

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  
5 Healthy Workplace Act.

6 Section 5. Findings and purpose.

7 (a) The General Assembly finds:

8 (1) Nearly every worker in the State is likely to need  
9 time off to attend to his or her own illness or that of a  
10 family member. More than 40% of all private sector workers  
11 in Illinois (over 2,500,000 people) have no right to a paid  
12 sick day. Over three-fourths of the lowest-wage workers do  
13 not receive paid sick days and cannot forfeit a day's work,  
14 so they often come into work sick.

15 (2) Preventive and routine medical care helps avoid  
16 illness and injury by detecting illnesses early on and  
17 shortening the duration of illnesses. Providing employees  
18 with time off to attend to their own health care needs  
19 ensures that they will be healthier and more efficient  
20 employees. It will also reduce the spread of disease within  
21 workplaces and to the public, such as customers, when  
22 employees go to work sick, a practice known as  
23 "presenteeism". Routine medical care results in savings by

1 detecting and treating illness and injury early and  
2 decreasing the need for emergency care. These savings  
3 benefit public and private payers of health insurance.

4 (3) When the school of a worker's child is closed  
5 because of extreme weather, it is often at the last minute  
6 and workers cannot find someone to babysit so they are  
7 forced to stay at home to take care of their children.

8 (4) Nearly one-quarter of American women report  
9 domestic violence and nearly one in 5 women report  
10 experiencing rape at some time during their lives. Many  
11 workers, men and women, need time off to care for their  
12 health after these incidents or to take legal action.  
13 Without paid time off, victims are in danger of losing  
14 their jobs.

15 (5) Employers that provide paid sick days see better  
16 productivity, reduced flu contagion, and lower turnover,  
17 which saves them the costs of replacing and training  
18 workers.

19 (b) This Act is enacted to establish the Healthy Workplace  
20 Act to provide at least a minimum time-off standard of paid  
21 sick days for all workers.

22 Section 10. Definitions. As used in this Act:

23 "Child" means a son or daughter who is a biological,  
24 adopted, or foster child, a stepchild, a legal ward, or a child  
25 of a person standing in loco parentis.

1 "Construction industry" means any constructing, altering,  
2 reconstructing, repairing, rehabilitating, refinishing,  
3 refurbishing, remodeling, remediating, renovating, custom  
4 fabricating, maintenance, landscaping, improving, wrecking,  
5 painting, decorating, demolishing, or adding to or subtracting  
6 from any building, structure, highway, roadway, street,  
7 bridge, alley, sewer, ditch, sewage disposal plant,  
8 waterworks, parking facility, railroad, excavation or other  
9 structure, project, development, real property, or  
10 improvement, or to do any part thereof, whether or not the  
11 performance of the work herein described involves the addition  
12 to or fabrication into, any structure, project, development,  
13 real property, or improvement herein described of any material  
14 or article of merchandise. "Construction industry" also  
15 includes moving construction related materials on the job site  
16 or to or from the job site, snow plowing, snow removal, and  
17 refuse collection.

18 "Department" means the Illinois Department of Labor.

19 "Employee" means any person who performs services for an  
20 employer for wage, remuneration, or other compensation. This  
21 includes persons working any number of hours, including a  
22 full-time or part-time status.

23 "Employer" means one who employs at least one employee,  
24 including, but not limited to, this State and its political  
25 subdivisions, a temporary services agency, an employment  
26 agency, or an employee organization. "Employer" does not

1 include school districts organized under the School Code, park  
2 districts organized under the Park District Code, or any City  
3 of Chicago Sister Agency under the Chicago Minimum Wage and  
4 Paid Sick Leave Ordinance as of the effective date of this Act.

5 "Family member" means a child, spouse, parent, the child or  
6 parent of an employee's spouse, a sibling, grandparent,  
7 grandchild, or any other individual related by blood or whose  
8 close association with the employee is the equivalent of a  
9 family relationship.

10 "Healthcare provider" means a person:

11 (1) who is: (i) licensed to practice medicine in all of  
12 its branches in Illinois and possesses the degree of doctor  
13 of medicine; (ii) licensed to practice medicine in all of  
14 its branches in Illinois and possesses the degree of doctor  
15 of osteopathy or osteopathic medicine; (iii) licensed to  
16 practice medicine in all of its branches or as an  
17 osteopathic physician in another state or jurisdiction; or  
18 (iv) any other person determined by final rule under the  
19 Family and Medical Leave Act of 1993; and

20 (2) who is not employed by an employer to whom the  
21 provider issues certifications under this Act.

