



Rep. Marcus C. Evans, Jr.

Filed: 2/16/2022

10200HB4604ham002

LRB102 23341 SPS 36206 a

1 AMENDMENT TO HOUSE BILL 4604

2 AMENDMENT NO. _____. Amend House Bill 4604, AS AMENDED,
3 by inserting immediately above Section 5 the following:

4 "Section 3. The Equal Pay Act of 2003 is amended by
5 changing Section 11 as follows:

6 (820 ILCS 112/11)

7 Sec. 11. Equal pay registration certificate requirements;
8 application. For the purposes of this Section 11 only,
9 "business" means any private employer who has 100 or more ~~more~~
10 ~~than 100~~ employees in the State of Illinois and is required to
11 file an Annual Employer Information Report EEO-1 with the
12 Equal Employment Opportunity Commission, but does not include
13 the State of Illinois or any political subdivision, municipal
14 corporation, or other governmental unit or agency.

15 (a) A business must obtain an equal pay registration
16 certificate from the Department.

1 (b) Any business subject to the requirements of this
2 Section that is authorized to transact business in this State
3 on March 23, 2021 shall submit an application to obtain an
4 equal pay registration certificate, between March 24, 2022 and
5 March 23, 2024, and must recertify every 2 years thereafter.
6 Any business subject to the requirements of this Section that
7 is authorized to transact business in this State after March
8 23, 2021 must submit an application to obtain an equal pay
9 registration certificate within 3 years of commencing business
10 operations, but not before January 1, 2024, and must recertify
11 every 2 years thereafter. The Department shall collect contact
12 information from each business subject to this Section. The
13 Department shall assign each business a date by which it must
14 submit an application to obtain an equal pay registration
15 certificate. The business shall recertify every 2 years at a
16 date to be determined by the Department. When a business
17 receives a notice from the Department to recertify for its
18 equal pay registration certificate, if the business has fewer
19 than 100 employees, the business must certify in writing to
20 the Department that it is exempt from this Section. Any new
21 business that is subject to this Section and authorized to
22 conduct business in this State, after the effective date of
23 this amendatory Act of the 102nd General Assembly, shall
24 submit its contact information to the Department by January 1
25 of the following year and shall be assigned a date by which it
26 must submit an application to obtain an equal pay registration

1 certificate. The Department's failure to assign a business a
2 registration date does not exempt the business from compliance
3 with this Section. The failure of the Department to notify a
4 business of its recertification deadline may be a mitigating
5 factor when making a determination of a violation of this
6 Section.

7 (c) Application.

8 (1) A business shall apply for an equal pay
9 registration certificate by paying a \$150 filing fee and
10 submitting wage records and an equal pay compliance
11 statement to the Director as follows:

12 (A) Wage Records. Any business that is required to
13 file an annual Employer Information Report EEO-1 with
14 the Equal Employment Opportunity Commission must also
15 submit to the Director a copy of the business's most
16 recently filed Employer Information Report EEO-1. The
17 business shall also compile a list of all employees
18 during the past calendar year, separated by gender and
19 the race and ethnicity categories as reported in the
20 business's most recently filed Employer Information
21 Report EEO-1, and the county in which the employee
22 works, the date the employee started working for the
23 business, any other information the Department deems
24 necessary to determine if pay equity exists among
25 employees, and report the total wages as defined by
26 Section 2 of the Illinois Wage Payment and Collection

1 Act paid to each employee during the past calendar
2 year, rounded to the nearest \$100, to the Director.

3 (B) Equal Pay Compliance Statement. The business
4 must submit a statement signed by a corporate officer,
5 legal counsel, or authorized agent of the business
6 certifying:

7 (i) that the business is in compliance with
8 this Act and other relevant laws, including but
9 not limited to: Title VII of the Civil Rights Act
10 of 1964, the Equal Pay Act of 1963, the Illinois
11 Human Rights Act, and the Equal Wage Act;

12 (ii) that the average compensation for its
13 female and minority employees is not consistently
14 below the average compensation, as determined by
15 rule by the United States Department of Labor, for
16 its male and non-minority employees within each of
17 the major job categories in the Employer
18 Information Report EEO-1 for which an employee is
19 expected to perform work, taking into account
20 factors such as length of service, requirements of
21 specific jobs, experience, skill, effort,
22 responsibility, working conditions of the job,
23 education or training, job location, use of a
24 collective bargaining agreement, or other
25 mitigating factors; as used in this subparagraph,
26 "minority" has the meaning ascribed to that term

1 in paragraph (1) of subsection (A) of Section 2 of
2 the Business Enterprise for Minorities, Women, and
3 Persons with Disabilities Act;

4 (iii) that the business does not restrict
5 employees of one sex to certain job
6 classifications, and makes retention and promotion
7 decisions without regard to sex;

8 (iv) that wage and benefit disparities are
9 corrected when identified to ensure compliance
10 with the Acts cited in item (i);

11 (v) how often wages and benefits are
12 evaluated; and

13 (vi) the approach the business takes in
14 determining what level of wages and benefits to
15 pay its employees; acceptable approaches include,
16 but are not limited to, a wage and salary survey.

17 (C) Filing fee. The business shall pay to the
18 Department a filing fee of \$150. Proceeds from the
19 fees collected under this Section shall be deposited
20 into the Equal Pay Registration Fund, a special fund
21 created in the State treasury. Moneys in the Fund
22 shall be appropriated to the Department for the
23 purposes of this Section.

