



Sen. Cristina Castro

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1 AMENDMENT TO SENATE BILL 837

2 AMENDMENT NO. _____. Amend Senate Bill 837 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Fair
5 Play in Employment Act.

6 Section 5. Findings and intent. The General Assembly finds
7 and declares the following:

8 (1) Illinois workers are experiencing dangerous levels
9 of employee misclassification. Companies that misclassify
10 workers as independent contractors deny the workers of
11 Illinois basic labor standards, including wage and hour
12 protections, health and safety standards, workers'
13 compensation, retirement security, and unemployment
14 insurance. Misclassification robs workers of their
15 livelihood and basic protections, while padding the
16 pockets of violators and draining public funds.

1 (2) Misclassification also results in workers and
2 their families being excluded from critical paid sick
3 time, paid family and medical leave, and health insurance
4 benefits.

5 (3) The misclassification of workers as independent
6 contractors has been a significant factor in the erosion
7 of the middle class and the rise in income inequality.

8 (4) The misclassification of workers as independent
9 contractors allows unscrupulous employers and hiring
10 entities to gain an unfair advantage over employers that
11 obey the law. It also allows such employers to shift the
12 cost of providing benefits such as a safe workplace,
13 retirement security, and unemployment insurance to
14 governmental bodies and, ultimately, the taxpayers.

15 (5) It is the intent of the General Assembly in
16 enacting this Act to ensure that workers who are currently
17 exploited by being misclassified as independent
18 contractors instead of recognized as employees have the
19 basic rights and protections they deserve under the law,
20 including a minimum wage and overtime pay, workers'
21 compensation if they are injured on the job, unemployment
22 insurance, and any other benefits and protections the
23 General Assembly provides to workers recognized as
24 employees. This Act restores these important protections
25 to workers who have been denied these basic workplace
26 rights that all workers are entitled to under the law. It

1 is also the intent of the General Assembly to ensure that
2 companies that rely on Illinois workers to operate their
3 businesses pay their fair share into the Illinois
4 unemployment insurance program so that their workers, and
5 all Illinois workers, can count on a solvent fund during
6 economic downturns.

7 (6) It is further the intent of the General Assembly
8 to establish a clear standard for determining the
9 classification of a worker in order to provide stability
10 and certainty to both workers and Illinois employers.

11 (7) Therefore, the government has an obligation to
12 curb employee misclassification throughout the economy,
13 take proactive measures to enforce long-standing
14 employment laws that establish basic protections for
15 Illinois' workers through the enactment of this Act, to
16 empower workers to assert their rights under the law, and
17 to establish a level playing field for employers who obey
18 the employment laws.

19 (8) Nothing in this Act is intended to diminish the
20 flexibility of employees to work part-time or intermittent
21 schedules or to work for multiple employers.

22 (9) Nothing in this Act shall be construed to wholly
23 eliminate the independent contractor status where the
24 classification is in accordance with this Act.

25 Section 10. Definitions. In this Act:

1 "Business service provider" means a business entity that
2 is not a hiring entity that is formed as a sole proprietorship,
3 partnership, limited liability company, limited liability
4 partnership, or corporation.

5 "Contracting business" means a hiring entity or business
6 service provider that has contracted with another business
7 service provider.

8 "Department" means the Department of Labor.

9 "Domestic work" means housekeeping, house cleaning, home
10 management, nanny services including childcare and child
11 monitoring, caregiving, personal care or home health services
12 for elderly persons or persons with an illness, injury, or
13 disability who require assistance in caring for themselves,
14 laundering, cooking, companion services, chauffeuring, or
15 other household services for members of households or their
16 guests in or about a private home or residence or any other
17 location where domestic work is performed any workweek on a
18 regular basis.

19 "Domestic worker" means any individual who performs
20 domestic work.

21 "Family member" means a child, spouse, parent, child or
22 parent of an employee's spouse, sibling, grandparent,
23 grandchild, or any other individual related by blood or whose
24 close association with the employee is the equivalent of a
25 family relationship as determined by the employee.