22 "Paid sick day" means a portion of or a regular workday  
23 when an employee is unable to report to work because of a  
24 reason described in subsection (b) of Section 15.

25 "Parent" means a biological or adoptive parent, a foster or  
26 stepparent, a parent of a legal ward, or a person who stands in

1 loco parentis to an employee or an employee's spouse.

2 "Spouse" means a party to a marriage or a party to a civil  
3 union as defined by Illinois statute.

4 Section 15. Provision of paid sick days.

5 (a) All employees who work in Illinois who are absent from  
6 work for a reason set forth in subsection (b) shall be entitled  
7 to earn and use a minimum of 5 paid sick days during a 12-month  
8 period or a pro rata number of paid sick days or hours under  
9 the provisions of subsection (c). The 12-month period for an  
10 employee shall be calculated from the date of hire or  
11 subsequent anniversary date.

12 (b) Paid sick days shall be provided to an employee by an  
13 employer to:

14 (1) care for the employee's own physical or mental  
15 illness, injury, or health condition, or seek medical  
16 diagnosis or care;

17 (2) care for the employee's family member who is  
18 suffering from a physical or mental illness, injury, or  
19 health condition, or seek medical diagnosis or care; or

20 (3) attend a medical appointment for himself or herself  
21 or a medical appointment of the employee's family member;

22 (4) care for a child whose school or place of care has  
23 been closed by order of a public official due to a public  
24 health emergency or to not go in to work because of the  
25 closure of the employee's place of business by order of a

1 public health official due to a public health emergency; or

2 (5) be off from work because he or she or the  
3 employee's family member is the victim of domestic violence  
4 as defined in Section 103(3) of the Illinois Domestic  
5 Violence Act of 1986 or sexual violence as defined under  
6 Article 11 and Sections 12-7.3, 12-7.4, and 12-7.5 of the  
7 Illinois Criminal Code of 2012.

8 (c) Paid sick days shall accrue at the rate of one hour of  
9 paid sick time for every 40 hours worked up to a minimum of 40  
10 hours of paid sick time unless the employer selects a higher  
11 limit. Employees who are exempt from the overtime requirements  
12 of the federal Fair Labor Standards Act (29 U.S.C. 213(a)(1))  
13 shall be deemed to work 40 hours in each work week for purposes  
14 of paid sick day accrual unless their normal work week is less  
15 than 40 hours, in which case paid sick days accrue based on  
16 that normal work week. Employees shall determine how much paid  
17 sick days they need to use, provided that employers may set a  
18 reasonable minimum increment for the use of a paid sick day not  
19 to exceed 4 hours per day.

20 (d) Employees shall be paid their regular rate of pay for a  
21 paid sick day. However, an employee engaged in an occupation in  
22 which gratuities have customarily and usually constituted and  
23 have been recognized as part of the remuneration for hire  
24 purposes shall be paid by his or her employer at least the full  
25 Illinois minimum wage for a paid sick day taken. Paid sick days  
26 under this Act shall not be charged or otherwise credited to

1 employee vacation accounts.

2 (e) Paid sick days shall begin to accrue at the  
3 commencement of employment or on the effective date of this  
4 Act, whichever is later. An employee shall be entitled to begin  
5 using a sick day 180 days following commencement of his or her  
6 employment or 180 days following the effective date of this  
7 Act, whichever is later. Nothing in this Section shall be  
8 construed to discourage or prohibit an employer from allowing  
9 the use of paid sick days at an earlier date than this Section  
10 requires. Nothing in this Act shall be construed to discourage  
11 employers from adopting or retaining paid sick day policies  
12 more generous than policies that comply with the requirements  
13 of this Act.

14 (f) An employer may require certification of the qualifying  
15 illness, injury, or health condition when paid sick days cover  
16 more than 3 consecutive workdays. Any reasonable documentation  
17 signed by a healthcare provider involved in following or  
18 treating the illness, injury, or health condition, and  
19 indicating the need for the amount of sick days taken, shall be  
20 deemed acceptable certification. Nothing in this Act shall be  
21 construed to require an employee to provide as certification  
22 any information from a healthcare provider that would be in  
23 violation of Section 1177 of the Social Security Act or the  
24 regulations promulgated pursuant to the federal Health  
25 Insurance Portability and Accountability Act of 1996. If an  
26 employer possesses health information about an employee or

1 employee's family member, such information shall be treated as  
2 confidential and not disclosed except with the permission of  
3 the affected employee. For time used pursuant to subdivision  
4 (b) (5), any one of the following is acceptable documentation,  
5 and only one of the following shall be required: a police  
6 report, court document, or signed statement from an attorney, a  
7 member of the clergy, or a victim services advocate. It is up  
8 to the employee to determine which documentation to submit.

