

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 Section 10 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
13 similar 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
5 and 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 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

1 and 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
7 employer to pay, to any employee at a workplace in a particular
8 county, wages that are equal to the wages paid by that employer
9 at a 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
9 the 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
12 a condition of being interviewed, as a condition of continuing
13 to be considered for an offer of employment, as a condition of
14 an offer of employment or an offer of compensation, or (3)
15 request or require that an applicant disclose wage or salary
16 history as 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 including unvested equity or deferred compensation that
14 the applicant would forfeit or have canceled by virtue of
15 the applicant's resignation from the applicant's current
16 employer. If, during such discussion, the applicant
17 voluntarily and without prompting discloses that the
18 applicant would forfeit or have canceled by virtue of the
19 applicant's resignation from the applicant's current
20 employer unvested equity or deferred compensation, an
21 employer is not in violation of subsection (b-5) or (b-10)
22 for requesting the applicant to verify the aggregate
23 amount of such compensation by submitting a letter or
24 document stating the aggregate amount of the unvested
25 equity or deferred compensation from, at the applicant's
26 choice, one of the following: (1) the applicant's current

1 employer or (2) the business entity that administers the
2 funds that constitute the unvested equity or deferred
3 compensation.

4 (b-20) An employer is not in violation of subsections
5 (b-5) and (b-10) when a job applicant voluntarily and without
6 prompting discloses his or her current or prior wage or salary
7 history, including benefits or other compensation, on the
8 condition that the employer does not consider or rely on the
9 voluntary disclosures as a factor in determining whether to
10 offer a job applicant employment, in making an offer of
11 compensation, or in determining future wages, salary,
12 benefits, or other compensation.

13 (c) It is unlawful for any person to discharge or in any
14 other manner discriminate against any individual because the
15 individual:

16 (1) has filed any charge or has instituted or caused
17 to be instituted any proceeding under or related to this
18 Act;

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

22 (3) has testified, or is about to testify, in any
23 inquiry or proceeding relating to any right provided under
24 this Act; or

25 (4) fails to comply with any wage or salary history
26 inquiry.

1 (Source: P.A. 100-1140, eff. 1-1-19; 101-177, eff. 9-29-19.)