

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, 15, and 20 and by adding
6 Sections 16, 17, 18, 19, and 25 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 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 renamed the E-Verify program, employers are urged to consult
16 the Illinois Department of Labor's website for current
17 information on the accuracy of the E-Verify program and to
18 review and understand an employer's legal responsibilities
19 relating to the use of the E-Verify program. Nothing in this
20 Act shall be construed to require an employer to enroll in any
21 Electronic Employment Verification System, including the
22 E-Verify program ~~and the Basic Pilot program, as authorized by~~
23 ~~8 U.S.C. 1324a, Notes, Pilot Programs for Employment~~

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

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

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

25 (1) that the employer has received the Basic Pilot or
26 E-Verify training materials from the Department of

1 Homeland Security (DHS), and that all employees who will
2 administer the program have completed the ~~Basic Pilot or~~
3 E-Verify Computer Based Tutorial (CBT); and

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

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

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

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

25 (3) to fail to take reasonable steps to prevent an
26 employee from circumventing the requirement to complete

1 the CBT by assuming another employee's E-Verify or Basic
2 Pilot user identification or password;

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

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

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

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

1 of access to the System are not disseminated to any person
2 other than employees who need such information and access
3 to perform the employer's employment verification
4 responsibilities.

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

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

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

25 (1) as a condition of receiving a government contract;

26 (2) as a condition of receiving a business license; or

1 (3) as penalty for violating licensing or other
2 similar laws.

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

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

7 (820 ILCS 55/13)

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

10 (a) As used in this Section:

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

15 "Inspecting entity" means the U.S. Department of Homeland
16 Security, the Immigrant Employee Rights Section, or the U.S.
17 Department of Labor, as required under 8 U.S.C. 1324a(b)(3)
18 ~~Immigration and Customs Enforcement, United States Customs and~~
19 ~~Border Protection, or any other federal entity enforcing civil~~
20 ~~immigration violations of an employer's I-9 Employment~~
21 ~~Eligibility Verification forms.~~

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

1 program, shall not impose work authorization verification or
2 re-verification requirements greater than those required by
3 the Employment Eligibility Verification System, including the
4 E-Verify program.

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

8 (1) The specific document or documents, if made
9 available to the employer, that the employer deems to be
10 deficient and the reason why the document or documents are
11 deficient. Upon request by the employee or the employee's
12 authorized representative, the employer shall give to the
13 employee the original document forming the basis for the
14 employer's contention of deficiency within 7 business
15 days, unless a shorter timeline is provided for under a
16 collective bargaining agreement.

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

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

1 (4) An explanation of any other rights that the
2 employee may have in connection with the employer's
3 contention.

4 (d) (Blank). ~~When an employer receives notification from~~
5 ~~any federal or State agency, including, but not limited to,~~
6 ~~the Social Security Administration or the Internal Revenue~~
7 ~~Service, of a discrepancy as it relates to work authorization,~~
8 ~~the following rights and protections are granted to the~~
9 ~~employee:~~

10 ~~(1) The employer must not take any adverse action~~
11 ~~against the employee, including re-verification, based on~~
12 ~~the receipt of the notification.~~

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

~~employer shall notify the employee in person and deliver the notification by hand, if possible. If hand delivery is not possible, then the employer shall notify the employee by mail and email, if the email address of the employee is known, and shall notify the employee's authorized representative. Upon request by the employee or the employee's authorized representative, the employer shall give to the employee the original notice from the federal or State agency, including, but not limited to, the Social Security Administration or the Internal Revenue Service, within 7 business days. This original notice shall be redacted in compliance with State and federal privacy laws and shall relate only to the employee receiving the notification.~~

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

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

(d-5) If an employer receives a written notification from any federal agency or other outside vendor not responsible for the enforcement of immigration law, including, but not limited to, the Social Security Administration, the Internal Revenue Service, or an insurance company, of a discrepancy as it

1 relates to an employee's individual taxpayer identification
2 number or other identifying documents, the following rights
3 and protections are granted to the employee:

4 (1) The employer shall not take any adverse action
5 against the employee, including requiring an employee to
6 re-verify the employee's authorization to work in the
7 United States solely based on the receipt of the
8 notification.