9 The employer shall not delay the commencement of leave  
10 taken for purposes of subsection (b) of this Section nor delay  
11 pay for this period on the basis that the employer has not yet  
12 received the certification.

13 (g) Paid sick days shall be provided upon the oral request  
14 of an employee. If the necessity for paid sick days under this  
15 Act is foreseeable, the employee shall provide the employer  
16 with not less than 7 days' notice before the date the leave is  
17 to begin. If the necessity for leave is not foreseeable, the  
18 employee shall provide such notice as soon as is practicable  
19 after the employee is aware of the necessity of such leave. An  
20 employer may not require, as a condition of providing paid sick  
21 days under this Act, that the employee search for or find a  
22 replacement worker to cover the hours during which the employee  
23 is on paid sick days leave.

24 (h) Paid sick days shall carry over annually to the extent  
25 not used by the employee, provided that nothing in this Act  
26 shall be construed to require an employer to allow use of more



1 than 5 paid sick days for an employee unless an employer agrees  
2 to do so.

3 (i) It shall be unlawful for an employer to interfere with,  
4 restrain, deny, change work days or hours scheduled to avoid  
5 paying sick days, or discipline an employee for the exercise  
6 of, or the attempt to exercise, any right provided under or in  
7 connection with this Act, including considering the use of paid  
8 sick days as a negative factor in an employment action that  
9 involves hiring, terminating, evaluating, promoting,  
10 disciplining, or counting the paid sick days under a no-fault  
11 attendance policy.

12 (j) During any period an employee takes leave under this  
13 Act, the employer shall maintain coverage for the employee and  
14 any family member under any group health plan for the duration  
15 of such leave at at least the level and conditions of coverage  
16 as would have been provided if the employee had not taken the  
17 leave.

18 (k) Nothing in this Section shall be construed as requiring  
19 financial or other reimbursement to an employee from an  
20 employer upon the employee's termination, resignation,  
21 retirement, or other separation from employment for accrued  
22 paid sick days that have not been used.

23 (l) Nothing in this Section shall be construed to prohibit  
24 an employer from taking disciplinary action, up to and  
25 including termination, against an employee who uses paid sick  
26 days provided pursuant to this Act for purposes other than

1 those described in this Section.

2 (m) If an employee is transferred to a separate division,  
3 entity, or location, but remains employed by the same employer,  
4 the employee is entitled to all paid sick days accrued at the  
5 prior division, entity, or location and is entitled to use all  
6 paid sick days as provided in this Section. Where there is a  
7 separation from employment and the employee is rehired within  
8 12 months of separation by the same employer, previously  
9 accrued paid sick days that had not been used shall be  
10 reinstated. Such employee shall be entitled to use accrued paid  
11 sick days at the commencement of employment following a  
12 separation from employment of 12 months or less.

13 (n) Nothing in this Section shall be deemed to interfere  
14 with, impede, or in any way diminish the right of employees to  
15 bargain collectively with their employers through  
16 representatives of their own choosing in order to establish  
17 wages or other conditions of work in excess of the applicable  
18 minimum standards of the provisions of this Act. Nothing in  
19 this Section shall be deemed to affect the validity or change  
20 the terms of bona fide collective bargaining agreements in  
21 force on the effective date of this Act. After the effective  
22 date of this Act, requirements of this Section may be waived in  
23 a bona fide collective bargaining agreement, but only if the  
24 waiver is set forth explicitly in such agreement in clear and  
25 unambiguous terms. In no event shall this Section apply to any  
26 employee working in the construction industry who is covered by

1 a bona fide collective bargaining agreement.

2 Section 20. Related employer responsibilities.

3 (a) An employer subject to any provision of this Act shall  
4 make and preserve records documenting hours worked by employees  
5 and the amount of paid sick days taken by employees for a  
6 period of not less than 3 years and shall allow the Department  
7 access to such records, with appropriate notice and a mutually  
8 agreeable time, to monitor compliance with the requirements of  
9 this Section.

10 (b) An agreement by an employee to waive his or her right  
11 under this Act, except as allowed under subsection (n) of  
12 Section 15, is void as against public policy.

