



Sen. Javier L. Cervantes

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10400SB2339sam001

LRB104 09425 SPS 23942 a

1 AMENDMENT TO SENATE BILL 2339

2 AMENDMENT NO. _____. Amend Senate Bill 2339 by replacing
3 everything after the enacting clause with the following:

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, and 19 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

1 information on the accuracy of the E-Verify program and to
2 review and understand an employer's legal responsibilities
3 relating to the use of the E-Verify program. Nothing in this
4 Act shall be construed to require an employer to enroll in any
5 Electronic Employment Verification System, including the
6 E-Verify program ~~and the Basic Pilot program, as authorized by~~
7 ~~8 U.S.C. 1324a, Notes, Pilot Programs for Employment~~
8 ~~Eligibility Confirmation (enacted by P.L. 104-208, div. C,~~
9 ~~title IV, subtitle A)~~ beyond those obligations that have been
10 imposed upon them by federal law. Nothing in this Act shall be
11 construed to prohibit an employer from enrolling in any
12 Electronic Employment Verification System, including the
13 E-Verify program, as required or permitted by federal law.

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

24 (b) Upon initial enrollment in an Employment Eligibility
25 Verification System or within 30 days after the effective date
26 of this amendatory Act of the 96th General Assembly, an

1 employer enrolled in E-Verify or any other Employment
2 Eligibility Verification System must attest, under penalty of
3 perjury, on a form prescribed by the IDOL available on the IDOL
4 website:

5 (1) that the employer has received the Basic Pilot or
6 E-Verify training materials from the Department of
7 Homeland Security (DHS), and that all employees who will
8 administer the program have completed the ~~Basic Pilot or~~
9 E-Verify Computer Based Tutorial (CBT); and

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

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

25 (1) to fail to display the notices supplied by DHS and
26 IER ~~OSC~~ in a prominent place that is clearly visible to

1 both prospective and current employees;

2 (2) to allow any employee to use an Employment
3 Eligibility Verification System prior to having completed
4 CBT;

5 (3) to fail to take reasonable steps to prevent an
6 employee from circumventing the requirement to complete
7 the CBT by assuming another employee's E-Verify or Basic
8 Pilot user identification or password;

9 (4) to use the Employment Eligibility Verification
10 System to verify the employment eligibility of job
11 applicants prior to hiring or to otherwise use the
12 Employment Eligibility Verification System to screen
13 individuals prior to hiring and prior to the completion of
14 a Form I-9;

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

19 (6) to fail to notify an individual, in writing, of
20 the employer's receipt of a tentative nonconfirmation
21 notice, of the individual's right to contest the tentative
22 nonconfirmation notice, and of the contact information for
23 the relevant government agency or agencies that the
24 individual must contact to resolve the tentative
25 nonconfirmation notice;

26 (7) to fail to safeguard the information contained in

1 the Employment Eligibility Verification System, and the
2 means of access to the system (such as passwords and other
3 privacy protections). An employer shall ensure that the
4 System is not used for any purpose other than employment
5 verification of newly hired employees and shall ensure
6 that the information contained in the System and the means
7 of access to the System are not disseminated to any person
8 other than employees who need such information and access
9 to perform the employer's employment verification
10 responsibilities.

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

20 (c-2) It is a violation of this Section for an individual
21 to falsely pose as an employer in order to enroll in an
22 Employment Eligibility Verification System or for an employer
23 to use an Employment Eligibility Verification System to access
24 information regarding an individual who is not an employee of
25 the employer.

26 (d) Preemption. Neither the State nor any of its political

1 subdivisions, nor any unit of local government, including a
2 home rule unit, may require any employer to use an Employment
3 Eligibility Verification System, including under the following
4 circumstances:

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

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

7 (3) as penalty for violating licensing or other
8 similar laws.