26 "Employer" means any individual or entity that employs

1 individuals, including domestic workers, deemed employees
2 under this Act. "Employer" includes any individual or entity
3 acting directly or indirectly in the interest of an employer
4 with the authority, whether reserved or exercised, over the
5 workers' wages, hours, and other terms and conditions of
6 employment. "Employer" may include any such entity that
7 contracts for services or pays for the services of a worker
8 through an oral or written contract or application software
9 designed to run on smartphones and other mobile devices or
10 software designed to run inside a web browser. "Employer" also
11 includes the State of Illinois and all other governmental
12 entities. "Employer" excludes employers who are subject to the
13 Employee Classification Act and further excludes the federal
14 government.

15 "Hiring entity" means any individual, partnership,
16 association, corporation, business trust, or any entity,
17 person, or group of persons that pays a wage or pays for the
18 services of individuals or domestic workers, including
19 employers. "Hiring entity" also means any such entity or
20 person acting directly or indirectly in the interest of a
21 hiring entity in relation to the individual. "Hiring entity"
22 also includes the State of Illinois and other governmental
23 entities except for the federal government.

24 "Interested party" means a person or organization with an
25 interest in compliance with this Act.

26 "Professional services" means any of the following:

- 1 (1) professional services provided by writers;
- 2 (2) professional services provided by graphic
3 designers;
- 4 (3) professional services provided by webpage and
5 digital designers;
- 6 (4) professional services provided by animators,
7 illustrators, industrial product designers, interior
8 designers, or fashion designers;
- 9 (5) professional services provided by fine artists;
- 10 (6) professional services provided by photographers;
- 11 (7) professional services provided by journalists,
12 freelance digital media workers, videographers, and audio
13 or podcast producers;
- 14 (8) professional services provided by software
15 engineers;
- 16 (9) professional services provided by a direct seller
17 as described in Section 217(b) of the Unemployment
18 Insurance Act, so long as the conditions of that section
19 are satisfied;
- 20 (10) professional services provided by a travel
21 promoter under the Travel Promotion Consumer Protection
22 Act; or
- 23 (11) a profession, trade, or occupation licensed and
24 regulated by the Department of Financial and Professional
25 Regulation, Department of Insurance, or the Illinois
26 Supreme Court Attorney Registration and Disciplinary

1 Commission, if employment in such occupation is exempted
2 from Sections 206 and 207 of Title 29 of the United States
3 Code as employment in a bona fide professional capacity.

4 "Retaliate" means to:

5 (1) discharge;

6 (2) demote or decline to promote;

7 (3) deactivate or otherwise prevent an individual from
8 returning to work;

9 (4) reassign;

10 (5) willfully prevent or attempt to prevent an
11 individual from securing other employment or work by word,
12 writing, or other action;

13 (6) harass;

14 (7) reduce worker hours;

15 (8) reduce worker pay;

16 (9) report or threaten to report an employee or hired
17 individual, or former employee or hired individual, for
18 suspected immigration or work authorization status;

19 (10) report or threaten to report the suspected
20 immigration or work authorization status of a family
21 member of an employee or hired individual, or a former
22 employee or hired individual, to a federal, State, or
23 local agency; or

24 (11) take any other action, including threatening to
25 take action against an employee or any other person for
26 exercising or attempting to exercise any right under this

1 Act if that action or threat would dissuade a reasonable
2 employee or person from making a complaint, bringing an
3 action or proceeding, cooperating in an investigation for
4 the purposes of enforcing this Act, participating in an
5 action or proceeding concerning the exercise or waiver of
6 any right under this Act, any right of employees, or any
7 right of individuals who experience misclassification, as
8 required under a local, State, or federal law.

9 "Willfully violates" means a hiring entity knew or should
10 have known that its conduct was prohibited by this Act.

