

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Equal Pay Act of 2003 is amended by changing
5 Sections 10 and 30 as follows:

6 (820 ILCS 112/10)

7 Sec. 10. Prohibited acts.

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

16 (1) a seniority system;

17 (2) a merit system;

18 (3) a system that measures earnings by quantity or
19 quality of production; or

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

1 (A) is not based on or derived from a differential
2 in compensation based on sex or another protected
3 characteristic;

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

6 (C) accounts for the differential.

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

15 (1) a seniority system;

16 (2) a merit system;

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

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

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

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

1 consistent with a business necessity; and

2 (C) accounts for the differential.

3 An employer who is paying wages in violation of this Act
4 may not, to comply with this Act, reduce the wages of any other
5 employee.

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

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

1 require or allow access to other employees' wage or salary
2 information from disclosing that information without prior
3 written consent from the employee whose information is sought
4 or requested.

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

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

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

1 employer to comply with State or federal law; or

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

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

7 (1) providing information about the wages, benefits,
8 compensation, or salary offered in relation to a position;
9 or

10 (2) engaging in discussions with an applicant for
11 employment about the applicant's expectations with respect
12 to wage or salary, benefits, and other compensation.

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

22 (c) It is unlawful for any person to discharge or in any
23 other manner discriminate against any individual because the
24 individual:

25 (1) has filed any charge or has instituted or caused to
26 be instituted any proceeding under or related to this Act;

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

4 (3) has testified, or is about to testify, in any
5 inquiry or proceeding relating to any right provided under
6 this Act; or ~~or~~

7 (4) fails to comply with any wage or salary history
8 inquiry.

9 (Source: P.A. 100-1140, eff. 1-1-19.)

10 (820 ILCS 112/30)

11 Sec. 30. Violations; fines and penalties.

12 (a) If an employee is paid by his or her employer less than
13 the wage to which he or she is entitled in violation of Section
14 10 of this Act, the employee may recover in a civil action the
15 entire amount of any underpayment together with interest,
16 compensatory damages if the employee demonstrates that the
17 employer acted with malice or reckless indifference, punitive
18 damages as may be appropriate, injunctive relief as may be
19 appropriate, and the costs and reasonable attorney's fees as
20 may be allowed by the court and as necessary to make the
21 employee whole. At the request of the employee or on a motion
22 of the Director, the Department may make an assignment of the
23 wage claim in trust for the assigning employee and may bring
24 any legal action necessary to collect the claim, and the
25 employer shall be required to pay the costs incurred in

1 collecting the claim. Every such action shall be brought within
2 5 years from the date of the underpayment. For purposes of this
3 Act, "date of the underpayment" means each time wages are
4 underpaid.

5 (a-5) If an employer violates subsection (b), (b-5),
6 (b-10), or (b-20) of Section 10, the employee may recover in a
7 civil action any damages incurred, special damages not to
8 exceed \$10,000, injunctive relief as may be appropriate, and
9 costs and reasonable attorney's fees as may be allowed by the
10 court and as necessary to make the employee whole. If special
11 damages are available, an employee may recover compensatory
12 damages only to the extent such damages exceed the amount of
13 special damages. Such action shall be brought within 5 years
14 from the date of the violation.

15 (b) The Director is authorized to supervise the payment of
16 the unpaid wages under subsection (a) or damages under
17 subsection (b), (b-5), (b-10), or (b-20) of Section 10 owing to
18 any employee or employees under this Act and may bring any
19 legal action necessary to recover the amount of unpaid wages,
20 damages, and penalties or to seek injunctive relief, and the
21 employer shall be required to pay the costs. Any sums recovered
22 by the Director on behalf of an employee under this Section
23 shall be paid to the employee or employees affected.

24 (c) Employers who violate any provision of this Act or any
25 rule adopted under the Act are subject to a civil penalty for
26 each employee affected as follows:

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

5 (2) An employer with 4 or more employees: first
6 offense, a fine not to exceed \$2,500; second offense, a
7 fine not to exceed \$3,000; third or subsequent offense, a
8 fine not to exceed \$5,000.

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

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

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

19 Section 99. Effective date. This Act takes effect 60 days
20 after becoming law.