



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3776

Introduced 2/9/2024, by Sen. Lakesia Collins

SYNOPSIS AS INTRODUCED:

New Act

820 ILCS 105/3	from Ch. 48, par. 1003
820 ILCS 105/4	from Ch. 48, par. 1004
820 ILCS 105/9	from Ch. 48, par. 1009
820 ILCS 105/12.1 new	
820 ILCS 115/4.1	

Creates the Blue Star Restaurant Program Act. Provides that the Department of Labor shall create the Blue Star Restaurant Program to recognize restaurants that voluntarily take no allowance for gratuities under the Minimum Wage Law. Provides for program eligibility requirements, benefits, and revocation of certification. Provides that the Department may adopt rules to implement and enforce the program. Amends the Minimum Wage Law. Provides that, from July 1, 2024 through June 30, 2026, the allowance for gratuities to which an employer is entitled for an employee engaged in an occupation in which gratuities have been recognized as part of the remuneration shall not exceed 20% of the applicable minimum wage rate. Provides that, on and after July 1, 2026, an employer shall not be entitled to an allowance for gratuities and shall pay each employee no less than the applicable minimum wage rate. Defines "interested party". Amends the Minimum Wage Law. Provides for additional notice requirements that employers must provide to employees who receive gratuities. Sets forth provisions concerning civil actions brought by an interested party. Amends the Illinois Wage Payment and Collection Act. Provides that no employer shall withhold from gratuities paid by credit card any credit card processing fees that the employer must pay in connection with the transaction. Provides that any service charge imposed by an employer on a customer shall be a gratuity and is the property of the employees. Effectively immediately.

LRB103 39516 SPS 69717 b

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 1. Short title. This Act may be cited as the Blue
5 Star Restaurant Program Act.

6 Section 5. Blue Star Restaurant Program.

7 (a) The Department of Labor shall create the Blue Star
8 Restaurant Program to recognize restaurants that voluntarily
9 take no allowance for gratuities under subsection (c) of
10 Section 4 of the Minimum Wage Law.

11 (b) To qualify for recognition as a Blue Star Restaurant
12 under the program, an owner of a restaurant must certify, on a
13 form created by the Department, that the restaurant has
14 satisfied the following requirements:

15 (1) that it takes no allowance for gratuities under
16 subsection (c) of Section 4 of the Minimum Wage Law;

17 (2) that all of the restaurant's owners and employees
18 have completed an equity training program approved by the
19 Department under Section 10; and

20 (3) that it has not been found to have violated the
21 Illinois Wage Payment and Collection Act or the Minimum
22 Wage Law by the Department or a court within the prior 3
23 years.

1 Section 10. Equity training program. The Department of
2 Labor shall approve an equity training program that trains
3 restaurant owners and employees on how to achieve equity among
4 employees in the restaurant while maintaining profitability
5 and eliminating the subminimum wage for workers who have
6 customarily received gratuities. To develop the content of the
7 training and provide the training, the Department may work
8 with non-profit organizations with an established history of
9 working toward the goal of a full minimum wage plus gratuities
10 for employees who have customarily received gratuities,
11 eliminating the subminimum wage for such employees, and with a
12 history of advancing racial equity in restaurants. The
13 Director of Labor shall have the authority to approve any
14 equity training program under this Section and certify any
15 organization to provide the training that meets the criteria
16 described in this Section. Under no circumstances may a
17 restaurant owner charge an employee a fee for participation in
18 an equity training program.

19 Section 15. Benefits of program membership. The Department
20 of Labor shall certify restaurants participating in the Blue
21 Star Restaurant Program that satisfy the requirements
22 described in subsection (b) of Section 5 and provide those
23 restaurants with the following benefits:

24 (1) issuing the owner of a restaurant a certificate

1 identifying the restaurant as a certified Blue Star
2 Restaurant Program, that may be posted inside of the
3 restaurant; and

4 (2) listing the restaurant on its website as a
5 certified member of the Blue Star Restaurant Program.

