

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 Equal Pay Act of 2003 is amended by changing
5 Sections 5, 10, 15, 20, and 30 as follows:

6 (820 ILCS 112/5)

7 Sec. 5. Definitions. As used in this Act:

8 "Director" means the Director of Labor.

9 "Department" means the Department of Labor.

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

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

17 "Pay scale and benefits" means the wage or salary, or the
18 wage or salary range, and a general description of the
19 benefits and other compensation, including, but not limited
20 to, bonuses, stock options, or other incentives the employer
21 reasonably expects in good faith to offer for the position,
22 set by reference to any applicable pay scale, the previously
23 determined range for the position, the actual range of others

1 currently holding equivalent positions, or the budgeted amount
2 for the position, as applicable.

3 (Source: P.A. 99-418, eff. 1-1-16.)

4 (820 ILCS 112/10)

5 Sec. 10. Prohibited acts.

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

14 (1) a seniority system;

15 (2) a merit system;

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

18 (4) a differential based on any other factor other
19 than: (i) sex or (ii) a factor that would constitute
20 unlawful discrimination under the Illinois Human Rights
21 Act, provided that the factor:

22 (A) is not based on or derived from a differential
23 in compensation based on sex or another protected
24 characteristic;

25 (B) is job-related with respect to the position

1 and consistent with a business necessity; and

2 (C) accounts for the differential.

3 No employer may discriminate between employees by paying
4 wages to an African-American employee at a rate less than the
5 rate at which the employer pays wages to another employee who
6 is not African-American for the same or substantially similar
7 work on jobs the performance of which requires substantially
8 similar skill, effort, and responsibility, and which are
9 performed under similar working conditions, except where the
10 payment is made under:

11 (1) a seniority system;

12 (2) a merit system;

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

15 (4) a differential based on any other factor other
16 than: (i) race or (ii) a factor that would constitute
17 unlawful discrimination under the Illinois Human Rights
18 Act, provided that the factor:

19 (A) is not based on or derived from a differential
20 in compensation based on race or another protected
21 characteristic;

22 (B) is job-related with respect to the position
23 and consistent with a business necessity; and

24 (C) accounts for the differential.

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

1 employee.

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

9 (b) It is unlawful for any employer to interfere with,
10 restrain, or deny the exercise of or the attempt to exercise
11 any right provided under this Act. It is unlawful for any
12 employer to discharge or in any other manner discriminate
13 against any individual for inquiring about, disclosing,
14 comparing, or otherwise discussing the employee's wages or the
15 wages of any other employee, or aiding or encouraging any
16 person to exercise his or her rights under this Act. It is
17 unlawful for an employer to require an employee to sign a
18 contract or waiver that would prohibit the employee from
19 disclosing or discussing information about the employee's
20 wages, salary, benefits, or other compensation. An employer
21 may, however, prohibit a human resources employee, a
22 supervisor, or any other employee whose job responsibilities
23 require or allow access to other employees' wage or salary
24 information from disclosing that information without prior
25 written consent from the employee whose information is sought
26 or requested.

1 (b-5) It is unlawful for an employer or employment agency,
2 or employee or agent thereof, to (1) screen job applicants
3 based on their current or prior wages or salary histories,
4 including benefits or other compensation, by requiring that
5 the wage or salary history of an applicant satisfy minimum or
6 maximum criteria, (2) request or require a wage or salary
7 history as a condition of being considered for employment, as
8 a condition of being interviewed, as a condition of continuing
9 to be considered for an offer of employment, as a condition of
10 an offer of employment or an offer of compensation, or (3)
11 request or require that an applicant disclose wage or salary
12 history as a condition of employment.

13 (b-10) It is unlawful for an employer to seek the wage or
14 salary history, including benefits or other compensation, of a
15 job applicant from any current or former employer. This
16 subsection (b-10) does not apply if:

17 (1) the job applicant's wage or salary history is a
18 matter of public record under the Freedom of Information
19 Act, or any other equivalent State or federal law, or is
20 contained in a document completed by the job applicant's
21 current or former employer and then made available to the
22 public by the employer, or submitted or posted by the
23 employer to comply with State or federal law; or

24 (2) the job applicant is a current employee and is
25 applying for a position with the same current employer.