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

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

13 (820 ILCS 55/13)

14 Sec. 13. Restrictions on the use of Employment Eligibility
15 Verification Systems.

16 (a) As used in this Section:

17 "Employee's authorized representative" means an exclusive
18 collective bargaining representative, an attorney, or, upon
19 written notification to the employer, any other representative
20 authorized by the employee.

21 "Inspecting entity" means the U.S. Department of Homeland
22 Security, the Immigrant Employee Rights Section, or the U.S.
23 Department of Labor, as required under 8 U.S.C. 1324a(b)(3)
24 ~~Immigration and Customs Enforcement, United States Customs and~~
25 ~~Border Protection, or any other federal entity enforcing civil~~

1 ~~immigration violations of an employer's I-9 Employment~~
2 ~~Eligibility Verification forms.~~

3 (b) An employer shall not impose work authorization
4 verification or re-verification requirements greater than
5 those required by federal law or, if enrolled in an Employment
6 Eligibility Verification System, including the E-Verify
7 program, shall not impose work authorization verification or
8 re-verification requirements greater than those required by
9 the Employment Eligibility Verification System, including the
10 E-Verify program.

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

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

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

25 (3) An explanation of the employee's right to have
26 representation present during related meetings,

1 discussions, or proceedings with the employer. If the
2 alleged discrepancy is based on information obtained
3 through the employer's participation in the E-Verify
4 program, the right to representation shall apply unless
5 not, if allowed by a memorandum of understanding
6 concerning the federal E-Verify system.

7 (4) An explanation of any other rights that the
8 employee may have in connection with the employer's
9 contention.

10 (d) (Blank). ~~When an employer receives notification from~~
11 ~~any federal or State agency, including, but not limited to,~~
12 ~~the Social Security Administration or the Internal Revenue~~
13 ~~Service, of a discrepancy as it relates to work authorization,~~
14 ~~the following rights and protections are granted to the~~
15 ~~employee.~~

16 ~~(1) The employer must not take any adverse action~~
17 ~~against the employee, including re verification, based on~~
18 ~~the receipt of the notification.~~

19 ~~(2) The employer must provide a notice to the employee~~
20 ~~and, if allowed by a memorandum of understanding~~
21 ~~concerning the federal E-Verify system, to the employee's~~
22 ~~authorized representative, if any, as soon as practicable,~~
23 ~~but not more than 5 business days after the date of receipt~~
24 ~~of the notification, unless a shorter timeline is provided~~
25 ~~for under federal law or a collective bargaining~~
26 ~~agreement. The notice to the employee shall include, but~~

~~not be limited to: (i) an explanation that the federal or State agency has notified the employer that the employee's work authorization documents presented by the employee do not appear to be valid or reasonably relate to the employee; and (ii) the time period the employee has to 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~~

1 ~~otherwise described in subsection (g).~~

2 (d-5) If an employer receives a written notification from
3 any federal agency or other outside third party not
4 responsible for the enforcement of immigration law, including,
5 but not limited to, the Social Security Administration, the
6 Internal Revenue Service, or an insurance company, of a
7 discrepancy as it relates to an employee's individual taxpayer
8 identification number or other identifying documents, the
9 following rights and protections are granted to the employee:

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

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

1 notice to the employee shall include, but shall not be
2 limited to: (A) an explanation that the federal agency or
3 outside third party has notified the employer that the
4 identification documents presented by the employee do not
5 appear to match; and (B) the time period the employee has
6 to contest the disputed information, if such a time period
7 is required by federal law.

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

18 (820 ILCS 55/16 new)

19 Sec. 16. Action for civil penalties brought by an
20 interested party.

21 (a) As used in this Section, "interested party" means an
22 organization that monitors or is attentive to compliance with
23 public or worker safety and privacy laws, wage and hour
24 requirements, or other statutory requirements.

25 (b) Upon a reasonable belief that an employer or

1 prospective employer covered by this Act is in violation of
2 any part of this Act, an interested party may initiate a civil
3 action in the county where the alleged offenses occurred or
4 where any party to the action resides, asserting that a
5 violation of the Act has occurred, pursuant to the following
6 sequence of events:

7 (1) The interested party submits to the Department of
8 Labor a complaint describing the violation and employer or
9 prospective employer alleged to have violated this Act.