6 Section 20. Revocation of certification under the program.

7 (a) Upon a finding that a restaurant certified under this
8 Act has committed a substantial violation of the Illinois Wage
9 Payment and Collection Act or the Minimum Wage Law, the
10 Department of Labor shall revoke the certification as soon as
11 practicable. Upon written notice of the revocation of its
12 certification, the restaurant shall be removed from the
13 Department's website and shall not be permitted to display the
14 program certification.

15 (b) The Department shall fine any restaurant that violates
16 any provision of this Act up to \$1,500 per day for each
17 violation, payable to the Wage Theft Enforcement Fund.

18 Section 25. Rulemaking. The Department of Labor may adopt
19 rules to implement and enforce the provisions of this Act.

20 Section 90. The Minimum Wage Law is amended by changing
21 Sections 3, 4, and 9 and by adding Section 12.1 as follows:

22 (820 ILCS 105/3) (from Ch. 48, par. 1003)

1 Sec. 3. As used in this Act:

2 (a) "Director" means the Director of the Department of
3 Labor, and "Department" means the Department of Labor.

4 (b) "Wages" means compensation due to an employee by
5 reason of his employment, including allowances determined by
6 the Director in accordance with the provisions of this Act for
7 gratuities and, when furnished by the employer, for meals and
8 lodging actually used by the employee.

9 (c) "Employer" includes any individual, partnership,
10 association, corporation, limited liability company, business
11 trust, governmental or quasi-governmental body, or any person
12 or group of persons acting directly or indirectly in the
13 interest of an employer in relation to an employee, for which
14 one or more persons are gainfully employed on some day within a
15 calendar year. An employer is subject to this Act in a calendar
16 year on and after the first day in such calendar year in which
17 he employs one or more persons, and for the following calendar
18 year.

19 (d) "Employee" includes any individual permitted to work
20 by an employer in an occupation, and includes, notwithstanding
21 subdivision (1) of this subsection (d), one or more domestic
22 workers as defined in Section 10 of the Domestic Workers' Bill
23 of Rights Act, but does not include any individual permitted
24 to work:

25 (1) For an employer employing fewer than 4 employees
26 exclusive of the employer's parent, spouse or child or

1 other members of his immediate family.

2 (2) As an employee employed in agriculture or
3 aquaculture (A) if such employee is employed by an
4 employer who did not, during any calendar quarter during
5 the preceding calendar year, use more than 500 man-days of
6 agricultural or aquacultural labor, (B) if such employee
7 is the parent, spouse or child, or other member of the
8 employer's immediate family, (C) if such employee (i) is
9 employed as a hand harvest laborer and is paid on a piece
10 rate basis in an operation which has been, and is
11 customarily and generally recognized as having been, paid
12 on a piece rate basis in the region of employment, (ii)
13 commutes daily from his permanent residence to the farm on
14 which he is so employed, and (iii) has been employed in
15 agriculture less than 13 weeks during the preceding
16 calendar year, (D) if such employee (other than an
17 employee described in clause (C) of this subparagraph):
18 (i) is 16 years of age or under and is employed as a hand
19 harvest laborer, is paid on a piece rate basis in an
20 operation which has been, and is customarily and generally
21 recognized as having been, paid on a piece rate basis in
22 the region of employment, (ii) is employed on the same
23 farm as his parent or person standing in the place of his
24 parent, and (iii) is paid at the same piece rate as
25 employees over 16 are paid on the same farm.

26 (3) (Blank).

1 (4) As an outside salesman.

2 (5) As a member of a religious corporation or
3 organization.

4 (6) At an accredited Illinois college or university
5 employed by the college or university at which he is a
6 student who is covered under the provisions of the Fair
7 Labor Standards Act of 1938, as heretofore or hereafter
8 amended.

9 (7) For a motor carrier and with respect to whom the
10 U.S. Secretary of Transportation has the power to
11 establish qualifications and maximum hours of service
12 under the provisions of Title 49 U.S.C. or the State of
13 Illinois under Section 18b-105 (Title 92 of the Illinois
14 Administrative Code, Part 395 - Hours of Service of
15 Drivers) of the Illinois Vehicle Code.

