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 Equal Pay Act of 2003 is amended by changing

5   Sections 10 and 30 as follows:

6   (820 ILCS 112/10)

7   Sec. 10. Prohibited acts.

8   (a) No employer may discriminate between employees on the

9   basis of sex by paying wages to an employee at a rate less than

10 the rate at which the employer pays wages to another employee

11 of the opposite sex for the same or substantially similar work

12 on jobs the performance of which requires substantially similar

13 ~~equal~~ skill, effort, and responsibility, and which are

14 performed under similar working conditions, except where the

15 payment is made under:

16   (1) a seniority system;

17   (2) a merit system;

18   (3) a system that measures earnings by quantity or

19   quality of production; or

20   (4) a differential based on any other factor other

21   than: (i) sex or (ii) a factor that would constitute

22   unlawful discrimination under the Illinois Human Rights

23   Act, provided that the factor:

1   (A) is not based on or derived from a differential

2   in compensation based on sex or another protected

3   characteristic;

4   (B) is job-related with respect to the position and

5   consistent with a business necessity; and

6   (C) accounts for the entire differential.

7   An employer who is paying wages in violation of this Act

8 may not, to comply with this Act, reduce the wages of any other

9 employee.

10   Nothing in this Act may be construed to require an employer

11 to pay, to any employee at a workplace in a particular county,

12 wages that are equal to the wages paid by that employer at a

13 workplace in another county to employees in jobs the

14 performance of which requires equal skill, effort, and

15 responsibility, and which are performed under similar working

16 conditions.

17   (b) It is unlawful for any employer to interfere with,

18 restrain, or deny the exercise of or the attempt to exercise

19 any right provided under this Act. It is unlawful for any

20 employer to discharge or in any other manner discriminate

21 against any individual for inquiring about, disclosing,

22 comparing, or otherwise discussing the employee's wages or the

23 wages of any other employee, or aiding or encouraging any

24 person to exercise his or her rights under this Act. It is

25 unlawful for an employer to require an employee to sign a

26 contract or waiver that would prohibit the employee from

1   disclosing or discussing information about the employee's

2   wages.

3   (b-5) It is unlawful for an employer to screen job

4   applicants based on their wage or salary history, including by

5   requiring that an applicant's prior wages, including benefits

6   or other compensation, satisfy minimum or maximum criteria or

7   requesting or requiring as a condition of being interviewed, as

8   a condition of continuing to be considered for an offer of

9   employment, as a condition of an offer of employment or an

10 offer of compensation, or as a condition of employment that an

11 applicant disclose prior wages or salary.

12   (b-10) It is unlawful for an employer to seek the wage or

13 salary history, including benefits or other compensation, of

14 any job applicant from any current or former employer. This

15 subsection (b-10) does not apply if:

16   (1) the job applicant's wage or salary history is a

17   matter of public record under the Freedom of Information

18   Act, or any other equivalent State or federal law, or is

19   contained in a document completed by the job applicant's

20   current or former employer and then made available to the

21   public by the employer, or submitted or posted by the

22   employer to comply with State or federal law; or

23   (2) the job applicant is a current employee and is

24   applying for a position with the same current employer.

25   (c) It is unlawful for any person to discharge or in any

26 other manner discriminate against any individual because the

1   individual:

2   (1) has filed any charge or has instituted or caused to

3   be instituted any proceeding under or related to this Act;

4   (2) has given, or is about to give, any information in

5   connection with any inquiry or proceeding relating to any

6   right provided under this Act; or

7   (3) has testified, or is about to testify, in any

8   inquiry or proceeding relating to any right provided under

9   this Act; or ·.

10   (4) fails to comply with any wage history inquiry.

11   (Source: P.A. 93-6, eff. 1-1-04.)

12   (820 ILCS 112/30)

13   Sec. 30. Violations; fines and penalties.

14   (a) If an employee is paid by his or her employer less than

15   the wage to which he or she is entitled in violation of Section

16   10 of this Act, the employee may recover in a civil action the

17   entire amount of any underpayment together with interest,

18   compensatory damages if the employee demonstrates that the

19   employer acted with malice or reckless indifference, punitive

20   damages as may be appropriate, injunctive relief as may be

21   appropriate, and the costs and reasonable attorney's fees as

22   may be allowed by the court and as necessary to make the

23   employee whole. At the request of the employee or on a motion

24   of the Director, the Department may make an assignment of the

25   wage claim in trust for the assigning employee and may bring

1   any legal action necessary to collect the claim, and the
2   employer shall be required to pay the costs incurred in
3   collecting the claim. Every such action shall be brought within
4   5 years from the date of the underpayment. For purposes of this
5   Act, "date of the underpayment" means each time wages are
6   underpaid.

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

17   (b) The Director is authorized to supervise the payment of
18   the unpaid wages under subsection (a) or damages under
19   subsection (b), (b-5), or (b-10) of Section 10 owing to any
20   employee or employees under this Act and may bring any legal
21   action necessary to recover the amount of unpaid wages,
22   damages, and penalties or to seek injunctive relief, and the
23   employer shall be required to pay the costs. Any sums recovered
24   by the Director on behalf of an employee under this Section
25   shall be paid to the employee or employees affected.

26   (c) Employers who violate any provision of this Act or any

1   rule adopted under the Act are subject to a civil penalty for

2   each employee affected as follows:

3   (1) An employer with fewer than 4 employees: first

4   offense, a fine not to exceed $500; second offense, a fine

5   not to exceed $2,500; third or subsequent offense, a fine

6   not to exceed $5,000.

7   (2) An employer with 4 or more employees: first

8   offense, a fine not to exceed $2,500; second offense, a

9   fine not to exceed $3,000; third or subsequent offense, a

10   fine not to exceed $5,000.

11   An employer or person who violates subsection (b), (b-5),

12   (b-10), or (c) of Section 10 is subject to a civil penalty not

13   to exceed $5,000 for each violation for each employee affected.

14   (d) In determining the amount of the penalty, the

15   appropriateness of the penalty to the size of the business of

16   the employer charged and the gravity of the violation shall be

17   considered. The penalty may be recovered in a civil action

18   brought by the Director in any circuit court.

19   (Source: P.A. 99-418, eff. 1-1-16.)