

HB3736



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3736

by Rep. Jehan Gordon-Booth

SYNOPSIS AS INTRODUCED:

820 ILCS 115/14

from Ch. 48, par. 39m-14

Amends the Illinois Wage Payment and Collection Act. Provides that an employer that is able to pay wages and who refuses to pay is guilty of a Class 4 felony (instead of a Class B misdemeanor for unpaid wages in the amount of \$5,000 or less and a Class A misdemeanor for unpaid wages in the amount of more than \$5,000). Provides that a subsequent failure to pay within 5, rather than 2, years of a prior conviction is a Class 3, rather than Class 4, felony.

LRB100 06031 HEP 16062 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 5. The Illinois Wage Payment and Collection Act is
5 amended by changing Section 14 as follows:

6 (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

7 Sec. 14. (a) Any employee not timely paid wages, final
8 compensation, or wage supplements by his or her employer as
9 required by this Act shall be entitled to recover through a
10 claim filed with the Department of Labor or in a civil action,
11 but not both, the amount of any such underpayments and damages
12 of 2% of the amount of any such underpayments for each month
13 following the date of payment during which such underpayments
14 remain unpaid. In a civil action, such employee shall also
15 recover costs and all reasonable attorney's fees.

16 (a-5) In addition to the remedies provided in subsections
17 (a), (b), and (c) of this Section, any employer or any agent of
18 an employer, who, being able to pay wages, final compensation,
19 or wage supplements and being under a duty to pay, wilfully
20 refuses to pay as provided in this Act, or falsely denies the
21 amount or validity thereof or that the same is due, with intent
22 to secure for himself or other person any underpayment of such
23 indebtedness or with intent to annoy, harass, oppress, hinder,

1 delay or defraud the person to whom such indebtedness is due,
2 upon conviction, is guilty of:

3 (1) for unpaid wages, final compensation or wage
4 supplements in the amount of \$5,000 or less, a Class 4
5 felony ~~B-misdemeanor~~; or

6 (2) for unpaid wages, final compensation or wage
7 supplements in the amount of more than \$5,000, a Class 4
8 felony ~~A-misdemeanor~~.

9 Each day during which any violation of this Act continues
10 shall constitute a separate and distinct offense.

11 Any employer or any agent of an employer who violates this
12 Section of the Act a subsequent time within 5 ~~2~~ years of a
13 prior criminal conviction under this Section is guilty, upon
14 conviction, of a Class 3 ~~4~~ felony.

15 (b) Any employer who has been demanded or ordered by the
16 Department or ordered by the court to pay wages, final
17 compensation, or wage supplements due an employee shall be
18 required to pay a non-waivable administrative fee to the
19 Department of Labor in the amount of \$250 if the amount ordered
20 by the Department as wages owed is \$3,000 or less; \$500 if the
21 amount ordered by the Department as wages owed is more than
22 \$3,000, but less than \$10,000; and \$1,000 if the amount ordered
23 by the Department as wages owed is \$10,000 or more. Any
24 employer who has been so demanded or ordered by the Department
25 or ordered by a court to pay such wages, final compensation, or
26 wage supplements and who fails to seek timely review of such a

1 demand or order as provided for under this Act and who fails to
2 comply within 15 calendar days after such demand or within 35
3 days of an administrative or court order is entered shall also
4 be liable to pay a penalty to the Department of Labor of 20% of
5 the amount found owing and a penalty to the employee of 1% per
6 calendar day of the amount found owing for each day of delay in
7 paying such wages to the employee. All moneys recovered as fees
8 and civil penalties under this Act, except those owing to the
9 affected employee, shall be deposited into the Wage Theft
10 Enforcement Fund, a special fund which is hereby created in the
11 State treasury. Moneys in the Fund may be used only for
12 enforcement of this Act.

13 (b-5) Penalties and fees under this Section may be assessed
14 by the Department and recovered in a civil action brought by
15 the Department in any circuit court or in any administrative
16 adjudicative proceeding under this Act. In any such civil
17 action or administrative adjudicative proceeding under this
18 Act, the Department shall be represented by the Attorney
19 General.

20 (c) Any employer, or any agent of an employer, who
21 discharges or in any other manner discriminates against any
22 employee because that employee has made a complaint to his
23 employer, to the Director of Labor or his authorized
24 representative, in a public hearing, or to a community
25 organization that he or she has not been paid in accordance
26 with the provisions of this Act, or because that employee has

1 caused to be instituted any proceeding under or related to this
2 Act, or because that employee has testified or is about to
3 testify in an investigation or proceeding under this Act, is
4 guilty, upon conviction, of a Class C misdemeanor. An employee
5 who has been unlawfully retaliated against shall be entitled to
6 recover through a claim filed with the Department of Labor or
7 in a civil action, but not both, all legal and equitable relief
8 as may be appropriate. In a civil action, such employee shall
9 also recover costs and all reasonable attorney's fees.

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