



Sen. Cristina H. Pacione-Zayas

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10300HB3129sam001

LRB103 30957 SPS 61305 a

1 AMENDMENT TO HOUSE BILL 3129

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3129 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Equal Pay Act of 2003 is amended by  
5 changing 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.

1       "Pay scale and benefits" means the wage or salary, or the  
2       wage or salary range, and a general description of the  
3       benefits and other compensation, including, but not limited  
4       to, bonuses, stock options, or other incentives the employer  
5       reasonably expects in good faith to offer for the position,  
6       set by reference to any applicable pay scale, the previously  
7       determined range for the position, the actual range of others  
8       currently holding equivalent positions, or the budgeted amount  
9       for the position, as applicable.

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

11               (820 ILCS 112/10)

12               Sec. 10. Prohibited acts.

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

21                       (1) a seniority system;

22                       (2) a merit system;

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

25                       (4) a differential based on any other factor other

1 than: (i) sex or (ii) a factor that would constitute  
2 unlawful discrimination under the Illinois Human Rights  
3 Act, provided that the factor:

4 (A) is not based on or derived from a differential  
5 in compensation based on sex or another protected  
6 characteristic;

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

9 (C) accounts for the differential.

10 No employer may discriminate between employees by paying  
11 wages to an African-American employee at a rate less than the  
12 rate at which the employer pays wages to another employee who  
13 is not African-American for the same or substantially similar  
14 work on jobs the performance of which requires substantially  
15 similar skill, effort, and responsibility, and which are  
16 performed under similar working conditions, except where the  
17 payment is made under:

18 (1) a seniority system;

19 (2) a merit system;

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

22 (4) a differential based on any other factor other  
23 than: (i) race or (ii) a factor that would constitute  
24 unlawful discrimination under the Illinois Human Rights  
25 Act, provided that the factor:

26 (A) is not based on or derived from a differential

1 in compensation based on race or another protected  
2 characteristic;

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

5 (C) accounts for the differential.

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

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

16 (b) It is unlawful for any employer to interfere with,  
17 restrain, or deny the exercise of or the attempt to exercise  
18 any right provided under this Act. It is unlawful for any  
19 employer to discharge or in any other manner discriminate  
20 against any individual for inquiring about, disclosing,  
21 comparing, or otherwise discussing the employee's wages or the  
22 wages of any other employee, or aiding or encouraging any  
23 person to exercise his or her rights under this Act. It is  
24 unlawful for an employer to require an employee to sign a  
25 contract or waiver that would prohibit the employee from  
26 disclosing or discussing information about the employee's

1 wages, salary, benefits, or other compensation. An employer  
2 may, however, prohibit a human resources employee, a  
3 supervisor, or any other employee whose job responsibilities  
4 require or allow access to other employees' wage or salary  
5 information from disclosing that information without prior  
6 written consent from the employee whose information is sought  
7 or requested.

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

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

24 (1) the job applicant's wage or salary history is a  
25 matter of public record under the Freedom of Information  
26 Act, or any other equivalent State or federal law, or is

1 contained in a document completed by the job applicant's  
2 current or former employer and then made available to the  
3 public by the employer, or submitted or posted by the  
4 employer to comply with State or federal law; or

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

7 (b-15) Nothing in subsections (b-5) and (b-10) shall be  
8 construed to prevent an employer or employment agency, or an  
9 employee or agent thereof, from:

10 (1) providing information about the wages, benefits,  
11 compensation, or salary offered in relation to a position;  
12 or

13 (2) engaging in discussions with an applicant for  
14 employment about the applicant's expectations with respect  
15 to wage or salary, benefits, and other compensation,  
16 including unvested equity or deferred compensation that  
17 the applicant would forfeit or have canceled by virtue of  
18 the applicant's resignation from the applicant's current  
19 employer. If, during such discussion, the applicant  
20 voluntarily and without prompting discloses that the  
21 applicant would forfeit or have canceled by virtue of the  
22 applicant's resignation from the applicant's current  
23 employer unvested equity or deferred compensation, an  
24 employer may request the applicant to verify the aggregate  
25 amount of such compensation by submitting a letter or  
26 document stating the aggregate amount of the unvested

1 equity or deferred compensation from, at the applicant's  
2 choice, one of the following: (1) the applicant's current  
3 employer or (2) the business entity that administers the  
4 funds that constitute the unvested equity or deferred  
5 compensation.