10 (2) The Department sends notice of complaint to the
11 named parties alleged to have violated this Act and the
12 interested party. The named parties may either contest the
13 alleged violation or attempt to cure the alleged
14 violation.

15 (3) The named parties contest or cure the alleged
16 violation within 30 days after the receipt of the notice
17 of complaint or, if the named party does not respond
18 within 30 days, the Department issues a notice of right to
19 sue to the interested party as described in paragraph (4).

20 (4) The Department issues a notice of right to sue to
21 the interested party, if one or more of the following has
22 occurred:

23 (A) the named party has cured the alleged
24 violation to the satisfaction of the Director;

25 (B) the Director has determined that the
26 allegation is unjustified or that the Department does

1 not have jurisdiction over the matter or the parties;

2 or

3 (C) the Director has determined that the
4 allegation is justified or has not made a
5 determination, and either has decided not to exercise
6 jurisdiction over the matter or has concluded
7 administrative enforcement of the matter.

8 (c) If, within 180 days after service of the notice of
9 complaint to the parties, the Department has not resolved the
10 contest and cure period with the mutual agreement of the
11 parties, extended the time for the named party to cure the
12 violation and resolve the complaint, or issued a right to sue
13 letter, the interested party may initiate a civil action for
14 penalties. The parties may extend the 180-day period by mutual
15 agreement. The limitations period for the interested party to
16 bring an action for the alleged violation of the Act shall be
17 tolled for the 180-day period and for the period of any
18 mutually agreed extensions. At the end of the 180-day period,
19 or any mutually agreed extensions, the Department shall issue
20 a right to sue letter to the interested party.

21 (d) Upon receipt of a right to sue letter from the
22 Department, an interested party may bring a civil action in
23 the county where the alleged offenses occurred or where any
24 party to the action resides, in the name of the State and for
25 the benefit of any impacted employees or prospective
26 employees.

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

6 (2) The State may elect to intervene and proceed with
7 the action no later than 60 days after it receives both the
8 complaint and the material evidence and information. The
9 State may, for good cause shown, move the court for an
10 extension of the time to intervene and proceed with the
11 action.

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

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

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

19 (4) When the State conducts the action, the interested
20 party shall have the right to continue as a party to the
21 action subject to the following limitations:

22 (i) the State may dismiss the action
23 notwithstanding the objections of the interested party
24 initiating the action if the interested party has been
25 notified by the State of the filing of the motion and
26 the court has provided the interested party with an

1 opportunity for a hearing on the motion; and

2 (ii) the State may settle the action with the
3 defendant notwithstanding the objections of the person
4 initiating the action if the court determines, after a
5 hearing, that the proposed settlement is fair,
6 adequate, and reasonable under all the circumstances.

7 (5) If an interested party brings an action under this
8 Section, no person other than the State may intervene or
9 bring a related action on behalf of the State based on the
10 facts underlying the pending action.

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

15 (e) Any claim or action filed by an interested party under
16 this Section shall be made no later 3 years after the alleged
17 conduct resulting in the complaint, plus any period for which
18 the limitations period has been tolled.

19 (f) In an action brought by an interested party under this
20 Section, an interested party may recover against the covered
21 entity any statutory penalties set forth in Section 17,
22 injunctive relief, and any other relief available to the
23 Department. An interested party who prevails in a civil action
24 shall receive 10% of any statutory penalties assessed, plus
25 any attorney's fees and costs. The remaining 90% of any
26 statutory penalties assessed shall be deposited into a special

1 fund of the Department for enforcement of this Act.