9 (2) The employer shall provide a notice to the
10 employee and to the employee's authorized representative,
11 if any, as soon as practicable, but not more than 5
12 business days after the date of receipt of the
13 notification or after the employer makes the determination
14 that an employee must respond to the notification in any
15 manner, whichever is longer, unless a shorter timeline is
16 provided for under federal law or a collective bargaining
17 agreement. The employer shall notify the employee in
18 person and deliver the notification by hand, if possible.
19 If hand delivery is not possible, then the employer shall
20 notify the employee by mail and email, if the email
21 address of the employee is known, and shall notify the
22 employee's authorized representative. Upon request by the
23 employee or the employee's authorized representative, the
24 employer shall give to the employee the original
25 notification. The notice to the employee shall include,
26 but shall not be limited to: (A) an explanation that the

1 federal agency or outside vendor not responsible for the
2 enforcement of immigration law has notified the employer
3 that the identification documents presented by the
4 employee do not appear to match; (B) the time period the
5 employee has to contest the disputed information, if such
6 a time period is required by federal law; and (C) any
7 action the employer is requiring the employee to take.

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

11 (e) Except as otherwise required by federal law, an
12 employer shall provide a notice to each current employee, by
13 posting in English and in any language commonly used in the
14 workplace, of any inspections of I-9 Employment Eligibility
15 Verification forms or other employment records conducted by
16 the inspecting entity within 72 hours after receiving notice
17 of the inspection. Written notice shall also be given within
18 72 hours to the employee's authorized representative, if any.
19 The posted notice shall contain the following information:

20 (1) the name of the entity conducting the inspections
21 of I-9 Employment Eligibility Verification forms or other
22 employment records;

23 (2) the date that the employer received notice of the
24 inspection;

25 (3) the nature of the inspection to the extent known
26 by the employer; and

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

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

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

14 (g) Except as otherwise required by federal law, if during
15 an inspection of the employer's I-9 Employment Eligibility
16 Verification forms by an inspecting entity, the inspecting
17 entity makes a determination that the employee's work
18 authorization documents do not establish that the employee is
19 authorized to work in the United States and provide the
20 employer with notice of that determination, the employer shall
21 provide a written notice as set forth in this subsection to the
22 employee within 5 business days, unless a shorter timeline is
23 provided for under federal law or a collective bargaining
24 agreement. The employer's notice to the employee shall relate
25 to the employee only. The employer shall notify the employee
26 in person and deliver the notification by hand, if possible.

1 If hand delivery is not possible, then the employer shall
2 notify the employee by mail and email, if the email address of
3 the employee is known, and shall notify the employee's
4 authorized representative. The employer's notice to the
5 employee shall contain the following information:

6 (1) an explanation that the inspecting entity has
7 determined that the employee's work authorization
8 documents presented by the employee do not appear to be
9 valid or reasonably relate to the employee;

10 (2) the time period for the employee to notify the
11 employer whether the employee is contesting or not
12 contesting the determination by the inspecting entity, if
13 any time period is required by federal law;

14 (3) if known by the employer, the time and date of any
15 meeting with the employer and employee or with the
16 inspecting entity and employee related to the correction
17 of the inspecting entity's determination that the
18 employee's work authorization documents presented by the
19 employee do not appear to be valid or reasonably relate to
20 the employee; and

21 (4) notice that the employee has the right to
22 representation during any meeting scheduled with the
23 employer and the inspecting entity.

24 If the employee contests the inspecting entity's
25 determination, the employer will notify the employee within 72
26 hours after receipt of any final determination by the

1 inspecting entity related to the employee's work authorization
2 status. Upon request by the employee or the employee's
3 authorized representative, the employer shall give the
4 employee the original notice from the inspecting entity within
5 7 business days. This original notice shall be redacted in
6 compliance with State and federal privacy laws and shall
7 relate only to the employee receiving the notification.