16 (8) As an employee employed as a player who is 28 years
17 old or younger, a manager, a coach, or an athletic trainer
18 by a minor league professional baseball team not
19 affiliated with a major league baseball club, if (A) the
20 minor league professional baseball team does not operate
21 for more than 7 months in any calendar year or (B) during
22 the preceding calendar year, the minor league professional
23 baseball team's average receipts for any 6-month period of
24 the year were not more than 33 1/3% of its average receipts
25 for the other 6 months of the year.

26 The above exclusions from the term "employee" may be

1 further defined by regulations of the Director.

2 (e) "Occupation" means an industry, trade, business or
3 class of work in which employees are gainfully employed.

4 (f) "Gratuities" means voluntary monetary contributions to
5 an employee from a guest, patron or customer in connection
6 with services rendered.

7 (g) "Outside salesman" means an employee regularly engaged
8 in making sales or obtaining orders or contracts for services
9 where a major portion of such duties are performed away from
10 his employer's place of business.

11 (h) "Day camp" means a seasonal recreation program in
12 operation for no more than 16 weeks intermittently throughout
13 the calendar year, accommodating for profit or under
14 philanthropic or charitable auspices, 5 or more children under
15 18 years of age, not including overnight programs. The term
16 "day camp" does not include a "day care agency", "child care
17 facility" or "foster family home" as licensed by the Illinois
18 Department of Children and Family Services.

19 (i) "Interested party" means an organization that monitors
20 or is attentive to compliance with public or worker safety
21 laws, wage and hour requirements, or other statutory
22 requirements.

23 (Source: P.A. 99-758, eff. 1-1-17; 100-192, eff. 8-18-17.)

24 (820 ILCS 105/4) (from Ch. 48, par. 1004)

25 Sec. 4. (a)(1) Every employer shall pay to each of his

1 employees in every occupation wages of not less than \$2.30 per
2 hour or in the case of employees under 18 years of age wages of
3 not less than \$1.95 per hour, except as provided in Sections 5
4 and 6 of this Act, and on and after January 1, 1984, every
5 employer shall pay to each of his employees in every
6 occupation wages of not less than \$2.65 per hour or in the case
7 of employees under 18 years of age wages of not less than \$2.25
8 per hour, and on and after October 1, 1984 every employer shall
9 pay to each of his employees in every occupation wages of not
10 less than \$3.00 per hour or in the case of employees under 18
11 years of age wages of not less than \$2.55 per hour, and on or
12 after July 1, 1985 every employer shall pay to each of his
13 employees in every occupation wages of not less than \$3.35 per
14 hour or in the case of employees under 18 years of age wages of
15 not less than \$2.85 per hour, and from January 1, 2004 through
16 December 31, 2004 every employer shall pay to each of his or
17 her employees who is 18 years of age or older in every
18 occupation wages of not less than \$5.50 per hour, and from
19 January 1, 2005 through June 30, 2007 every employer shall pay
20 to each of his or her employees who is 18 years of age or older
21 in every occupation wages of not less than \$6.50 per hour, and
22 from July 1, 2007 through June 30, 2008 every employer shall
23 pay to each of his or her employees who is 18 years of age or
24 older in every occupation wages of not less than \$7.50 per
25 hour, and from July 1, 2008 through June 30, 2009 every
26 employer shall pay to each of his or her employees who is 18

1 years of age or older in every occupation wages of not less
2 than \$7.75 per hour, and from July 1, 2009 through June 30,
3 2010 every employer shall pay to each of his or her employees
4 who is 18 years of age or older in every occupation wages of
5 not less than \$8.00 per hour, and from July 1, 2010 through
6 December 31, 2019 every employer shall pay to each of his or
7 her employees who is 18 years of age or older in every
8 occupation wages of not less than \$8.25 per hour, and from
9 January 1, 2020 through June 30, 2020, every employer shall
10 pay to each of his or her employees who is 18 years of age or
11 older in every occupation wages of not less than \$9.25 per
12 hour, and from July 1, 2020 through December 31, 2020 every
13 employer shall pay to each of his or her employees who is 18
14 years of age or older in every occupation wages of not less
15 than \$10 per hour, and from January 1, 2021 through December
16 31, 2021 every employer shall pay to each of his or her
17 employees who is 18 years of age or older in every occupation
18 wages of not less than \$11 per hour, and from January 1, 2022
19 through December 31, 2022 every employer shall pay to each of
20 his or her employees who is 18 years of age or older in every
21 occupation wages of not less than \$12 per hour, and from
22 January 1, 2023 through December 31, 2023 every employer shall
23 pay to each of his or her employees who is 18 years of age or
24 older in every occupation wages of not less than \$13 per hour,
25 and from January 1, 2024 through December 31, 2024, every
26 employer shall pay to each of his or her employees who is 18

