

AN ACT concerning employment.

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

Section 3. The Equal Pay Act of 2003 is amended by changing Section 11 as follows:

(820 ILCS 112/11)

Sec. 11. Equal pay registration certificate requirements; application. For the purposes of this Section 11 only, "business" means any private employer who has 100 or more ~~more than 100~~ employees in the State of Illinois and is required to file an Annual Employer Information Report EEO-1 with the Equal Employment Opportunity Commission, but does not include the State of Illinois or any political subdivision, municipal corporation, or other governmental unit or agency.

(a) A business must obtain an equal pay registration certificate from the Department.

(b) Any business subject to the requirements of this Section that is authorized to transact business in this State on March 23, 2021 shall submit an application to obtain an equal pay registration certificate, between March 24, 2022 and March 23, 2024, and must recertify every 2 years thereafter. Any business subject to the requirements of this Section that is authorized to transact business in this State after March

23, 2021 must submit an application to obtain an equal pay registration certificate within 3 years of commencing business operations, but not before January 1, 2024, and must recertify every 2 years thereafter. The Department shall collect contact information from each business subject to this Section. The Department shall assign each business a date by which it must submit an application to obtain an equal pay registration certificate. The business shall recertify every 2 years at a date to be determined by the Department. When a business receives a notice from the Department to recertify for its equal pay registration certificate, if the business has fewer than 100 employees, the business must certify in writing to the Department that it is exempt from this Section. Any new business that is subject to this Section and authorized to conduct business in this State, after the effective date of this amendatory Act of the 102nd General Assembly, shall submit its contact information to the Department by January 1 of the following year and shall be assigned a date by which it must submit an application to obtain an equal pay registration certificate. The Department's failure to assign a business a registration date does not exempt the business from compliance with this Section. The failure of the Department to notify a business of its recertification deadline may be a mitigating factor when making a determination of a violation of this Section.

(c) Application.

(1) A business shall apply for an equal pay registration certificate by paying a \$150 filing fee and submitting wage records and an equal pay compliance statement to the Director as follows:

(A) Wage Records. Any business that is required to file an annual Employer Information Report EEO-1 with the Equal Employment Opportunity Commission must also submit to the Director a copy of the business's most recently filed Employer Information Report EEO-1. The business shall also compile a list of all employees during the past calendar year, separated by gender and the race and ethnicity categories as reported in the business's most recently filed Employer Information Report EEO-1, and the county in which the employee works, the date the employee started working for the business, any other information the Department deems necessary to determine if pay equity exists among employees, and report the total wages as defined by Section 2 of the Illinois Wage Payment and Collection Act paid to each employee during the past calendar year, rounded to the nearest \$100, to the Director.

(B) Equal Pay Compliance Statement. The business must submit a statement signed by a corporate officer, legal counsel, or authorized agent of the business certifying:

(i) that the business is in compliance with

this Act and other relevant laws, including but not limited to: Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Illinois Human Rights Act, and the Equal Wage Act;

(ii) that the average compensation for its female and minority employees is not consistently below the average compensation, as determined by rule by the United States Department of Labor, for its male and non-minority employees within each of the major job categories in the Employer Information Report EEO-1 for which an employee is expected to perform work, taking into account factors such as length of service, requirements of specific jobs, experience, skill, effort, responsibility, working conditions of the job, education or training, job location, use of a collective bargaining agreement, or other mitigating factors; as used in this subparagraph, "minority" has the meaning ascribed to that term in paragraph (1) of subsection (A) of Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act;

(iii) that the business does not restrict employees of one sex to certain job classifications, and makes retention and promotion decisions without regard to sex;

(iv) that wage and benefit disparities are corrected when identified to ensure compliance with the Acts cited in item (i);

(v) how often wages and benefits are evaluated; and

(vi) the approach the business takes in determining what level of wages and benefits to pay its employees; acceptable approaches include, but are not limited to, a wage and salary survey.

(C) Filing fee. The business shall pay to the Department a filing fee of \$150. Proceeds from the fees collected under this Section shall be deposited into the Equal Pay Registration Fund, a special fund created in the State treasury. Moneys in the Fund shall be appropriated to the Department for the purposes of this Section.