8 (h) This Section does not require a penalty to be imposed
9 upon an employer or person who fails to provide notice to an
10 employee at the express and specific direction or request of
11 the federal government. ~~In determining the amount of the~~
12 ~~penalty, the appropriateness of the penalty to the size of the~~
13 ~~business of the employer charged and the gravity of the~~
14 ~~violation shall be considered. The penalty may be recovered in~~
15 ~~a civil action brought by the Director in any circuit court.~~
16 Upon request by the employee or the employee's authorized
17 representative, the employer shall give the employee the
18 original notice from the inspecting entity within 7 business
19 days.

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

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

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

1 (820 ILCS 55/15) (from Ch. 48, par. 2865)

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

3 (a) It shall be the duty of the Department to enforce the
4 provisions of this Act when, in the Department's judgment,
5 there is cause and sufficient resources for investigation. The
6 Department shall have the power to conduct investigations in
7 connection with the administration and enforcement of this
8 Act, and any investigator with the Department shall be
9 authorized to visit and inspect, at all reasonable times, any
10 places covered by this Act and shall be authorized to inspect,
11 at all reasonable times, records of the employer or
12 prospective employer related to its employees or prospective
13 employees and related to its participation in and compliance
14 with the E-Verify program. The Department shall have the
15 authority to request the issuance of a search warrant or
16 subpoena to inspect the files of the employer or prospective
17 employer, if necessary. The Department shall conduct hearings
18 in accordance with the Illinois Administrative Procedure Act
19 upon written complaint by an investigator of the Department.
20 After the hearing, if supported by the evidence, the
21 Department may (i) issue and cause to be served on any party an
22 order to cease and desist from further violation of the Act,
23 (ii) take affirmative or other action as deemed reasonable to
24 eliminate the effect of the violation, and (iii) determine the
25 amount of any civil penalty allowed by the Act. The Director of
26 Labor or his or her representative may compel, by subpoena,

1 the attendance and testimony of witnesses and the production
2 of books, payrolls, records, papers, and other evidence in any
3 investigation or hearing and may administer oaths to witnesses
4 ~~The Director of Labor or his authorized representative shall~~
5 ~~administer and enforce the provisions of this Act. The~~
6 ~~Director of Labor may issue rules and regulations necessary to~~
7 ~~administer and enforce the provisions of this Act.~~

8 (b) If an employee or applicant for employment alleges
9 that he or she has been denied his or her rights under this
10 Act, he or she may file a complaint with the Department of
11 Labor. The Department shall investigate the complaint pursuant
12 to its authority under subsection (a) ~~and shall have authority~~
13 ~~to request the issuance of a search warrant or subpoena to~~
14 ~~inspect the files of the employer or prospective employer, if~~
15 ~~necessary.~~ The Department shall attempt to resolve the
16 complaint by conference, conciliation, or persuasion. If the
17 complaint is not so resolved and the Department finds the
18 employer or prospective employer has violated the Act, the
19 Department may commence an action in the circuit court to
20 enforce the provisions of this Act including an action to
21 compel compliance. The circuit court for the county in which
22 the complainant resides or in which the complainant is
23 employed shall have jurisdiction in such actions.

24 (c) (Blank). ~~If an employer or prospective employer~~
25 ~~violates this Act, an employee or applicant for employment may~~
26 ~~commence an action in the circuit court to enforce the~~

~~provisions of this Act, including actions to compel compliance, where efforts to resolve the employee's or applicant for employment's complaint concerning the violation by conference, conciliation or persuasion under subsection (b) have failed and the Department has not commenced an action in circuit court to redress the violation. The circuit court for the county in which the complainant resides or in which the complainant is employed shall have jurisdiction in such actions.~~

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

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

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

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

~~(4) For a willful and knowing violation of Section 13, a civil penalty of a minimum of \$2,000 up to a maximum of \$5,000 for a first violation and a civil penalty of a minimum of \$5,000 up to a maximum of \$10,000 for each subsequent violation per affected employee plus costs,~~

1 ~~reasonable attorney's fees, and actual damages.~~

2 (e) Any employer or prospective employer or his agent who
3 violates the provisions of this Act is guilty of a petty
4 offense.