26 (b-15) Nothing in subsections (b-5) and (b-10) shall be

1 construed to prevent an employer or employment agency, or an
2 employee or agent thereof, from:

3 (1) providing information about the wages, benefits,
4 compensation, or salary offered in relation to a position;
5 or

6 (2) engaging in discussions with an applicant for
7 employment about the applicant's expectations with respect
8 to wage or salary, benefits, and other compensation,
9 including unvested equity or deferred compensation that
10 the applicant would forfeit or have canceled by virtue of
11 the applicant's resignation from the applicant's current
12 employer. If, during such discussion, the applicant
13 voluntarily and without prompting discloses that the
14 applicant would forfeit or have canceled by virtue of the
15 applicant's resignation from the applicant's current
16 employer unvested equity or deferred compensation, an
17 employer may request the applicant to verify the aggregate
18 amount of such compensation by submitting a letter or
19 document stating the aggregate amount of the unvested
20 equity or deferred compensation from, at the applicant's
21 choice, one of the following: (1) the applicant's current
22 employer or (2) the business entity that administers the
23 funds that constitute the unvested equity or deferred
24 compensation.

25 (b-20) An employer is not in violation of subsections
26 (b-5) and (b-10) when a job applicant voluntarily and without

1 prompting discloses his or her current or prior wage or salary
2 history, including benefits or other compensation, on the
3 condition that the employer does not consider or rely on the
4 voluntary disclosures as a factor in determining whether to
5 offer a job applicant employment, in making an offer of
6 compensation, or in determining future wages, salary,
7 benefits, or other compensation.

8 (b-25) It is unlawful for an employer with 15 or more
9 employees to fail to include the pay scale and benefits for a
10 position in any specific job posting. The inclusion of a
11 hyperlink to a publicly viewable webpage that includes the pay
12 scale and benefits satisfies the requirements for inclusion
13 under this subsection. If an employer engages a third party to
14 announce, post, publish, or otherwise make known a job
15 posting, the employer shall provide the pay scale and
16 benefits, or a hyperlink to the pay scale and benefits, to the
17 third party and the third party shall include the pay scale and
18 benefits, or a hyperlink to the pay scale and benefits, in the
19 job posting. The third party is liable for failure to include
20 the pay scale and benefits in the job posting, unless the third
21 party can show that the employer did not provide the necessary
22 information regarding pay scale and benefits. An employer
23 shall announce, post, or otherwise make known all
24 opportunities for promotion to all current employees no later
25 than 14 calendar days after the employer makes an external job
26 posting for the position, except for positions in the State of

1 Illinois workforce designated as exempt from competitive
2 selection. Nothing in this subsection requires an employer to
3 make a job posting. Posting of a relevant and up to date
4 general benefits description in an easily accessible, central,
5 and public location on an employer's website and referring to
6 this posting in the job posting shall be deemed to satisfy the
7 benefits posting requirement under this subsection. This
8 subsection only applies to positions that (i) will be
9 physically performed, at least in part, in Illinois or (ii)
10 will be physically performed outside of Illinois, but the
11 employee reports to a supervisor, office, or other work site
12 in Illinois. Nothing in this subsection prohibits an employer
13 or employment agency from asking an applicant about his or her
14 wage or salary expectations for the position the applicant is
15 applying for. An employer or employment agency shall disclose
16 to an applicant for employment the pay scale and benefits to be
17 offered for the position prior to any offer or discussion of
18 compensation and at the applicant's request, if a public or
19 internal posting for the job, promotion, transfer, or other
20 employment opportunity has not been made available to the
21 applicant. This subsection shall only apply to job postings
22 that have been posted after the effective date of this
23 amendatory Act of the 103rd General Assembly.

24 (b-30) An employer or an employment agency shall not
25 refuse to interview, hire, promote, or employ, and shall not
26 otherwise retaliate against, an applicant for employment or an

1 employee for exercising any rights under subsection (b-25).

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

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

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

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

14 (4) fails to comply with any wage or salary history
15 inquiry.

16 (Source: P.A. 101-177, eff. 9-29-19; 102-277, eff. 1-1-22.)

17 (820 ILCS 112/15)

18 Sec. 15. Enforcement.

19 (a) The Director or his or her authorized representative
20 shall administer and enforce the provisions of this Act. The
21 Director of Labor shall adopt rules necessary to administer
22 and enforce this Act.

23 (b) An employee, ~~or~~ former employee, or, for the purposes
24 of a violation of subsection (b-25) of Section 10, any person
25 that claims to be aggrieved by a violation of that subsection,

1 may file a complaint with the Department alleging a violation
2 of this Act by submitting a signed, completed complaint form.
3 All complaints shall be filed with the Department within one
4 year from the date of the relevant violation ~~underpayment~~.

