

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 Illinois Wage Payment and Collection Act is
5 amended by changing Section 11 and by adding Section 4.1 as
6 follows:

7 (820 ILCS 115/4.1 new)

8 Sec. 4.1. Gratuities.

9 (a) Gratuities to employees are the property of the
10 employees, and employers shall not keep gratuities. Failure to
11 pay gratuities owed to an employee more than 13 days after the
12 end of the pay period in which such gratuities were earned
13 constitutes a violation of this Act.

14 (b) This Section does not prohibit an employer from
15 withholding from gratuities paid by credit card a proportionate
16 amount of any credit card processing fees that the employer
17 must pay in connection with the transaction, provided that the
18 amount withheld does not exceed the proportion of the amount of
19 the tip to the amount of the overall bill, regardless of
20 whether the overall bill was paid using a credit card. This
21 Section does not prohibit tip pooling as permitted by law. This
22 Section does not affect an employer's entitlement to an
23 allowance for gratuities to the extent permitted under

1 subsection (c) of Section 4 of the Minimum Wage Law.

2 (820 ILCS 115/11) (from Ch. 48, par. 39m-11)

3 Sec. 11. It shall be the duty of the Department of Labor to
4 inquire diligently for any violations of this Act, and to
5 institute the actions for penalties herein provided, and to
6 enforce generally the provisions of this Act.

7 An employee may file a complaint with the Department
8 alleging violations of the Act by submitting a signed,
9 completed wage claim application on the form provided by the
10 Department and by submitting copies of all supporting
11 documentation. Complaints shall be filed within one year after
12 the wages, final compensation, or wage supplements were due.

13 Applications shall be reviewed by the Department to
14 determine whether there is cause for investigation.

15 The Department shall have the following powers:

16 (a) To investigate and attempt equitably to adjust
17 controversies between employees and employers in respect
18 of wage claims arising under this Act and to that end the
19 Department through the Director of Labor or any other
20 person in the Department of Labor designated by him or her,
21 shall have the power to administer oaths, subpoena and
22 examine witnesses, to issue subpoenas duces tecum
23 requiring the production of such books, papers, records and
24 documents as may be evidence of any matter under inquiry
25 and to examine and inspect the same as may relate to the

1 question in dispute. Service of such subpoenas shall be
2 made by any sheriff or any person. Any court in this State,
3 upon the application of the Department may compel
4 attendance of witnesses, the production of books and
5 papers, and the giving of testimony before the Department
6 by attachment for contempt or in any other way as the
7 production of evidence may be compelled before such court.

8 (b) To take assignments of wage claims in the name of
9 the Director of Labor and his or her successors in office
10 and prosecute actions for the collection of wages for
11 persons financially unable to prosecute such claims when in
12 the judgment of the Department such claims are valid and
13 enforceable in the courts. No court costs or any fees for
14 necessary process and proceedings shall be payable in
15 advance by the Department for prosecuting such actions. In
16 the event there is a judgment rendered against the
17 defendant, the court shall assess as part of such judgment
18 the costs of such proceeding. Upon collection of such
19 judgments the Department shall pay from the proceeds of
20 such judgment such costs to such person who is by law
21 entitled to same. The Department may join in a single
22 proceeding any number of wage claims against the same
23 employer but the court shall have discretionary power to
24 order a severance or separate trial for hearings.

25 (c) To make complaint in any court of competent
26 jurisdiction of violations of this Act.

1 (d) In addition to the aforementioned powers, subject
2 to appropriation, the Department may establish an
3 administrative procedure to adjudicate claims and to issue
4 final and binding administrative decisions on such claims
5 subject to the Administrative Review Law. To establish such
6 a procedure, the Director of Labor or her or his authorized
7 representative may promulgate rules and regulations. The
8 adoption, amendment or rescission of rules and regulations
9 for such a procedure shall be in conformity with the
10 requirements of the Illinois Administrative Procedure Act.
11 If a final and binding administrative decision issued by
12 the Department requires an employer or other party to pay
13 wages, penalties, or other amounts in connection with a
14 wage claim, and the employer or other party has neither:
15 (i) made the required payment within 35 days of the
16 issuance of the final and binding administrative decision;
17 nor (ii) timely filed a complaint seeking review of the
18 final and binding administrative decision pursuant to the
19 Administrative Review Law in a court of competent
20 jurisdiction, the Department may file a verified petition
21 against the employer or other party to enforce the final
22 administrative decision and to collect any amounts due in
23 connection therewith in the circuit court of any county
24 where an official office of the Department is located.

25 Nothing herein shall be construed to prevent any employee
26 from making complaint or prosecuting his or her own claim for

1 wages. Any employee aggrieved by a violation of this Act or any
2 rule adopted under this Act may file suit in circuit court of
3 Illinois, in the county where the alleged violation occurred or
4 where any employee who is party to the action resides, without
5 regard to exhaustion of any alternative administrative
6 remedies provided in this Act. Actions may be brought by one or
7 more employees for and on behalf of themselves and other
8 employees similarly situated.

9 Nothing herein shall be construed to limit the authority of
10 the State's attorney of any county to prosecute actions for
11 violation of this Act or to enforce the provisions thereof
12 independently and without specific direction of the Department
13 of Labor.

14 (Source: P.A. 98-527, eff. 1-1-14.)