

AN ACT concerning employment.

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

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

(820 ILCS 112/10)

Sec. 10. Prohibited acts.

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

(1) a seniority system;

(2) a merit system;

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

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

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

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

(C) accounts for the differential.

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

(1) a seniority system;

(2) a merit system;

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

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

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

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

and consistent with a business necessity; and

(C) accounts for the differential.

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

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

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

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

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

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

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

employer to comply with State or federal law; or

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

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

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

(2) engaging in discussions with an applicant for employment about the applicant's expectations with respect to wage or salary, benefits, and other compensation, including unvested equity or deferred compensation that the applicant would forfeit or have canceled by virtue of the applicant's resignation from the applicant's current employer. If, during such discussion, the applicant voluntarily and without prompting discloses that the applicant would forfeit or have canceled by virtue of the applicant's resignation from the applicant's current employer unvested equity or deferred compensation, an employer may request the applicant to verify the aggregate amount of such compensation by submitting a letter or document stating the aggregate amount of the unvested equity or deferred compensation from, at the applicant's choice, one of the following: (1) the applicant's current employer or (2) the business entity that administers the

funds that constitute the unvested equity or deferred compensation.

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

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

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

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

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

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

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