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

17 (d) The Department may refer a complaint alleging a
18 violation of this Act to the Department of Human Rights for
19 investigation if the subject matter of the complaint also
20 alleges a violation of the Illinois Human Rights Act and the
21 Department of Human Rights has jurisdiction over the matter.
22 When a complaint is referred to the Department of Human Rights
23 under this subsection, the Department of Human Rights shall
24 also file the complaint under the Illinois Human Rights Act
25 and be the agency responsible for investigating the complaint.
26 The Department shall review the Department of Human Rights'

1 investigation and findings to determine whether a violation of
2 this Act has occurred or whether further investigation by the
3 Department is necessary and take any necessary or appropriate
4 action required to enforce the provisions of this Act. The
5 Director of Labor and the Department of Human Rights shall
6 adopt joint rules necessary to administer and enforce this
7 subsection.

8 (Source: P.A. 98-1051, eff. 1-1-15.)

9 (820 ILCS 112/20)

10 Sec. 20. Recordkeeping requirements. An employer subject
11 to any provision of this Act shall make and preserve records
12 that document the name, address, and occupation of each
13 employee, the wages paid to each employee, the pay scale and
14 benefits for each position, the job posting for each position,
15 and any other information the Director may by rule deem
16 necessary and appropriate for enforcement of this Act. An
17 employer subject to any provision of this Act shall preserve
18 those records for a period of not less than 5 years and shall
19 make reports from the records as prescribed by rule or order of
20 the Director, unless the records relate to an ongoing
21 investigation or enforcement action under this Act, in which
22 case the records must be maintained until their destruction is
23 authorized by the Department or by court order.

24 (Source: P.A. 96-467, eff. 8-14-09.)

1 (820 ILCS 112/30)

2 Sec. 30. Violations; fines and penalties.

3 (a) If an employee is paid by his or her employer less than
4 the wage to which he or she is entitled in violation of Section
5 10 or 11 of this Act, the employee may recover in a civil
6 action the entire amount of any underpayment together with
7 interest, compensatory damages if the employee demonstrates
8 that the employer acted with malice or reckless indifference,
9 punitive damages as may be appropriate, injunctive relief as
10 may be appropriate, and the costs and reasonable attorney's
11 fees as may be allowed by the court and as necessary to make
12 the employee whole. At the request of the employee or on a
13 motion of the Director, the Department may make an assignment
14 of the wage claim in trust for the assigning employee and may
15 bring any legal action necessary to collect the claim, and the
16 employer shall be required to pay the costs incurred in
17 collecting the claim. Every such action shall be brought
18 within 5 years from the date of the underpayment. For purposes
19 of this Act, "date of the underpayment" means each time wages
20 are underpaid.

21 (a-5) If an employer violates subsection (b), (b-5),
22 (b-10), or (b-20) of Section 10, the employee may recover in a
23 civil action any damages incurred, special damages not to
24 exceed \$10,000, injunctive relief as may be appropriate, and
25 costs and reasonable attorney's fees as may be allowed by the
26 court and as necessary to make the employee whole. If special

1 damages are available, an employee may recover compensatory
2 damages only to the extent such damages exceed the amount of
3 special damages. Such action shall be brought within 5 years
4 from the date of the violation.

5 (b) The Director is authorized to supervise the payment of
6 the unpaid wages under subsection (a) or damages under
7 subsection (b), (b-5), (b-10), or (b-20) of Section 10 owing
8 to any employee or employees under this Act and may bring any
9 legal action necessary to recover the amount of unpaid wages,
10 damages, and penalties or to seek injunctive relief, and the
11 employer shall be required to pay the costs. Any sums
12 recovered by the Director on behalf of an employee under this
13 Section shall be paid to the employee or employees affected.

14 (c) Employers who violate any provision of this Act or any
15 rule adopted under the Act, except for a violation of
16 subsection (b-25) of Section 10, are subject to a civil
17 penalty for each employee affected as follows:

18 (1) An employer with fewer than 4 employees: first
19 offense, a fine not to exceed \$500; second offense, a fine
20 not to exceed \$2,500; third or subsequent offense, a fine
21 not to exceed \$5,000.

22 (2) An employer with between 4 and 99 employees: first
23 offense, a fine not to exceed \$2,500; second offense, a
24 fine not to exceed \$3,000; third or subsequent offense, a
25 fine not to exceed \$5,000.

26 (3) An employer with 100 or more employees who

1 violates any Section of this Act except for Section 11
2 shall be fined up to \$10,000 per employee affected. An
3 employer with 100 or more employees that is a business as
4 defined under Section 11 and commits a violation of
5 Section 11 shall be fined up to \$10,000.

6 Before any imposition of a penalty under this subsection,
7 an employer with 100 or more employees who violates item (b) of
8 Section 11 and inadvertently fails to file an initial
9 application or recertification shall be provided 30 calendar
10 days by the Department to submit the application or
11 recertification.