2 (820 ILCS 55/17 new)

3 Sec. 17. Private right of action.

4 (a) A person aggrieved by a violation of this Act or any
5 rule adopted under this Act by an employer or prospective
6 employer may file suit in circuit court of Illinois, in the
7 county where the alleged offense occurred, where the employee
8 or prospective employee who is party to the action resides, or
9 where the employer or prospective employer which is party to
10 the action is located, without regard to exhaustion of any
11 alternative administrative remedies provided in this Act.
12 Actions may be brought by one or more affected employees or
13 prospective employees for and on behalf of themselves and
14 employees or prospective employees similarly situated. An
15 employee or prospective employee may recover for a violation
16 of the Act under this Section or under Section 15 or 16 at the
17 employee or prospective employee's option, but not under more
18 than one Section. An employee or prospective employee whose
19 rights have been violated under this Act by an employer or
20 prospective employer is entitled to collect under this
21 Section:

22 (1) in the case of a violation of this Act or any rule
23 adopted under this Act as it relates to the employee or
24 prospective employee, a civil penalty of not less than
25 \$100 and not more than \$1,000 for each violation found by a

1 court;

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

7 (i) reinstatement with the same seniority status
8 that the employee would have had but for the
9 violation, as appropriate;

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

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

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

15 (b) The right of an aggrieved person to bring an action
16 under this Section terminates upon the passing of 3 years
17 after the date of the violation. This limitations period is
18 tolled if an employer or prospective employer has failed to
19 provide an employee or prospective employee information
20 required under this Act or has deterred an employee or
21 prospective employee from the exercise of rights under this
22 Act.

23 (820 ILCS 55/18 new)

24 Sec. 18. Penalties.

25 (a) An employer or prospective employer that violates any

1 of the provisions of this Act or any rule adopted under this
2 Act shall be subject to a civil penalty of not less than \$100
3 and not more than \$1,000 for each violation of his Act found by
4 the Department or determined by a court in a civil action
5 brought by the Department or by an interested party, as
6 defined in subsection (a) of Section 16, or determined by a
7 court in a civil action brought by the Attorney General
8 pursuant to its authority under Section 6.3 of the Attorney
9 General Act. An employer or prospective employer that commits
10 a second or subsequent violation of the same provisions or
11 this Act or any rule adopted under this Act within a 3-year
12 period shall be subject to a civil penalty of not less than
13 \$1,000 and not more than \$5,000 for each violation of this Act
14 found by the Department or determined by a court in a civil
15 action brought by the Department or by an interested party, as
16 defined in subsection (a) of Section 16, or determined by a
17 court in a civil action brought by the Attorney General
18 pursuant to its authority under Section 6.3 of the Attorney
19 General Act. For purposes of this subsection, each violation
20 of this Act or any rule adopted under this Act shall constitute
21 a separate and distinct violation.

22 (b) In determining the amount of a penalty, the Director
23 or circuit court shall consider (i) the appropriateness of the
24 penalty to the size of the business of the employer charged and
25 (ii) the gravity of the violation.

26 (c) The Department shall adopt rules for violation

1 hearings and penalties for violations of this Act or the
2 Department's rules in conjunction with the penalties set forth
3 in this Act. Any administrative determination by the
4 Department as to the amount of each penalty shall be final
5 unless reviewed as provided in Section 17 of this Act.

6 (820 ILCS 55/19 new)

7 Sec. 19. Review under the Administrative Review Law. Any
8 party to a proceeding under this Act may apply for and obtain
9 judicial review of an order of the Department entered under
10 this Act in accordance with the provisions of the
11 Administrative Review Law, and the Department, in proceedings
12 under this Act, may obtain an order from the court for the
13 enforcement of its order.

14 (820 ILCS 55/20)

15 Sec. 20. Dismissal of complaint. The Director or any court
16 of competent jurisdiction shall summarily dismiss any
17 complaint alleging a violation of Section 5 of this Act which
18 states as the sole cause of the complaint that the employer
19 offered a health, disability, or life insurance policy that
20 makes a distinction between employees for the type of coverage
21 or the price of coverage based upon the employees' use of
22 lawful products.

23 (Source: P.A. 87-807.)".