

HB5077



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5077

Introduced 2/18/2020, by Rep. Stephanie A. Kifowit

SYNOPSIS AS INTRODUCED:

820 ILCS 185/40

Amends the Employee Classification Act. Provides that the civil penalty for violating the Act is \$1,500 for the first violation and \$3,000 for each repeat violation within a 5-year period (rather than an amount not to exceed \$1,000 for the first violation and an amount not to exceed \$2,000 for each repeat violation within a 5-year period). Effective immediately.

LRB101 18684 JLS 68139 b

A BILL FOR

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 Employee Classification Act is amended by
5 changing Section 40 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 of \$1,500 ~~not to exceed \$1,000~~
11 for 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 of \$3,000 ~~not to exceed \$2,000~~ for each
14 repeat violation found by the Department within a 5 year
15 period. For purposes of this Section, each violation of this
16 Act for each person and for each day the violation continues
17 shall constitute a separate and distinct violation. In
18 determining the amount of a penalty, the Director shall
19 consider the appropriateness of the penalty to the employer or
20 entity charged, upon the determination of the gravity of the
21 violations.

22 (b) The amount of the penalty, when finally determined, may
23 be recovered in any administrative proceeding or a civil action

1 filed in any circuit court by the Director of Labor, or a
2 person aggrieved by a violation of this Act or any rule adopted
3 under this Act.

4 (1) The Department shall distribute to all affected
5 employees 10% of the civil penalty recovered as a result of
6 any administrative proceeding or civil action brought by
7 the Department. The remaining 90% of the amount recovered
8 shall be submitted to the Director of Labor.

9 (2) In any civil action brought by an interested party
10 pursuant to this Section, the circuit court shall award the
11 interested party 10% of the amount recovered. In such case,
12 the remaining amount recovered shall be submitted to the
13 Director of Labor.

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

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

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