12 An employer or person who violates subsection (b), (b-5),
13 (b-10), (b-20), or (c) of Section 10 is subject to a civil
14 penalty not to exceed \$5,000 for each violation for each
15 employee affected.

16 (c-5) The Department may initiate investigations of
17 alleged violations of subsection (b-25) of Section 10 upon
18 receiving a complaint from any person that claims to be
19 aggrieved by a violation of that subsection or at the
20 Department's discretion. Any person that claims to be
21 aggrieved by a violation of subsection (b-25) of Section 10
22 may submit a complaint of an alleged violation of that
23 subsection to the Department within one year after the date of
24 the violation. If the Department has determined that a
25 violation has occurred, it shall issue to the employer a
26 notice setting forth the violation, the applicable penalty as

1 described in subsections (c-10) and (c-15), and the period to
2 cure the violation as described in subsection (c-10).

3 (c-7) A job posting found to be in violation of subsection
4 (b-25) of Section 10 shall be considered as one violating job
5 posting regardless of the number of duplicative postings that
6 list the job opening.

7 (c-10) The penalties for a job posting or batch of
8 postings that are active at the time the Department issues a
9 notice of violation for violating subsection (b-25) of Section
10 10 are as follows:

11 (1) For a first offense, following a cure period of 14
12 days to remedy the violation, a fine not to exceed \$500 at
13 the discretion of the Department. A first offense may be
14 either a single job posting that violates subsection
15 (b-25) of Section 10 or multiple job postings that violate
16 subsection (b-25) of Section 10 and are identified at the
17 same time by the Department. The Department shall have
18 discretion to waive any civil penalty under this
19 paragraph.

20 (2) For a second offense, following a cure period of 7
21 days to remedy the violation, a fine not to exceed \$2,500
22 at the discretion of the Department. A second offense is a
23 single job posting that violates subsection (b-25) of
24 Section 10. The Department shall have discretion to waive
25 any civil penalty under this paragraph.

26 (3) For a third or subsequent offense, no cure period,

1 a fine not to exceed \$10,000 at the discretion of the
2 Department. A third or subsequent offense is a single job
3 posting that violates subsection (b-25) of Section 10. The
4 Department shall have discretion to waive any civil
5 penalty under this paragraph. If a company has had a third
6 offense, it shall incur automatic penalties without a cure
7 period for a period of 5 years, at the completion of which
8 any future offense shall count as a first offense. The
9 5-year period shall restart if, during that period, an
10 employer receives a subsequent notice of violation from
11 the Department.

12 (c-15) The penalties for a job posting or batch of job
13 postings that are not active at the time the Department issues
14 a notice of violation for violating subsection (b-25) of
15 Section 10 are as follows:

16 (1) For a first offense, a fine not to exceed \$250 at
17 the discretion of the Department. A first offense may be
18 either a single job posting that violates subsection
19 (b-25) of Section 10 or multiple job postings that violate
20 subsection (b-25) of Section 10 and are identified at the
21 same time by the Department. The Department shall have
22 discretion to waive any civil penalty under this
23 paragraph.

24 (2) For a second offense, a fine not to exceed \$2,500
25 at the discretion of the Department. A second offense is a
26 single job posting that violates subsection (b-25) of

1 Section 10. The Department shall have discretion to waive
2 any civil penalty under this paragraph.

3 (3) For a third or subsequent offense, a fine not to
4 exceed \$10,000 at the discretion of the Department. A
5 third or subsequent offense is a single job posting that
6 violates subsection (b-25) of Section 10. The Department
7 shall have discretion to waive any civil penalty under
8 this paragraph.

9 For the purposes of this subsection, the Department,
10 during its investigation of a complaint, shall make a
11 determination as to whether a job posting is not active by
12 considering the totality of the circumstances, including, but
13 not limited to: (i) whether a position has been filled; (ii)
14 the length of time a posting has been accessible to the public;
15 (iii) the existence of a date range for which a given position
16 is active; and (iv) whether the violating posting is for a
17 position for which the employer is no longer accepting
18 applications.

19 (d) In determining the amount of the penalty under this
20 Section, the appropriateness of the penalty to the size of the
21 business of the employer charged and the gravity of the
22 violation shall be considered. The penalty may be recovered in
23 a civil action brought by the Director in any circuit court.

24 (Source: P.A. 101-177, eff. 9-29-19; 102-36, eff. 6-25-21.)

25 Section 99. Effective date. This Act takes effect January
26 1, 2025.