5 (f) Any employer or prospective employer, or the officer
6 or agent of any employer or prospective employer, who
7 discharges or in any other manner discriminates against any
8 employee or applicant for employment because that employee or
9 applicant for employment has made a complaint to his employer,
10 or to the Director of Labor or his authorized representative,
11 or because that employee or applicant for employment has
12 caused to be instituted or is about to cause to be instituted
13 any proceeding under or related to this Act, or because that
14 employee or applicant for employment has testified or is about
15 to testify in an investigation or proceeding under this Act,
16 is guilty of a petty offense.

17 (g) No employer or prospective employer shall be subject
18 to concurrent or duplicative enforcement actions under both
19 Sections 16 and 17. Upon the initiation of any action under
20 either Section 16 or 17, all other rights of action under the
21 other Section shall be precluded. The first action commenced
22 shall bar any further enforcement based on the same set of
23 facts or alleged violation. For the purposes of this Section,
24 an action is deemed to be initiated upon the filing of a
25 complaint in circuit court.

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

1 (820 ILCS 55/16 new)

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

4 (a) As used in this Section, "interested party" means a
5 not-for-profit corporation, as defined by the General Not For
6 Profit Corporation Act of 1986, or a labor organization, as
7 defined by 29 U.S.C. 152(5), that monitors or is attentive to
8 compliance with worker safety and privacy laws, wage and hour
9 requirements, or other statutory requirements.

10 (b) Upon a reasonable belief that an employer or
11 prospective employer covered by this Act is in violation of
12 any part of this Act, an interested party may bring a civil
13 action in the county where the alleged offenses occurred or
14 where any party to the action resides, in the name of the State
15 and for the benefit of any impacted employees or prospective
16 employees.

17 (1) No later than 30 days after filing an action, the
18 interested party shall serve upon the State through the
19 Attorney General a copy of the complaint and written
20 disclosure of substantially all material evidence and
21 information the interested party possesses.

22 (2) The State may elect to intervene and proceed with
23 the action no later than 60 days after it receives both the
24 complaint and the material evidence and information. The
25 State may, for good cause shown, move the court for an

1 extension of the time to intervene and proceed with the
2 action.

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

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

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

10 (4) When the State conducts the action, the interested
11 party shall have the right to continue as a party to the
12 action subject to the following limitations:

13 (i) the State may dismiss the action
14 notwithstanding the objections of the interested party
15 initiating the action if the interested party has been
16 notified by the State of the filing of the motion and
17 the court has provided the interested party with an
18 opportunity for a hearing on the motion; and

19 (ii) the State may settle the action with the
20 defendant notwithstanding the objections of the person
21 initiating the action if the court determines, after a
22 hearing, that the proposed settlement is fair,
23 adequate, and reasonable under all the circumstances.

24 (5) If an interested party brings an action under this
25 Section, no person other than the State may intervene or
26 bring a related action on behalf of the State based on the

1 facts underlying the pending action.

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

6 (c) Any claim or action filed by an interested party under
7 this Section shall be made no later 3 years after the alleged
8 conduct resulting in the complaint, plus any period for which
9 the limitations period has been tolled.

10 (d) In an action brought by an interested party under this
11 Section, an interested party may recover against the covered
12 entity any statutory penalties set forth in Section 17,
13 injunctive relief, and any other relief available to the
14 Department. An interested party who prevails in a civil action
15 shall receive 10% of any statutory penalties assessed, plus
16 any attorney's fees and costs. The remaining 90% of any
17 statutory penalties assessed shall be deposited into a special
18 fund of the Department for enforcement of this Act.

19 (820 ILCS 55/17 new)

20 Sec. 17. Private right of action.

21 (a) A person aggrieved by a violation of this Act or any
22 rule adopted under this Act by an employer or prospective
23 employer may file suit in circuit court of Illinois, in the
24 county where the alleged offense occurred, where the employee
25 or prospective employee who is party to the action resides, or

1 where the employer or prospective employer which is party to
2 the action is located, without regard to exhaustion of any
3 alternative administrative remedies provided in this Act.
4 Actions may be brought by one or more affected employees or
5 prospective employees for and on behalf of themselves and
6 employees or prospective employees similarly situated. An
7 employee or prospective employee may recover for a violation
8 of the Act under this Section or under Section 15 or 16 at the
9 employee or prospective employee's option, but not under more
10 than one Section. An employee or prospective employee whose
11 rights have been violated under this Act by an employer or
12 prospective employer is entitled to collect under this
13 Section:

