



Sen. Daniel Biss

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10000HB3452sam002

LRB100 05727 HEP 30692 a

1 AMENDMENT TO HOUSE BILL 3452

2 AMENDMENT NO. _____. Amend House Bill 3452 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. If and only if House Bill 2462 of the 100th
5 General Assembly becomes law, then the Equal Pay Act of 2003 is
6 amended by changing Section 30 as follows:

7 (820 ILCS 112/30)

8 Sec. 30. Violations; fines and penalties.

9 (a) If an employee is paid by his or her employer less than
10 the wage to which he or she is entitled in violation of Section
11 10 of this Act, the employee may recover in a civil action the
12 entire amount of any underpayment together with interest,
13 compensatory damages if the employee demonstrates that the
14 employer acted with malice or reckless indifference, punitive
15 damages as may be appropriate, injunctive relief as may be
16 appropriate, and the costs and reasonable attorney's fees as

1 may be allowed by the court and as necessary to make the
2 employee whole. At the request of the employee or on a motion
3 of the Director, the Department may make an assignment of the
4 wage claim in trust for the assigning employee and may bring
5 any legal action necessary to collect the claim, and the
6 employer shall be required to pay the costs incurred in
7 collecting the claim. Every such action shall be brought within
8 5 years from the date of the underpayment. For purposes of this
9 Act, "date of the underpayment" means each time wages are
10 underpaid.

11 (a-5) If an employer violates subsection (b), (b-5), or
12 (b-10) of Section 10, the employee may recover in a civil
13 action any damages incurred, special damages not to exceed
14 \$10,000, injunctive relief as may be appropriate, and costs and
15 reasonable attorney's fees as may be allowed by the court and
16 as necessary to make the employee whole. If special damages are
17 available, an employee may recover compensatory damages only to
18 the extent such damages exceed the amount of special damages.
19 Such action shall be brought within 5 years from the date of
20 the violation.

21 (b) The Director is authorized to supervise the payment of
22 the unpaid wages under subsection (a) or damages under
23 subsection (b), (b-5), or (b-10) of Section 10 owing to any
24 employee or employees under this Act and may bring any legal
25 action necessary to recover the amount of unpaid wages,
26 damages, and penalties or to seek injunctive relief, and the

1 employer shall be required to pay the costs. Any sums recovered
2 by the Director on behalf of an employee under this Section
3 shall be paid to the employee or employees affected.

4 (c) Employers who violate any provision of this Act or any
5 rule adopted under the Act are subject to a civil penalty for
6 each employee affected as follows:

7 (1) An employer with fewer than 4 employees: first
8 offense, a fine not to exceed \$500; second offense, a fine
9 not to exceed \$2,500; third or subsequent offense, a fine
10 not to exceed \$5,000.

11 (2) An employer with 4 or more employees: first
12 offense, a fine not to exceed \$2,500; second offense, a
13 fine not to exceed \$3,000; third or subsequent offense, a
14 fine not to exceed \$5,000.

15 An employer or person who violates subsection (b) ~~(b-5)~~,
16 ~~(b-10)~~, or (c) of Section 10 is subject to a civil penalty not
17 to exceed \$5,000 for each violation for each employee affected.

18 (d) In determining the amount of the penalty, the
19 appropriateness of the penalty to the size of the business of
20 the employer charged and the gravity of the violation shall be
21 considered. The penalty may be recovered in a civil action
22 brought by the Director in any circuit court.

23 (Source: P.A. 99-418, eff. 1-1-16; 1000HB2462enr.)

24 Section 99. Effective date. This Act takes effect January
25 1, 2018."