6 (b-20) An employer is not in violation of subsections  
7 (b-5) and (b-10) when a job applicant voluntarily and without  
8 prompting discloses his or her current or prior wage or salary  
9 history, including benefits or other compensation, on the  
10 condition that the employer does not consider or rely on the  
11 voluntary disclosures as a factor in determining whether to  
12 offer a job applicant employment, in making an offer of  
13 compensation, or in determining future wages, salary,  
14 benefits, or other compensation.

15 (b-25) It is unlawful for an employer with 15 or more  
16 employees to fail to include the pay scale and benefits for a  
17 position in any specific job posting. The inclusion of a  
18 hyperlink to a publicly viewable webpage that includes the pay  
19 scale and benefits satisfies the requirements for inclusion  
20 under this subsection. If an employer engages a third party to  
21 announce, post, publish, or otherwise make known a job  
22 posting, the third party is liable for failure to include the  
23 pay scale and benefits in the job posting, unless the third  
24 party can show that the employer did not provide the necessary  
25 information regarding pay scale and benefits. An employer  
26 shall announce, post, or otherwise make known all

1 opportunities for promotion to all current employees no later  
2 than 14 calendar days after the employer makes an external job  
3 posting for the position, except for positions in the State of  
4 Illinois workforce designated as exempt from competitive  
5 selection. Nothing in this subsection requires an employer to  
6 make a job posting. Posting of a relevant and up to date  
7 general benefits description in an easily accessible, central  
8 location on an employer's website and referring to this  
9 posting in the job posting shall be deemed to satisfy the  
10 benefits posting requirement under this subsection. This  
11 subsection only applies to positions that (i) will be  
12 physically performed, at least in part, in Illinois or (ii)  
13 will be physically performed outside of Illinois, but the  
14 employee reports to a supervisor, office, or other work site  
15 in Illinois. Nothing in this subsection prohibits an employer  
16 or employment agency from asking an applicant about his or her  
17 wage or salary expectations for the position the applicant is  
18 applying for. An employer or employment agency shall disclose  
19 to an applicant for employment the pay scale and benefits to be  
20 offered for the position prior to any offer or discussion of  
21 compensation and at the applicant's request, if a public or  
22 internal posting for the job, promotion, transfer, or other  
23 employment opportunity has not been made available to the  
24 applicant. This subsection shall only apply to job postings  
25 that have been posted after the effective date of this  
26 amendatory Act of the 103rd General Assembly.



1       (b-30) An employer or an employment agency shall not  
2 refuse to interview, hire, promote, or employ, and shall not  
3 otherwise retaliate against, an applicant for employment or an  
4 employee for exercising any rights under subsection (b-25).

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

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

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

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

17           (4) fails to comply with any wage or salary history  
18 inquiry.

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

20 (820 ILCS 112/15)

21 Sec. 15. Enforcement.

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

1           (b) An employee or former employee may file a complaint  
2 with the Department alleging a violation of this Act by  
3 submitting a signed, completed complaint form. All complaints  
4 shall be filed with the Department within one year from the  
5 date of the violation ~~underpayment~~.

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

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

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

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

10 (820 ILCS 112/20)

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

25 (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

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

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

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

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

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

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

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

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

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

1 notice setting forth the violation, the applicable penalty as  
2 described in subsections (c-10) and (c-15), and the period to  
3 cure the violation as described in subsection (c-10).

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

8 (c-10) The penalties for a job posting or batch of  
9 postings that are active at the time the Department issues a  
10 notice of violation for violating subsection (b-25) of Section  
11 10 are as follows:

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

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

1           (3) For a third or subsequent offense, no cure period,  
2           a fine not to exceed \$10,000 at the discretion of the  
3           Department. A third or subsequent offense is a single job  
4           posting that violates subsection (b-25) of Section 10. The  
5           Department shall have discretion to waive any civil  
6           penalty under this paragraph. If a company has had a third  
7           offense, it shall incur automatic penalties without a cure  
8           period for a period of 5 years, at the completion of which  
9           any future offense shall count as a first offense. The  
10           5-year period shall restart if, during that period, an  
11           employer receives a subsequent notice of violation from  
12           the Department.

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

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

25           (2) For a second offense, a fine not to exceed \$2,500  
26           at the discretion of the Department. A second offense is a



1       single job posting that violates subsection (b-25) of  
2       Section 10. The Department shall have discretion to waive  
3       any civil penalty under this paragraph.

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

10       (d) In determining the amount of the penalty under this  
11       Section, the appropriateness of the penalty to the size of the  
12       business of the employer charged and the gravity of the  
13       violation shall be considered. The penalty may be recovered in  
14       a civil action brought by the Director in any circuit court.

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

16       Section 99. Effective date. This Act takes effect January  
17       1, 2025."