



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB5128

Introduced 2/10/2026, by Rep. Dan Ugaste

SYNOPSIS AS INTRODUCED:

820 ILCS 192/10
820 ILCS 192/15
820 ILCS 192/30
820 ILCS 192/35

Amends the Paid Leave for All Workers Act. Provides that the definition of "employee" does not include: (1) an employee engaged in the transportation of goods through this State; (2) an employee who is free to decide what time the employee performs duties for an employer; or (3) an employee who is employed by an employer with fewer than 15 employees. Makes changes to provisions concerning the provision of paid leave; the responsibilities of the Department of Labor; and enforcement and penalties.

LRB104 18809 SPS 32252 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 15. The Paid Leave for All Workers Act is amended
5 by changing Sections 10, 15, 30, and 35 as follows:

6 (820 ILCS 192/10)

7 Sec. 10. Definitions. As used in this Act:

8 "Construction industry" means any constructing, altering,
9 reconstructing, repairing, rehabilitating, refinishing,
10 refurbishing, remodeling, remediating, renovating, custom
11 fabricating, maintenance, landscaping, improving, wrecking,
12 painting, decorating, demolishing, or adding to or subtracting
13 from any building, structure, highway, roadway, street,
14 bridge, alley, sewer, ditch, sewage disposal plant,
15 waterworks, parking facility, railroad, excavation or other
16 structure, project, development, real property, or
17 improvement, or to do any part thereof, whether or not the
18 performance of the work herein described involves the addition
19 to or fabrication into, any structure, project, development,
20 real property, or improvement herein described of any material
21 or article of merchandise.

22 "Construction industry" also includes moving construction
23 related materials on the job site or to or from the job site,

1 snow plowing, snow removal, and refuse collection.

2 "Department" means the Illinois Department of Labor.

3 "Domestic work" and "domestic worker" have the same
4 meanings as defined in Section 10 of the Domestic Workers'
5 Bill of Rights Act, except that "domestic worker" also
6 includes independent contractors, sole proprietors, and
7 partnerships.

8 "Employee" has the same application and meaning as that
9 provided in Sections 1 and 2 of the Illinois Wage Payment and
10 Collection Act. "Employee" also includes all domestic workers,
11 and, for the purposes of this Act, domestic workers shall not
12 be excluded as employees under the provisions of item (1),
13 (2), or (3) of Section 2 of the Illinois Wage Payment and
14 Collection Act. "Employee" does not include:

15 (1) an employee as defined in the federal Railroad
16 Unemployment Insurance Act (45 U.S.C. 351 et seq.) or the
17 Railway Labor Act;

18 (2) a student enrolled in and regularly attending
19 classes in a college or university that is also the
20 student's employer, and who is employed on a temporary
21 basis at less than full time at the college or university,
22 but this exclusion applies only to work performed for that
23 college or university; ~~or~~

24 (3) a short-term employee who is employed by an
25 institution of higher education for less than 2
26 consecutive calendar quarters during a calendar year and

1 who does not have a reasonable expectation that they will
2 be rehired by the same employer of the same service in a
3 subsequent calendar year; -

4 (4) an employee engaged in the transportation of goods
5 through this State, including an employee engaged in the
6 operation of a vessel that is documented by the United
7 States under 46 U.S.C. 12105;

8 (5) an employee who is able to decide what time and day
9 the employee performs duties for an employer; or

10 (6) an employee who is employed by an employer with
11 fewer than 15 employees.

12 "Employer" has the same application and meaning as that
13 provided in Sections 1 and 2 of the Illinois Wage Payment and
14 Collection Act, except that for purposes of this Act,
15 "employer" also means the State and units of local government,
16 any political subdivision of the State or units of local
17 government, or any State or local government agency.

18 "Employer" does not include school districts organized
19 under the School Code or park districts organized under the
20 Park District Code.

21 "Writing" or "written" means a printed or printable
22 communication in physical or electronic format, including a
23 communication that is transmitted through electronic mail,
24 text message, or a computer system or is otherwise sent or
25 stored electronically.

26 (Source: P.A. 102-1143, eff. 1-1-24.)

1 (820 ILCS 192/15)

2 Sec. 15. Provision of paid leave.

3 (a) An employee who works in Illinois is entitled to earn
4 and use up to a minimum of 40 hours of paid leave during a
5 12-month period or a pro rata number of hours of paid leave
6 under the provisions of subsection (b). The paid leave may be
7 used by the employee for any purpose as long as the paid leave
8 is taken in accordance with the provisions of this Act.

