e) In an action brought by an interested party under this
26 Section, an interested party may recover against the covered

1 entity any statutory penalties set forth in Section 17,
2 injunctive relief, and any other relief available to the
3 Department. An interested party who prevails in a civil action
4 shall receive 10% of any statutory penalties assessed, plus
5 any attorney's fees and costs. The remaining 90% of any
6 statutory penalties assessed shall be deposited into a special
7 fund of the Department for enforcement of this Act.

8 (820 ILCS 55/17 new)

9 Sec. 17. Private right of action.

10 (a) A person aggrieved by a violation of this Act or any
11 rule adopted under this Act by an employer or prospective
12 employer may file suit in circuit court of Illinois, in the
13 county where the alleged offense occurred, where the employee
14 or prospective employee who is party to the action resides or
15 where the employer or prospective employer which is party to
16 the action is located, without regard to exhaustion of any
17 alternative administrative remedies provided in this Act.
18 Actions may be brought by one or more day or affected employees
19 or prospective employees for and on behalf of themselves and
20 employees or prospective employees similarly situated. An
21 employee or prospective employee may recover for a violation
22 of the Act under this Section or under Section 15 or 16 at the
23 employee or prospective employee's option, but not under more
24 than one Section. An employee or prospective employee whose
25 rights have been violated under this Act by an employer or

1 prospective employer is entitled to collect under this
2 Section:

3 (1) in the case of a violation of this Act or any rule
4 adopted under this Act as it relates to the employee or
5 prospective employee, a civil penalty of not less than
6 \$100 and not more than \$1,000 for each violation found by a
7 court;

8 (2) in the event a violation of this Act or any rule
9 adopted under this Act as it relates to denial or loss of
10 employment for the employee or prospective employee, all
11 relief necessary to make the employee whole, including,
12 but not limited to the following:

13 (i) reinstatement with the same seniority status
14 that the employee would have had, but for the
15 violation, as appropriate;

16 (ii) back pay, with interest, as appropriate; and

17 (iii) a civil penalty of \$10,000; and

18 (3) compensation for any damages sustained as a result
19 of the violation, including litigation costs, expert
20 witness fees, and reasonable attorney's fees.

21 (b) The right of an aggrieved person to bring an action
22 under this Section terminates upon the passing of 3 years
23 after the date of the violation. This limitations period is
24 tolled if an employer or prospective employer has failed to
25 provide an employee or prospective employer information
26 required under this Act or has deterred an employee or

1 prospective employee from the exercise of rights under this
2 Act.

3 (820 ILCS 55/18 new)

4 Sec. 18. Penalties.

5 (a) An employer or prospective employer that violates any
6 of the provisions of this Act or any rule adopted under this
7 Act shall be subject to a civil penalty of not less than \$100
8 and not more than \$1,000 for each violation of his Act found by
9 the Department or determined by a court in a civil action
10 brought by the Department or by an interested party, or
11 determined by a court in a civil action brought by the Attorney
12 General pursuant to its authority under Section 6.3 of the
13 Attorney General Act. An employer or prospective employer that
14 commits a subsequent violation of the same provisions or this
15 Act or any rule adopted under this Act within a 3-year period
16 shall be subject to a civil penalty of not less than \$1,000 and
17 not more than \$5,000 for each violation of his Act found by the
18 Department or determined by a court in a civil action brought
19 by the Department or by an interested party, or determined by a
20 court in a civil action brought by the Attorney General
21 pursuant to its authority under Section 6.3 of the Attorney
22 General Act. For purposes of this subsection, each violation
23 of this Act or any rule adopted under this Act shall constitute
24 a separate and distinct violation.

25 (b) In determining the amount of a penalty, the Director

1 or circuit court shall consider the appropriateness of the
2 penalty to the size of the business of the employer charged and
3 the gravity of the violation shall be considered.

4 (c) The Department shall adopt rules for violation
5 hearings and penalties for violations of this Act or the
6 Department's rules in conjunction with the penalties set forth
7 in this Act. Any administrative determination by the
8 Department as to the amount of each penalty shall be final
9 unless reviewed as provided in Section 17 of this Act.

10 (820 ILCS 55/19 new)

11 Sec. 19. Review under the Administrative Review Law. Any
12 party to a proceeding under this Act may apply for and obtain
13 judicial review of an order of the Department entered under
14 this Act in accordance with the provisions of the
15 Administrative Review Law and the Department in proceedings
16 under this Act may obtain an order from the court for the
17 enforcement of its order.

18 (820 ILCS 55/20) (from Ch. 48, par. 2870)

19 Sec. 20. Dismissal of complaint. The Director or any court
20 of competent jurisdiction shall summarily dismiss any
21 complaint alleging a violation of Section 5 of this Act which
22 states as the sole cause of the complaint that the employer
23 offered a health, disability, or life insurance policy that
24 makes a distinction between employees for the type of coverage

1 or the price of coverage based upon the employees' use of
2 lawful products.

3 (Source: P.A. 87-807.)