(2) Receipt of the equal pay compliance application and statement by the Director does not establish compliance with the Acts set forth in item (i) of subparagraph (B) of paragraph (1) of this subsection (c).

(3) A business that has employees in multiple locations or facilities in Illinois shall submit a single application to the Department regarding all of its operations in Illinois.

(d) Issuance or rejection of registration certificate. After January 1, 2022, the Director must issue an equal pay

registration certificate, or a statement of why the application was rejected, within 45 calendar days of receipt of the application. Applicants shall have the opportunity to cure any deficiencies in its application that led to the rejection, and re-submit the revised application to the Department within 30 calendar days of receiving a rejection. Applicants shall have the ability to appeal rejected applications. An application may be rejected only if it does not comply with the requirements of subsection (c), or the business is otherwise found to be in violation of this Act. The receipt of an application by the Department, or the issuance of a registration certificate by the Department, shall not establish compliance with the Equal Pay Act of 2003 as to all Sections except Section 11. The issuance of a registration certificate shall not be a defense against any Equal Pay Act violation found by the Department, nor a basis for mitigation of damages.

(e) Revocation of registration certificate. An equal pay registration certificate for a business may be suspended or revoked by the Director when the business fails to make a good faith effort to comply with the Acts identified in item (i) of subparagraph (B) of paragraph (1) of subsection (c), fails to make a good faith effort to comply with this Section, or has multiple violations of this Section or the Acts identified in item (i) of subparagraph (B) of paragraph (1) of subsection (c). Prior to suspending or revoking a registration

certificate, the Director must first have sought to conciliate with the business regarding wages and benefits due to employees.

Consistent with Section 25, prior to or in connection with the suspension or revocation of an equal pay registration certificate, the Director, or his or her authorized representative, may interview workers, administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses, and the production of personnel and compensation information relative to the matter under investigation, hearing or a department-initiated audit.

Neither the Department nor the Director shall be held liable for good faith errors in issuing, denying, suspending or revoking certificates.

(f) Administrative review. A business may obtain an administrative hearing in accordance with the Illinois Administrative Procedure Act before the suspension or revocation of its certificate or imposition of civil penalties as provided by subsection (i) is effective by filing a written request for hearing within 20 calendar days after service of notice by the Director.

(g) Technical assistance. The Director must provide technical assistance to any business that requests assistance regarding this Section.

(h) Access to data.

(1) Any individually identifiable information submitted to the Director within or related to an equal pay registration application or otherwise provided by an employer in its equal pay compliance statement under subsection (c) shall be considered confidential information and not subject to disclosure pursuant to the Illinois Freedom of Information Act. As used in this Section, "individually identifiable information" means data submitted pursuant to this Section that is associated with a specific person or business. Aggregate data or reports that are reasonably calculated to prevent the association of any data with any individual business or person are not confidential information. Aggregate data shall include the job category and the average hourly wage by county for each gender, race, and ethnicity category on the registration certificate applications. The Department of Labor may compile aggregate data from registration certificate applications.

(2) The Director's decision to issue, not issue, revoke, or suspend an equal pay registration certificate is public information.

(3) Notwithstanding this subsection (h), a current employee of a covered business may request anonymized data regarding their job classification or title and the pay for that classification. No individually identifiable information may be provided to an employee making a

request under this paragraph.

(4) Notwithstanding this subsection (h), the Department may share data and identifiable information with the Department of Human Rights, pursuant to its enforcement of Article 2 of the Illinois Human Rights Act, or the Office of the Attorney General, pursuant to its enforcement of Section 10-104 of the Illinois Human Rights Act.

(5) Any Department employee who willfully and knowingly divulges, except in accordance with a proper judicial order or otherwise provided by law, confidential information received by the Department from any business pursuant to this Act shall be deemed to have violated the State Officials and Employees Ethics Act and be subject to the penalties established under subsections (e) and (f) of Section 50-5 of that Act after investigation and opportunity for hearing before the Executive Ethics Commission in accordance with Section 20-50 of that Act.

(i) Penalty. Falsification or misrepresentation of information on an application submitted to the Department shall constitute a violation of this Act and the Department may seek to suspend or revoke an equal pay registration certificate or impose civil penalties as provided under subsection (c) of Section 30.