9 (b) Paid leave under this Act shall accrue at the rate of
10 one hour of paid leave for every 40 hours worked up to a
11 minimum of 40 hours of paid leave or such greater amount if the
12 employer provides more than 40 hours. Employees who are exempt
13 from the overtime requirements of the federal Fair Labor
14 Standards Act (29 U.S.C. 213(a)(1)) shall be deemed to work 40
15 hours in each workweek for purposes of paid leave accrual
16 unless their regular workweek is less than 40 hours, in which
17 case paid leave accrues based on that regular workweek.
18 Employees shall determine how much paid leave they need to
19 use; however, employers may set a reasonable minimum increment
20 for the use of paid leave not to exceed 2 hours per day. If an
21 employee's scheduled workday is less than 2 hours per day, the
22 employee's scheduled workday shall be used to determine the
23 amount of paid leave. Employers who voluntarily provide all
24 employees with one hour of paid leave for every 40 hours worked
25 in a 12-month period are exempt from this Act.

1 (c) An employer may make available the minimum number of
2 hours of paid leave, subject to pro rata requirements provided
3 in subsection (b), to an employee on the first day of
4 employment or the first day of the 12-month period. Employers
5 that provide the minimum number of hours of paid leave to an
6 employee on the first day of employment or the first day of the
7 12-month period are not required to carry over paid leave from
8 12-month period to 12-month period and may require employees
9 to use all paid leave prior to the end of the benefit period or
10 forfeit the unused paid leave. However, under no circumstances
11 shall an employee be credited with paid leave that is less than
12 what the employee would have accrued under subsections (a) and
13 (g) of this Section.

14 (d) The 12-month period may be any consecutive 12-month
15 period designated by the employer in writing at the time of
16 hire. Changes to the 12-month period may be made by the
17 employer if notice is given to employees in writing prior to
18 the change and the change does not reduce the eligible accrual
19 rate and paid leave available to the employee. If the employer
20 changes the designated 12-month period, the employer shall
21 provide the employee with documentation of the balance of
22 hours worked, paid leave accrued and taken, and the remaining
23 paid leave balance.

24 (e) Paid leave under this Act may be taken by an employee
25 for any reason of the employee's choosing. An employee is not
26 required to provide an employer a reason for the leave and may

1 not be required to provide documentation or certification as
2 proof or in support of the leave. An employee may choose
3 whether to use paid leave provided under this Act prior to
4 using any other leave provided by the employer or State law.

5 (f) Employees shall be paid their hourly rate of pay for
6 paid leave. However, employees engaged in an occupation in
7 which gratuities or commissions have customarily and usually
8 constituted and have been recognized as part of the
9 remuneration for hire purposes shall be paid by their employer
10 at least the full minimum wage in the jurisdiction in which
11 they are employed when paid leave is taken. This wage shall be
12 treated as the employee's regular rate of pay for purposes of
13 this Act.

14 (g) Paid leave under this Act shall begin to accrue at the
15 commencement of employment or on the effective date of this
16 Act, whichever is later. Employees shall be entitled to begin
17 using paid leave 90 days following commencement of their
18 employment or 90 days following the effective date of this
19 Act, whichever is later.

20 (h) Paid leave under this Act shall be provided upon the
21 oral or written request of an employee in accordance with the
22 employer's reasonable paid leave policy notification
23 requirements which may include the following:

24 (1) If use of paid leave under this Act is
25 foreseeable, the employer may require the employee to
26 provide 7 calendar days' notice before the date the leave

1 is to begin.

2 (2) If paid leave under this Act is not foreseeable,
3 the employee shall provide such notice as soon as is
4 practicable after the employee is aware of the necessity
5 of the leave. An employer that requires notice of paid
6 leave under this Act when the leave is not foreseeable
7 shall provide a written policy that contains procedures
8 for the employee to provide notice.

9 (3) Employers shall provide employees with written
10 notice of the paid leave policy notification requirements
11 in this Section in the manner provided in Section 20 for
12 notice and posting and within 5 calendar days of any
13 change to the employer's reasonable paid leave policy
14 notification requirements.

15 (4) An employer may not require, as a condition of
16 providing paid leave under this Act, that the employee
17 search for or find a replacement worker to cover the hours
18 during which the employee takes paid leave.

19 (i) Except as provided in subsection (c), paid leave under
20 this Act shall carry over annually to the extent not used by
21 the employee, provided that nothing in this Act shall be
22 construed to require an employer to provide more than 40 hours
23 of paid leave for an employee in the 12-month period unless the
24 employer agrees to do so.