11 Section 15. Presumption of employment.

12 (a) Any person performing any services for a hiring entity
13 other than professional services or an individual who is the
14 child, parent, sibling, or spouse of the hiring entity or its
15 owner, shall be classified as an employee of the hiring
16 entity, and the hiring entity shall be deemed an employer
17 unless it can be shown by the hiring entity that the person is
18 a separate business entity under subsection (b) or all of the
19 following criteria are met, in which case the person shall be
20 an independent contractor:

21 (1) the individual has been and will continue to be
22 free from control or direction over the performance of
23 such services, both under the individual's contract of
24 service and in fact; and

25 (2) the service is either outside the usual course of

1 the business for which such service is performed or that
2 such service is performed outside of all the places of
3 business of the enterprise for which such service is
4 performed; and

5 (3) the individual is engaged in an independently
6 established trade, occupation, profession, or business.

7 (b) If a business service provider contracts to provide
8 services to a contracting business, the business services
9 provider shall be considered an independent contractor only if
10 the contracting business demonstrates that all of the
11 following criteria are satisfied:

12 (1) the business service provider is free from the
13 control and direction of the contracting business in
14 connection with the performance of the work, both under
15 the contract for the performance of the work and in fact;

16 (2) the business service provider is providing
17 services directly to the contracting business rather than
18 to customers of the contracting business;

19 (3) the contract with the business service provider is
20 in writing;

21 (4) if the work performed requires the business
22 service provider to have a business license or business
23 tax registration, the business service provider has the
24 required business license or business tax registration;

25 (5) the business service provider holds itself out as
26 a distinct business;

1 (6) the business service provider maintains a business
2 location that is separate from the business or work
3 location of the contracting business;

4 (7) the business service provider is customarily
5 engaged in an independently established business of the
6 same nature as that involved in the work performed;

7 (8) the business service provider contracts with other
8 businesses to provide the same or similar services and
9 maintains a clientele without restrictions from the
10 contracting business;

11 (9) the business service provider has a substantial
12 investment of capital in its own business entity beyond
13 ordinary tools and equipment and a vehicle, such as a
14 website or website business listings for the business
15 entity, business cards, dedicated workspace apart from a
16 vehicle, trademarks, general liability insurance for the
17 business entity, or business or professional software, and
18 not including any payments for access to an application
19 through which work is distributed;

20 (10) the business service provider provides its own
21 tools, vehicles, and equipment to perform the services;

22 (11) the business service provider can negotiate its
23 own rates;

24 (12) consistent with the nature of the work, the
25 business service provider can set its own hours and
26 location of work; and

1 (13) the business service provider's services are
2 either outside the usual course of the contracting
3 business's business or performed outside all places of the
4 contracting business's business.

5 (c) The failure of a hiring entity to withhold federal or
6 State income taxes or to pay unemployment insurance
7 contributions or workers' compensation premiums with respect
8 to an individual's wages shall not be considered in making a
9 determination under this Section.

10 (d) An individual's act of securing workers' compensation
11 or liability insurance as a sole proprietor, partnership, or
12 otherwise shall not be binding on any determination under this
13 Section.

14 (e) When a business service provider meets the definition
15 of an independent contractor pursuant to this Section, the
16 business service provider shall be considered a hiring entity
17 subject to all of the provisions of this Act in regard to
18 classification of individuals performing services for it.

19 (f) A professional services provider shall be considered
20 an independent contractor only if the hiring entity
21 demonstrates that all of the following factors are met:

22 (1) the professional services provider maintains a
23 business location, which may include the individual's
24 residence, that is separate from the hiring entity,
25 however, nothing in this Section prohibits an individual
26 from choosing to perform services at the location of the

1 hiring entity;

2 (2) the professional services provider has any license
3 or permit required by law for the individual to practice
4 his or her profession;

5 (3) the professional services provider has the ability
6 to set or negotiate his or her own rates for the services
7 performed;

8 (4) outside of project completion dates, timing that
9 is inherent in the project itself, and reasonable business
10 hours, the professional services provider has the ability
11 to set his or her own hours;

12 (5) the professional services provider is customarily
13 engaged in the same type of work performed under contract
14 with another hiring entity or holds himself or herself out
15 to other potential hiring entities as available to perform
16 the same type of work; and

17 (6) the professional services provider customarily and
18 regularly exercises discretion and independent judgment in
19 the performance of the services.