1 years of age or older in every occupation wages of not less
2 than \$14 per hour; and on and after January 1, 2025, every
3 employer shall pay to each of his or her employees who is 18
4 years of age or older in every occupation wages of not less
5 than \$15 per hour.

6 (2) Unless an employee's wages are reduced under Section
7 6, then in lieu of the rate prescribed in item (1) of this
8 subsection (a), an employer may pay an employee who is 18 years
9 of age or older, during the first 90 consecutive calendar days
10 after the employee is initially employed by the employer, a
11 wage that is not more than 50¢ less than the wage prescribed in
12 item (1) of this subsection (a); however, an employer shall
13 pay not less than the rate prescribed in item (1) of this
14 subsection (a) to:

15 (A) a day or temporary laborer, as defined in Section
16 5 of the Day and Temporary Labor Services Act, who is 18
17 years of age or older; and

18 (B) an employee who is 18 years of age or older and
19 whose employment is occasional or irregular and requires
20 not more than 90 days to complete.

21 (3) At no time on or before December 31, 2019 shall the
22 wages paid to any employee under 18 years of age be more than
23 50¢ less than the wage required to be paid to employees who are
24 at least 18 years of age under item (1) of this subsection (a).
25 Beginning on January 1, 2025 ~~2020~~, every employer shall pay to
26 each of his or her employees who is under 18 years of age ~~that~~

1 ~~has worked more than 650 hours for the employer during any~~
2 ~~calendar year a wage~~ not less than the wage required for
3 employees who are 18 years of age or older under paragraph (1)
4 of subsection (a) of Section 4 of this Act. ~~Every employer~~
5 ~~shall pay to each of his or her employees who is under 18 years~~
6 ~~of age that has not worked more than 650 hours for the employer~~
7 ~~during any calendar year: (1) \$8 per hour from January 1, 2020~~
8 ~~through December 31, 2020; (2) \$8.50 per hour from January 1,~~
9 ~~2021 through December 31, 2021; (3) \$9.25 per hour from~~
10 ~~January 1, 2022 through December 31, 2022; (4) \$10.50 per hour~~
11 ~~from January 1, 2023 through December 31, 2023; (5) \$12 per~~
12 ~~hour from January 1, 2024 through December 31, 2024; and (6)~~
13 ~~\$13 per hour on and after January 1, 2025.~~

14 (b) No employer shall discriminate between employees on
15 the basis of sex or mental or physical disability, except as
16 otherwise provided in this Act by paying wages to employees at
17 a rate less than the rate at which he pays wages to employees
18 for the same or substantially similar work on jobs the
19 performance of which requires equal skill, effort, and
20 responsibility, and which are performed under similar working
21 conditions, except where such payment is made pursuant to (1)
22 a seniority system; (2) a merit system; (3) a system which
23 measures earnings by quantity or quality of production; or (4)
24 a differential based on any other factor other than sex or
25 mental or physical disability, except as otherwise provided in
26 this Act.

1 (c) Every employer of an employee engaged in an occupation
2 in which gratuities have customarily and usually constituted
3 and have been recognized as part of the remuneration for hire
4 purposes is entitled to an allowance for gratuities as part of
5 the hourly wage rate provided in Section 4, subsection (a) in
6 an amount not to exceed 40% of the applicable minimum wage rate
7 through June 30, 2024. From July 1, 2024 through June 1, 2026,
8 the allowance for gratuities shall not exceed 20% of the
9 applicable minimum wage rate. On and after July 1, 2026, an
10 employer shall not be entitled to an allowance for gratuities
11 and shall pay each employee no less than the applicable
12 minimum wage rate as provided in paragraph (1) of subsection
13 (a). An allowance for gratuities shall only be taken for
14 shifts in which an employee's wages and gratuities combined
15 over that shift result in an average hourly wage rate equal to
16 or greater than the hourly minimum wage provided in paragraph
17 (1) of subsection (a).