25 (j) Nothing in this Section or any other Illinois law or
26 rule shall be construed as requiring financial or other

1 payment to an employee from an employer upon the employee's
2 termination, resignation, retirement, or other separation from
3 employment for paid leave accrued under this Act that has not
4 been used. Nothing in this Section or any other Illinois law or
5 rule shall be construed as requiring financial or other
6 reimbursements to an employee from an employer for unused paid
7 leave under this Act at the end of the benefit year or any
8 other time.

9 (k) If an employee is transferred to a separate division,
10 entity, or location, but remains employed by the same
11 employer, the employee is entitled to all paid leave accrued
12 at the prior division, entity, or location and is entitled to
13 use all paid leave as provided in this Section. If there is a
14 separation from employment and the employee is rehired within
15 12 months of separation by the same employer, previously
16 accrued paid leave that had not been used by the employee shall
17 be reinstated. The employee shall be entitled to use accrued
18 paid leave at the commencement of employment following a
19 separation from employment of 12 months or less.

20 ~~(l) Paid leave under this Act shall not be charged or~~
21 ~~otherwise credited to an employee's paid time off bank or~~
22 ~~employee account unless the employer's policy permits such a~~
23 ~~credit.~~ If the paid leave under this Act is credited to an
24 employee's paid time off bank or employee vacation account
25 then any unused paid leave shall be paid to the employee upon
26 the employee's termination, resignation, retirement, or other

1 separation to the same extent as vacation time under existing
2 Illinois law or rule. Nothing in this Act shall be construed to
3 waive or otherwise limit an employee's right to final
4 compensation for promised and earned, but unpaid vacation time
5 or paid time off, as provided under the Illinois Wage Payment
6 and Collection Act and rules. Employers shall provide
7 employees with written notice of changes to the employer's
8 vacation time, paid time off, or other paid leave policies
9 that affect an employee's right to final compensation for such
10 leave.

11 (m) During any period an employee takes leave under this
12 Act, the employer shall maintain coverage for the employee and
13 any family member under any group health plan for the duration
14 of such leave at no less than the level and conditions of
15 coverage that would have been provided if the employee had not
16 taken the leave. The employer shall notify the employee that
17 the employee is still responsible for paying the employee's
18 share of the cost of the health care coverage, if any.

19 (n) Nothing in this Act shall be deemed to interfere with,
20 impede, or in any way diminish the right of employees to
21 bargain collectively with their employers through
22 representatives of their own choosing in order to establish
23 wages or other conditions of work in excess of the applicable
24 minimum standards established in this Act. The paid leave
25 requirements of this Act may be waived in a bona fide
26 collective bargaining agreement, but only if the waiver is set

1 forth explicitly in such agreement in clear and unambiguous
2 terms.

3 Nothing in this Act shall be deemed to affect the validity
4 or change the terms of bona fide collective bargaining
5 agreements in effect on January 1, 2024. After that date,
6 requirements of this Act may be waived in a bona fide
7 collective bargaining agreement, but only if the waiver is set
8 forth explicitly in such agreement in clear and unambiguous
9 terms.

10 In no event shall this Act apply to any employee working in
11 the construction industry who is covered by a bona fide
12 collective bargaining agreement, nor shall this Act apply to
13 any employee who is covered by a bona fide collective
14 bargaining agreement with an employer that provides services
15 nationally and internationally of delivery, pickup, and
16 transportation of parcels, documents, and freight.

17 Notwithstanding the provisions of this subsection, nothing
18 in this Act shall be deemed to affect the validity or change
19 the terms of a bona fide collective bargaining agreement
20 applying to an employee who is employed by a State agency that
21 is in effect on July 1, 2024. After that date, requirements of
22 this Act may be waived in a bona fide collective bargaining
23 agreement, but only if the waiver is set forth explicitly in
24 such agreement in clear and unambiguous terms. As used in this
25 subsection, "State agency" has the same meaning as set forth
26 in Section 4 of the Forms Notice Act.

1 (o) An agreement by an employee to waive his or her rights
2 under this Act is void as against public policy.

3 (p) The provisions of this Act shall not apply to any
4 employer that is covered by a municipal or county ordinance
5 that is in effect on the effective date of this Act that
6 requires employers to give any form of paid leave to their
7 employees, including paid sick leave or paid leave.
8 Notwithstanding the provisions of this subsection, any
9 employer that is not required to provide paid leave to its
10 employees, including paid sick leave or paid leave, under a
11 municipal or county ordinance that is in effect on the
12 effective date of this Act shall be subject to the provisions
13 of this Act if the employer would be required to provide paid
14 leave under this Act to its employees.