(Source: P.A. 101-656, eff. 3-23-21; 102-36, eff. 6-25-21.)

Section 5. The Occupational Safety and Health Act is amended by changing Sections 25, 60, 65, 80, 85, 90, 100, and 110 as follows:

(820 ILCS 219/25)

Sec. 25. Occupational safety and health standards.

(a) All federal occupational safety and health standards which the United States Secretary of Labor has promulgated or modified in accordance with the federal Occupational Safety and Health Act of 1970 and which are in effect on the effective date of this Act shall be and are hereby made rules of the Department unless the Director promulgates an alternate standard that is at least as effective in providing safe and healthful employment and places of employment as a federal standard. Before developing and adopting an alternate standard or modifying or revoking an existing standard, the Director must consider factual information that includes:

(1) Expert technical knowledge.

(2) Input from interested persons, including employers, employees, recognized standards-producing organizations, and the public.

(b) All federal occupational safety and health standards which the United States Secretary of Labor promulgates or modifies in accordance with the federal Occupational Safety and Health Act of 1970 on or after the effective date of this Act, unless revoked by the Secretary of Labor, shall become

rules of the Department within 6 months after their federal promulgation date, unless there has been in effect in this State at the time of the promulgation or modification of the federal standard an alternate State standard that is at least as effective in providing safe and healthful employment and places of employment as a federal standard. The alternate State standard, if not currently contained in the Department's rules, shall not become effective, however, unless the Department, within 45 days after the federal promulgation date, files with the office of the Secretary of State in Springfield, Illinois, a certified copy of the rule as provided in the Illinois Administrative Procedure Act.

(Source: P.A. 98-874, eff. 1-1-15.)

(820 ILCS 219/60)

Sec. 60. Employers' records.

(a) The Director shall adopt rules requiring public employers to maintain accurate records of, and to make reports on, work-related deaths, injuries, and illnesses, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job. The rules shall specifically include all of the reporting provisions of Section 6 of the Workers' Compensation Act and Section 6 of the Workers' Occupational Diseases Act. The records shall be available to any State agency requiring such

information.

(b) The Director shall adopt rules requiring public employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under this Act. The rules shall provide employees or their authorized representative with an opportunity to observe the monitoring or measuring, and to have access to the records of the monitoring or measuring. The rules shall provide appropriate means by which each employee or former employee may have access to such records as will indicate his or her exposure to toxic materials or harmful physical agents.

(c) A public employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an occupational safety and health standard and shall inform the employee who is being thus exposed of the action being taken by the employer to correct such exposure.

(Source: P.A. 98-874, eff. 1-1-15.)

(820 ILCS 219/65)

Sec. 65. Periodic inspection of workplaces.

(a) The Director shall enforce the occupational safety and health standards and rules promulgated under this Act and any occupational health and safety regulations relating to inspection of places of employment, and shall visit and

inspect, as often as practicable, the places of employment covered by this Act.

(b) The Director or his or her authorized representative, upon presenting appropriate credentials to a public employer's agent in charge, has the right to enter and inspect all places of employment covered by this Act as follows:

(1) An inspector may enter without delay and at reasonable times any establishment, construction site, or other area, workplace, or environment where work is performed by an employee of a public employer in order to enforce the occupational safety and health standards adopted under this Act.

(2) If a public employer refuses entry to an inspector upon being presented with proper credentials or allows entry but then refuses to permit or hinders the inspection in any way, the inspector shall leave the premises and immediately report the refusal to authorized management within the Division. Authorized management shall notify the Director to initiate the compulsory legal process to obtain entry or obtain a warrant for entry, or both.

(3) An inspector may inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any workplace described in paragraph (1) and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question

privately the employer or any agent or employee of the employer.

(4) The owner, operator, manager, or lessee of any workplace covered by this Act, and his or her agent or employee, and any employer affected by this Act shall, when requested by the Division of Occupational Safety and Health or any duly authorized agent of that Division: (i) furnish any information in his or her possession or under his or her control which the Department is authorized to require, (ii) answer truthfully all questions required to be put to him or her, and (iii) cooperate in the making of a proper inspection.

