

AN ACT concerning employment.

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

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

(820 ILCS 115/4.1 new)

Sec. 4.1. Gratuities.

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

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

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

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

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

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

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

The Department shall have the following powers:

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

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

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

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

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

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

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

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

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