15 Any local ordinance that provides paid leave, including
16 paid sick leave or paid leave, enacted or amended after the
17 effective date of this Act must comply with the requirements
18 of this Act or provide benefits, rights, and remedies that are
19 greater than or equal to the benefits, rights, and remedies
20 afforded under this Act.

21 An employer in a municipality or county that enacts or
22 amends a local ordinance that provides paid leave, including
23 paid sick leave or paid leave, after the effective date of this
24 Act shall only comply with the local ordinance or ordinances
25 so long as the benefits, rights, and remedies are greater than
26 or equal to the benefits, rights, and remedies afforded under

1 this Act.

2 (Source: P.A. 103-605, eff. 7-1-24; 104-417, eff. 8-15-25.)

3 (820 ILCS 192/30)

4 Sec. 30. Department responsibilities.

5 (a) The Department shall administer and enforce this Act.

6 The Department has the powers and the parties have the rights
7 provided in the Illinois Administrative Procedure Act for
8 contested cases.

9 (b) An employee may file a complaint with the Department
10 alleging violations of the Act within 3 years after the
11 alleged violation. An employer that violates this Act is
12 liable to any affected employee for damages in the form of the
13 actual underpayment, compensatory damages, and a penalty of
14 not less than \$500 and no more than \$1,000. Employees shall
15 also be entitled to such equitable relief as may be
16 appropriate, in addition to reasonable attorney's fees;
17 reasonable expert witness fees, and other costs of the action,
18 which shall be paid by the employer to the employee.

19 (c) The Department has the power to conduct investigations
20 in connection with the administration and enforcement of this
21 Act. The Department shall make a determination of the severity
22 of a violation by considering the totality of the
23 circumstances, prior to conducting, ~~including the power to~~
24 ~~conduct~~ depositions and discovery and issuing ~~to issue~~
25 subpoenas. If the Department finds cause to believe that this

1 Act has been violated, the Department shall notify the parties
2 in writing of the violation, the applicable penalty as
3 described in Section 35, and the 14-day period provided to
4 cure the violation, and the matter shall be referred to an
5 Administrative Law Judge to schedule a formal hearing in
6 accordance with hearing procedures established by rule.
7 Administrative decisions shall be reviewed under the
8 Administrative Review Law.

9 (d) The Department is authorized to impose civil penalties
10 prescribed in Section 35 for any violation of this Act.

11 (e) The Department is authorized to collect and supervise
12 the payment of any damages awarded pursuant to Section 25 and
13 subsection (b) of this Section to an employee or employees
14 under this Act. Any sums recovered by the Department on behalf
15 of an employee or employees under this Act shall be paid to the
16 employee or employees affected. The Department is not
17 authorized to collect and supervise the payment of any awarded
18 attorney's fees. Those fees shall be subject to collection by
19 the attorney awarded such fees.

20 (f) The Attorney General may bring an action to enforce
21 the collection of any awards made under this Act.

22 (g) The Department shall adopt rules necessary to
23 administer and enforce this Act.

24 (Source: P.A. 102-1143, eff. 1-1-24.)

1 Sec. 35. Penalties and enforcement. An employer that
2 violates this Act or any rule adopted under this Act shall be
3 subject to a civil penalty of:

4 (1) for a first offense, a fine not to exceed \$250;

5 (2) for a second offense, following a period of 14
6 days to cure the violation, a fine not to exceed \$1,000;
7 and

8 (3) for a third or subsequent offense, a fine not to
9 exceed \$2,500.

10 The Department shall have discretion to waive any civil
11 penalty under this Section. In determining the amount of the
12 penalty under this Section, the Department shall consider the
13 appropriateness of the penalty compared to the size of the
14 business operated by the employer ~~\$2,500 for each separate~~
15 ~~offense. An offense means any violation of this Act with the~~
16 ~~exception of a violation of the notice requirement in~~
17 ~~subsection (c) of Section 20.~~ Any penalties collected from an
18 employer under this Section or under subsection (d) of Section
19 20 for violations of this Act shall be deposited into the Paid
20 Leave for All Workers Fund, a special fund created in the State
21 treasury that is dedicated to enforcing this Act.

22 (Source: P.A. 102-1143, eff. 1-1-24.)