24 (2) Receipt of the equal pay compliance application
25 and statement by the Director does not establish
26 compliance with the Acts set forth in item (i) of

1 subparagraph (B) of paragraph (1) of this subsection (c).

2 (3) A business that has employees in multiple
3 locations or facilities in Illinois shall submit a single
4 application to the Department regarding all of its
5 operations in Illinois.

6 (d) Issuance or rejection of registration certificate.
7 After January 1, 2022, the Director must issue an equal pay
8 registration certificate, or a statement of why the
9 application was rejected, within 45 calendar days of receipt
10 of the application. Applicants shall have the opportunity to
11 cure any deficiencies in its application that led to the
12 rejection, and re-submit the revised application to the
13 Department within 30 calendar days of receiving a rejection.
14 Applicants shall have the ability to appeal rejected
15 applications. An application may be rejected only if it does
16 not comply with the requirements of subsection (c), or the
17 business is otherwise found to be in violation of this Act. The
18 receipt of an application by the Department, or the issuance
19 of a registration certificate by the Department, shall not
20 establish compliance with the Equal Pay Act of 2003 as to all
21 Sections except Section 11. The issuance of a registration
22 certificate shall not be a defense against any Equal Pay Act
23 violation found by the Department, nor a basis for mitigation
24 of damages.

25 (e) Revocation of registration certificate. An equal pay
26 registration certificate for a business may be suspended or

1 revoked by the Director when the business fails to make a good
2 faith effort to comply with the Acts identified in item (i) of
3 subparagraph (B) of paragraph (1) of subsection (c), fails to
4 make a good faith effort to comply with this Section, or has
5 multiple violations of this Section or the Acts identified in
6 item (i) of subparagraph (B) of paragraph (1) of subsection
7 (c). Prior to suspending or revoking a registration
8 certificate, the Director must first have sought to conciliate
9 with the business regarding wages and benefits due to
10 employees.

11 Consistent with Section 25, prior to or in connection with
12 the suspension or revocation of an equal pay registration
13 certificate, the Director, or his or her authorized
14 representative, may interview workers, administer oaths, take
15 or cause to be taken the depositions of witnesses, and require
16 by subpoena the attendance and testimony of witnesses, and the
17 production of personnel and compensation information relative
18 to the matter under investigation, hearing or a
19 department-initiated audit.

20 Neither the Department nor the Director shall be held
21 liable for good faith errors in issuing, denying, suspending
22 or revoking certificates.

23 (f) Administrative review. A business may obtain an
24 administrative hearing in accordance with the Illinois
25 Administrative Procedure Act before the suspension or
26 revocation of its certificate or imposition of civil penalties

1 as provided by subsection (i) is effective by filing a written
2 request for hearing within 20 calendar days after service of
3 notice by the Director.

4 (g) Technical assistance. The Director must provide
5 technical assistance to any business that requests assistance
6 regarding this Section.

7 (h) Access to data.

8 (1) Any individually identifiable information
9 submitted to the Director within or related to an equal
10 pay registration application or otherwise provided by an
11 employer in its equal pay compliance statement under
12 subsection (c) shall be considered confidential
13 information and not subject to disclosure pursuant to the
14 Illinois Freedom of Information Act. As used in this
15 Section, "individually identifiable information" means
16 data submitted pursuant to this Section that is associated
17 with a specific person or business. Aggregate data or
18 reports that are reasonably calculated to prevent the
19 association of any data with any individual business or
20 person are not confidential information. Aggregate data
21 shall include the job category and the average hourly wage
22 by county for each gender, race, and ethnicity category on
23 the registration certificate applications. The Department
24 of Labor may compile aggregate data from registration
25 certificate applications.

26 (2) The Director's decision to issue, not issue,

1 revoke, or suspend an equal pay registration certificate
2 is public information.

3 (3) Notwithstanding this subsection (h), a current
4 employee of a covered business may request anonymized data
5 regarding their job classification or title and the pay
6 for that classification. No individually identifiable
7 information may be provided to an employee making a
8 request under this paragraph.

9 (4) Notwithstanding this subsection (h), the
10 Department may share data and identifiable information
11 with the Department of Human Rights, pursuant to its
12 enforcement of Article 2 of the Illinois Human Rights Act,
13 or the Office of the Attorney General, pursuant to its
14 enforcement of Section 10-104 of the Illinois Human Rights
15 Act.

16 (5) Any Department employee who willfully and
17 knowingly divulges, except in accordance with a proper
18 judicial order or otherwise provided by law, confidential
19 information received by the Department from any business
20 pursuant to this Act shall be deemed to have violated the
21 State Officials and Employees Ethics Act and be subject to
22 the penalties established under subsections (e) and (f) of
23 Section 50-5 of that Act after investigation and
24 opportunity for hearing before the Executive Ethics
25 Commission in accordance with Section 20-50 of that Act.

26 (i) Penalty. Falsification or misrepresentation of

1 information on an application submitted to the Department
2 shall constitute a violation of this Act and the Department
3 may seek to suspend or revoke an equal pay registration
4 certificate or impose civil penalties as provided under
5 subsection (c) of Section 30.

6 (Source: P.A. 101-656, eff. 3-23-21; 102-36, eff. 6-25-21.);
7 and

8 by inserting immediately below Section 5 the following:

9 "Section 99. Effective date. This Section and Section 3
10 takes effect immediately."