14 (1) in the case of a violation of this Act or any rule
15 adopted under this Act as it relates to the employee or
16 prospective employee, a civil penalty of not less than
17 \$100 and not more than \$1,000 for each violation found by a
18 court;

19 (2) in the event a violation of this Act or any rule
20 adopted under this Act as it relates to denial or loss of
21 employment for the employee or prospective employee, all
22 relief necessary to make the employee whole, including,
23 but not limited to, the following:

24 (i) reinstatement with the same seniority status
25 that the employee would have had but for the
26 violation, as appropriate;

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

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

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

6 (b) The right of an aggrieved person to bring an action
7 under this Section terminates upon the passing of 3 years
8 after the date of the violation. This limitations period is
9 tolled if an employer or prospective employer has failed to
10 provide an employee or prospective employee information
11 required under this Act or has deterred an employee or
12 prospective employee from the exercise of rights under this
13 Act.

14 (820 ILCS 55/18 new)

15 Sec. 18. Penalties.

16 (a) An employer or prospective employer that violates any
17 of the provisions of this Act or any rule adopted under this
18 Act shall be subject to a civil penalty of not less than \$100
19 and not more than \$1,000 for each violation of his Act found by
20 the Department or determined by a court in a civil action
21 brought by the Department or by an interested party, as
22 defined in subsection (a) of Section 16, or determined by a
23 court in a civil action brought by the Attorney General
24 pursuant to its authority under Section 6.3 of the Attorney
25 General Act. An employer or prospective employer that commits

1 a second or subsequent violation of the same provisions or
2 this Act or any rule adopted under this Act within a 3-year
3 period shall be subject to a civil penalty of not less than
4 \$1,000 and not more than \$5,000 for each violation of this Act
5 found by the Department or determined by a court in a civil
6 action brought by the Department or by an interested party, as
7 defined in subsection (a) of Section 16, or determined by a
8 court in a civil action brought by the Attorney General
9 pursuant to its authority under Section 6.3 of the Attorney
10 General Act. For purposes of this subsection, each violation
11 of this Act or any rule adopted under this Act shall constitute
12 a separate and distinct violation.

13 (b) In determining the amount of a penalty, the Director
14 or circuit court shall consider (i) the appropriateness of the
15 penalty to the size of the business of the employer charged and
16 (ii) the gravity of the violation.

17 (c) The Department shall adopt rules for violation
18 hearings and penalties for violations of this Act or the
19 Department's rules in conjunction with the penalties set forth
20 in this Act. Any administrative determination by the
21 Department as to the amount of each penalty shall be final
22 unless reviewed as provided in Section 17.

23 (820 ILCS 55/19 new)

24 Sec. 19. Review under the Administrative Review Law. Any
25 party to a proceeding under this Act may apply for and obtain

1 judicial review of an order of the Department entered under
2 this Act in accordance with the provisions of the
3 Administrative Review Law, and the Department, in proceedings
4 under this Act, may obtain an order from the court for the
5 enforcement of its order.

6 (820 ILCS 55/20)

7 Sec. 20. Dismissal of complaint. The Director or any court
8 of competent jurisdiction shall summarily dismiss any
9 complaint alleging a violation of Section 5 of this Act which
10 states as the sole cause of the complaint that the employer
11 offered a health, disability, or life insurance policy that
12 makes a distinction between employees for the type of coverage
13 or the price of coverage based upon the employees' use of
14 lawful products.

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

16 (820 ILCS 55/25 new)

17 Sec. 25. Voluntary compliance and safe harbor. No
18 penalties shall be imposed under this Act if the employer or
19 prospective employer:

20 (1) acts in good faith reliance on guidance issued by
21 the Illinois Department of Labor or the federal Department
22 of Homeland Security; or

23 (2) makes a bona fide administrative error that does
24 not affect an employee or prospective employee's

1 employment or pay.