13 (c) Employers who have a paid time off policy that complies  
14 with at least the minimum requirements of this Act shall not be  
15 required to modify such a policy if such policy offers an  
16 employee the option, at the employee's discretion, to take paid  
17 sick days that are at least equivalent to the paid sick days  
18 described in this Act.

19 (d) Employers shall post and keep posted in a conspicuous  
20 place on the premises of the employer where notices to  
21 employees are customarily posted, or include in an employee  
22 manual or policy, a notice, to be prepared by the Department,  
23 summarizing the requirements of this Act and information  
24 pertaining to the filing of a charge. If an employer's  
25 workforce is comprised of a significant portion of workers who

1 are not literate in English, the employer is responsible for  
2 providing the notice in a language in which the employees are  
3 literate. An employer who willfully violates the notice and  
4 posting requirements of this Section shall be subject to a  
5 civil penalty in an amount not to exceed \$100 for each separate  
6 offense.

7 Section 25. Unlawful employer practices. It is unlawful for  
8 any employer to take any adverse action against an employee  
9 because the employee (1) exercises rights or attempts to  
10 exercise rights under this Act, (2) opposes practices which  
11 such employee believes to be in violation of this Act, or (3)  
12 supports the exercise of rights of another under this Act.

13 Exercising rights under this Act includes filing an action  
14 or instituting or causing to be instituted any proceeding under  
15 or related to this Act; providing or agreeing to provide any  
16 information in connection with any inquiry or proceeding  
17 relating to any right provided under this Act; or testifying to  
18 or agreeing to testify in any inquiry or proceeding relating to  
19 any right provided under this Act.

20 Section 30. Department responsibilities.

21 (a) The Department shall administer and enforce this Act  
22 and adopt rules under the Illinois Administrative Procedure Act  
23 for the purpose of this Act. The Department shall have the  
24 powers and the parties shall have the rights provided in the

1 Illinois Administrative Procedure Act for contested cases. The  
2 Department shall have the power to conduct investigations in  
3 connection with the administration and enforcement of this Act,  
4 including the power to conduct depositions and discovery and to  
5 issue subpoenas. If the Department finds cause to believe that  
6 this Act has been violated, the Department shall notify the  
7 parties in writing and the matter shall be referred to an  
8 Administrative Law Judge to schedule a formal hearing in  
9 accordance with hearing procedures established by rule.

10 (b) The Department is authorized to impose civil penalties  
11 prescribed in Section 35 in administrative proceedings that  
12 comply with the Illinois Administrative Procedure Act and to  
13 supervise the payment of the unpaid wages and damages owing to  
14 the employee or employees under this Act. The Department may  
15 bring any legal action necessary to recover the amount of  
16 unpaid wages, damages, and penalties, and the employer shall be  
17 required to pay the costs. Any sums recovered by the Department  
18 on behalf of an employee under this Act shall be paid to the  
19 employee or employees affected. However, 20% of any penalty  
20 collected from the employer for a violation of this Act shall  
21 be deposited into the Healthy Workplace Fund, a special fund  
22 created in the State treasury that is dedicated to enforcing  
23 this Act.

24 (c) The Attorney General may bring an action to enforce the  
25 collection of any civil penalty imposed under this Act.

1 Section 35. Enforcement.

2 (a) An employee who believes his or her rights under this  
3 Act or any rule adopted under this Act have been violated may,  
4 within 3 years after the date of the last event constituting  
5 the alleged violation for which the action is brought, file a  
6 complaint with the Department or file a civil action.

7 (b) Any employer that violates this Act is liable in a  
8 claim filed with the Department or in a civil action in circuit  
9 court to any affected individuals for actual and compensatory  
10 damages, with interest at the prevailing rate, punitive  
11 damages, and such equitable relief as may be appropriate, in  
12 addition to reasonable attorney's fees, reasonable expert  
13 witness fees, and other costs of the action to be paid by the  
14 defendant. A civil action may be brought without first filing  
15 an administrative complaint.

16 (c) Any employer that the Department or a court finds by a  
17 preponderance of the evidence to have knowingly, repeatedly, or  
18 with reckless disregard violated any provision of this Act or  
19 any rule adopted under this Act is subject to a civil money  
20 penalty not to exceed \$2,500 for each separate offense.

21 Section 90. The State Finance Act is amended by adding  
22 Section 5.878 as follows:

23 (30 ILCS 105/5.878 new)

24 Sec. 5.878. The Healthy Workplace Fund.

1           Section 97. Severability. The provisions of this Act are  
2 severable under Section 1.31 of the Statute on Statutes.

3           Section 99. Effective date. This Act takes effect upon  
4 becoming law.