18 The Director shall require each employer desiring an
19 allowance for gratuities to provide substantial evidence that
20 the amount claimed, which may not exceed the allowance amount
21 prescribed in this subsection ~~40% of the applicable minimum~~
22 ~~wage rate~~, was received by the employee ~~in the period for which~~
23 ~~the claim of exemption is made~~, and no part thereof was
24 returned to the employer, and that the employer provides, at
25 the time of payment, a written accounting of the hourly wages
26 paid, the gratuities earned, and the average hourly

1 remuneration for each shift worked during the pay period.

2 An employer shall not keep any gratuities received by an
3 employee for any purpose or allow a manager or a supervisor to
4 keep any portion of an employee's gratuities, regardless of
5 whether or not the employer takes an allowance for gratuities.
6 Nothing in this subsection shall be construed to prohibit an
7 otherwise valid pooling of gratuities among non-managerial and
8 non-supervisory employees.

9 (d) No camp counselor who resides on the premises of a
10 seasonal camp of an organized not-for-profit corporation shall
11 be subject to the adult minimum wage if the camp counselor (1)
12 works 40 or more hours per week, and (2) receives a total
13 weekly salary of not less than the adult minimum wage for a
14 40-hour week. If the counselor works less than 40 hours per
15 week, the counselor shall be paid the minimum hourly wage for
16 each hour worked. Every employer of a camp counselor under
17 this subsection is entitled to an allowance for meals and
18 lodging as part of the hourly wage rate provided in Section 4,
19 subsection (a), in an amount not to exceed 25% of the minimum
20 wage rate.

21 (e) A camp counselor employed at a day camp is not subject
22 to the adult minimum wage if the camp counselor is paid a
23 stipend on a onetime or periodic basis and, if the camp
24 counselor is a minor, the minor's parent, guardian or other
25 custodian has consented in writing to the terms of payment
26 before the commencement of such employment.

1 (Source: P.A. 101-1, eff. 2-19-19.)

2 (820 ILCS 105/9) (from Ch. 48, par. 1009)

3 Sec. 9. (a) Every employer subject to any provision of
4 this Act or of any regulations issued under this Act shall keep
5 a summary of this Act approved by the Director, and copies of
6 any applicable regulations issued under this Act or a summary
7 of such regulations, posted in a conspicuous and accessible
8 place in or about the premises wherever any person subject to
9 this Act is employed. Every employer subject to any provision
10 of this Act or any regulations issued under this Act with
11 employees who do not regularly report to a physical workplace,
12 such as employees who work remotely or travel for work, shall
13 also provide the summaries and regulations by email to its
14 employees or conspicuous posting on the employer's website or
15 intranet site, if such site is regularly used by the employer
16 to communicate work-related information to employees and is
17 able to be regularly accessed by all employees, freely and
18 without interference. Employers shall be furnished copies of
19 such summaries and regulations by the State on request without
20 charge.

21 (b) Every employer shall provide each employee who
22 receives gratuities, in writing in English and in the language
23 identified by each employee as the primary language of the
24 employee, at the time of hiring, a notice containing:

25 (1) the rate of pay and basis thereof, whether paid by

1 the hour, shift, day, week, salary, or other method,
2 including overtime compensation rates for non-exempt
3 employees and allowances claimed as part of the minimum
4 wage, including gratuities;

5 (2) employees' rights to be compensated by their
6 employer at the rate prescribed in subsection (a) of
7 Section 4 when gratuities do not bring the employee to
8 that rate at the end of each shift;

9 (3) employee rights to retain gratuities as described
10 in this Act; and

11 (4) and other relevant employee rights deemed
12 necessary by the Director by rule.