(c) In making his or her inspection and investigations under this Act, the Director ~~of Labor~~ has the power to require the attendance and testimony of witnesses and the production of evidence under oath.

(Source: P.A. 98-874, eff. 1-1-15; 99-336, eff. 8-10-15.)

(820 ILCS 219/80)

Sec. 80. Violation of Act or standard; citation.

(a) Upon inspection or investigation of a workplace, if the Director or his or her authorized representative believes that a public employer has violated a requirement of this Act or a standard, rule, or regulation promulgated under this Act, he or she shall with reasonable promptness issue a citation to the employer. A citation shall: (i) be in writing, (ii)

describe with particularity the nature of the violation and include a reference to the provision of the Act, standard, rule, or regulation alleged to have been violated, and (iii) fix a reasonable time for the abatement of the violation.

(b) Each citation issued under this Section, or a copy or copies thereof, shall be prominently posted at or near the place at which the violation occurred as prescribed in rules adopted by the Director.

(c) A citation shall be served on the employer or the employer's agent by delivering a copy to the person upon whom the service is to be had, or by leaving a copy at his or her usual place of business or abode, or by sending a copy by certified mail to his or her place of business, or by sending a copy by email to an email address previously designated by the employer for purposes of receiving notice under this Act.

(d) A citation may not be issued under this Section after the expiration of 6 months following the occurrence of any violation.

(Source: P.A. 98-874, eff. 1-1-15.)

(820 ILCS 219/85)

Sec. 85. Civil penalties.

(a) After an inspection of a workplace under this Act, if the Director issues a citation, he or she shall, within 5 days after issuing the citation, notify the employer by certified mail, or by email to an email address previously designated by

the employer for purposes of receiving notice under this Act,
of any civil penalty proposed to be assessed for the violation
set forth in the citation.

(b) If the Director has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction, the Director shall notify the employer by certified mail, or by email to an email address previously designated by the employer for purposes of receiving notice under this Act, of that failure and of the civil penalty proposed to be assessed for that failure.

(c) Civil penalties authorized under this Section are as follows:

(1) A public employer that repeatedly violates this Act, the Safety Inspection and Education Act, or the Health and Safety Act, or any combination of those Acts, or any standard, rule, regulation, or order under any of those Acts, may be assessed a civil penalty of not more than \$10,000 per violation.

(2) A public employer that intentionally violates this Act, the Safety Inspection and Education Act, or the Health and Safety Act, or any standard, rule, regulation, or order under any of those Acts, or who demonstrates plain indifference to any provision of any of those Acts or any such standard, rule, regulation, or order, may be assessed a civil penalty of not more than \$10,000 per

violation.

(3) A public employer that has received a citation for a serious violation of this Act, the Safety Inspection and Education Act, or the Health and Safety Act, or any standard, rule, regulation, or order under any of those Acts, may be assessed a civil penalty up to \$1,000 for each such violation.

(4) A public employer that has received a citation for a violation of this Act, the Safety Inspection and Education Act, or the Health and Safety Act, or any standard, rule, regulation, or order under any of those Acts, which is not a serious violation, may be assessed a civil penalty of up to \$1,000 for each such violation.

(5) A public employer that violates a posting requirement is subject to the following citations and proposed penalty structure:

(A) Job Safety and Health Poster: an other than serious citation and a proposed penalty of \$1,000.

(B) Annual Summary of Work-Related Injuries and Illnesses (OSHA Form 300A): an other than serious citation and a proposed penalty of \$1,000, even if there are no recordable injuries or illnesses.

(C) Citation: an other than serious citation and a proposed penalty of \$1,000.

(6) A public employer that fails to correct a violation for which a citation has been issued within the

time period permitted may be assessed a civil penalty of up to \$1,000 for each day the violation continues.

(d) For purposes of this Section, a "serious violation" shall be deemed to exist in a workplace if there is a substantial probability that death or serious physical harm could result from (i) a condition which exists or (ii) one or more practices, means, methods, operations, or processes which have been adopted or are in use in the workplace, unless the employer did not know and could not, with the exercise of reasonable diligence, have known of the presence of the violation.

(e) The Director may assess civil penalties as provided in this Section, giving due consideration to the appropriateness of the penalty. A penalty may be reduced by the Director or the Director's authorized representative based on the public employer's good faith, size of business, and history of previous violations.