13 The Director shall prepare a template that complies with
14 the notice requirements of this subsection. The template shall
15 include the information required by this subsection in 2
16 languages, including English and one additional language
17 determined by the Director based on the population of this
18 State that speaks the language and any other factor that the
19 Director deems relevant.

20 (Source: P.A. 103-201, eff. 1-1-24.)

21 (820 ILCS 105/12.1 new)

22 Sec. 12.1. Civil actions brought by an interested party.

23 (a) Upon a reasonable belief that an employer covered by
24 this Act is in violation of any part of this Act, an interested
25 party may initiate a civil action in the county where the

1 alleged offenses occurred or where any party to the action
2 resides, asserting that a violation of this Act has occurred,
3 pursuant to the following sequence of events:

4 (1) The interested party submits to the Department of
5 Labor a complaint describing the violation and naming the
6 employer alleged to have violated this Act.

7 (2) The Department sends notice of complaint to the
8 named parties alleged to have violated this Act and the
9 interested party. The named parties may either contest the
10 alleged violation or cure the alleged violation.

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

14 (A) the named party has cured the alleged
15 violation to the satisfaction of the Director;

16 (B) the Director has determined that the
17 allegation is unjustified or that the Department does
18 not have jurisdiction over the matter or the parties;
19 or

20 (C) the Director has determined that the
21 allegation is justified or has not made a
22 determination, and either has decided not to exercise
23 jurisdiction over the matter or has concluded
24 administrative enforcement of the matter.

25 (b) If within 180 days after service of the notice of
26 complaint to the parties, the Department has not (i) resolved

1 the contest and cure period, (ii) with the mutual agreement of
2 the parties, extended the time for the named party to cure the
3 violation and resolve the complaint, or (iii) issued a right
4 to sue letter, the interested party may initiate a civil
5 action for penalties. The parties may extend the 180-day
6 period by mutual agreement. The limitations period for the
7 interested party to bring an action for the alleged violation
8 of the Act shall be tolled for the 180-day period and for the
9 period of any mutually agreed extensions. At the end of the
10 180-day period, or any mutually agreed extensions, the
11 Department shall issue a right to sue letter to the interested
12 party.

13 (c) Any claim or action filed under this Section must be
14 made within 3 years of the alleged conduct resulting in the
15 complaint plus any period for which the limitations period has
16 been tolled.

17 (d) In an action brought in accordance with this Section,
18 an interested party may recover against the covered entity any
19 statutory penalties and injunctive relief. An interested party
20 who prevails in a civil action shall receive 10% of any
21 statutory penalties assessed, plus any attorneys' fees and
22 expenses in bringing the action. The remaining 90% of any
23 statutory penalties assessed shall be deposited into the
24 Department's Wage Theft Enforcement Fund.

25 Section 95. The Illinois Wage Payment and Collection Act

1 is amended by changing Section 4.1 as follows:

2 (820 ILCS 115/4.1)

3 Sec. 4.1. Gratuities.

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

9 (a-5) Any service charge imposed by an employer on a
10 customer shall be a gratuity as described in subsection (a)
11 and is the property of the employees. An employer who imposes a
12 bona fide service charge on a customer shall explicitly and
13 conspicuously disclose to the consumer that all funds
14 generated from the service charge are directly given to the
15 employees in the form of a gratuity.

16 (b) No employer shall withhold ~~This Section does not~~
17 ~~prohibit an employer from withholding~~ from gratuities paid by
18 credit card ~~a proportionate amount of~~ any credit card
19 processing fees that the employer must pay in connection with
20 the transaction, ~~provided that the amount withheld does not~~
21 ~~exceed the proportion of the amount of the tip to the amount of~~
22 ~~the overall bill, regardless of whether the overall bill was~~
23 ~~paid using a credit card.~~ This Section does not prohibit tip
24 pooling as permitted by law. This Section does not affect an
25 employer's entitlement to an allowance for gratuities to the

1 extent permitted under subsection (c) of Section 4 of the
2 Minimum Wage Law.

3 (Source: P.A. 101-509, eff. 1-1-20.)

4 Section 999. Effective date. This Act takes effect upon
5 becoming law.