(f) The Attorney General may bring an action in the circuit court to enforce the collection of any civil penalty assessed under this Act.

(g) All civil penalties collected under this Act shall be deposited into the General Revenue Fund of the State of Illinois.

(Source: P.A. 98-874, eff. 1-1-15.)

Sec. 90. Informal review.

(a) A public employer may submit in writing data relating to the abatement of a hazard to be considered by an authorized representative of the Director. The authorized representative shall notify the interested parties if such data will be used to modify an abatement order.

(b) Within 15 business ~~working~~ days after receiving a citation, proposed assessment of a civil penalty, or notice of failure to correct a violation, a public employer or the employer's agent may request that an authorized representative of the Director review abatement dates, reclassify violations (such as willful to serious, serious to other than serious), or modify or withdraw a penalty, a citation, or a citation item, or any combination of those, if the employer presents evidence during the informal conference which convinces the authorized representative that the changes are justified.

(Source: P.A. 98-874, eff. 1-1-15.)

(820 ILCS 219/100)

Sec. 100. Hearing.

(a) If a public employer or the employer's representative notifies the Director that the employer intends to contest a citation and notice of penalty or if, within 15 business ~~working~~ days after the issuance of the citation, an employee or representative of employees files a notice with the Director alleging that the period of time fixed in the

citation for the abatement of the violation is unreasonable, the Director shall afford an opportunity for a hearing before an Administrative Law Judge designated by the Director.

(b) At the hearing, the employer or employee shall state his or her objections to the citation and provide evidence why the citation should not stand as issued. The Director or his or her representative shall be given the opportunity to state his or her reasons for issuing the citation. Affected employees shall be provided an opportunity to participate as parties to hearings under the rules of procedure prescribed by the Director (56 Ill. Admin. Code, Part 120).

(c) The Director, or the Administrative Law Judge on behalf of the Director, has the power to do the following:

(1) Issue subpoenas for and compel the attendance of witnesses.

(2) Hear testimony and receive evidence.

(3) Order testimony of a witness residing within or without this State to be taken by deposition in the manner prescribed by law for depositions in civil cases in the circuit court in any proceeding pending before him or her at any stage of such proceeding.

(d) Subpoenas and commissions to take testimony shall be issued by ~~under seal of~~ the Director. Service of subpoenas may be made by a sheriff or any other person.

(e) The circuit court for the county where any hearing is pending may compel the attendance of witnesses, the production

of pertinent books, papers, records, or documents, and the giving of testimony before the Director or an Administrative Law Judge by an attachment proceeding, as for contempt, in the same manner as the production of evidence may be compelled before the court.

(f) The Administrative Law Judge on behalf of the Director, after considering the evidence presented at the formal hearing, in accordance with the Director's rules, shall enter a final decision and order within a reasonable time affirming, modifying, or vacating the citation or proposed assessment of a civil penalty, or directing other appropriate relief.

(Source: P.A. 98-874, eff. 1-1-15.)

(820 ILCS 219/110)

Sec. 110. Discrimination against employee prohibited.

(a) A person may not discharge or in any way discriminate against an employee because the employee has: (i) filed a complaint or instituted or caused to be instituted any proceeding under this Act, (ii) testified or is about to testify in any such proceeding, or (iii) exercised, on his or her own behalf or on behalf of another person, any right afforded by this Act, including reporting potential violations of this Act to a member of management with authority to address the concerns.

(b) An employee who believes that he or she has been

discharged or otherwise discriminated against by an employer in violation of this Section may, within 30 calendar days after the violation occurs, file a complaint with the Director alleging the discrimination.

(c) Upon receipt of the complaint, the Director shall cause an investigation to be made as the Director deems appropriate. After the investigation, if the Director determines that the employer has violated this Section, the Director shall bring an action in the circuit court for appropriate relief, including rehiring or reinstatement of the employee to his or her former position with back pay, after taking into account any interim earnings of the employee. In such matters the Director shall be represented by the Attorney General.

(Source: P.A. 98-874, eff. 1-1-15.)

Section 99. Effective date. This Section and Section 3 takes effect immediately.