20 (g) Any individual classified by a hiring entity or
21 employer as an employee shall enjoy an irrebuttable
22 presumption of employee status under the laws of this State.

23 Section 20. Failure to properly designate or classify
24 individuals performing services as employees. It is a
25 violation of this Act for an employer not to designate an

1 individual as an employee unless the employer satisfies the
2 applicable provisions of Section 15.

3 Section 22. Flexibility to work.

4 (a) Any individual reclassified as an employee pursuant to
5 this Act has the right to maintain the same schedule and
6 scheduling flexibility that the individual possessed at any
7 time while performing labor for the employer as an independent
8 contractor in the 12-month period prior to the effective date
9 of this Act. As used in this Section, "scheduling flexibility"
10 includes:

11 (1) the timing of the work throughout an hour, day,
12 week, month or year;

13 (2) the total duration of the work in any given
14 period; and

15 (3) the location where the work is performed.

16 (b) It shall be considered an unlawful employment practice
17 under Section 25 to deny a reclassified individual this right
18 to scheduling flexibility.

19 Section 25. Unlawful employment practices; preservation of
20 employment status.

21 (a) No hiring entity, or his or her agent, or person acting
22 as or on behalf of a hiring entity shall discharge, threaten,
23 penalize, or in any other manner discriminate or retaliate
24 against any employee or hired individual because the employee

1 or hired individual:

2 (1) exercises rights or attempts to exercise rights
3 under this Act;

4 (2) opposes practices which such individual believes
5 to be in violation of this Act; or

6 (3) supports the exercise of rights of another under
7 this Act.

8 (b) Such unlawful employment practices include, but are not
9 limited to, any reference to the individual's or any of the
10 individual's family members' citizenship or immigration
11 status, or any threat to contact or actual contact with any
12 local, State, or federal government entities regarding the
13 individual's or any of the individual's family members'
14 citizenship or immigration status, or sexual harassment.

15 (c) Exercising rights under this Act includes:

16 (1) when such employee or hired individual has made a
17 complaint to his or her hiring entity, or to the
18 Department or its authorized representative, or to the
19 Attorney General or any other person or organization, that
20 the hiring entity or other person has engaged in conduct
21 that the employee or hired individual, in good faith,
22 believes violates any provision of this Act or any rule
23 adopted by the Department to enforce this Act;

24 (2) when such hiring entity or his or her agent, or
25 person acting on behalf of a hiring entity, believes such
26 employee or hired individual has made a complaint to his

1 or her hiring entity, to the Department or its authorized
2 representative, or to the Attorney General or any other
3 person or organization, that the hiring entity or other
4 person has engaged in conduct that the employee or hired
5 individual, in good faith, believes violates any provision
6 of this Act, or any rule adopted by the Department to
7 enforce this Act;

8 (3) when such employee or hired individual has caused
9 to be instituted or is about to institute a proceeding
10 under or related to this Act;

11 (4) when such employee or hired individual has
12 provided information to the Department or the Attorney
13 General;

14 (5) when such employee or hired individual has
15 testified or plans to testify in an investigation or
16 proceeding under this Act;

17 (6) when such employee or hired individual has
18 otherwise exercised rights protected under this Act;

19 (7) when the hiring entity or other person has
20 received an adverse determination from the Department
21 involving the employee or hired individual;

22 (8) when such employee or hired individual has refused
23 or declined to waive his or her rights under this Act; or

24 (9) when such employee or hired individual has
25 otherwise exercised or attempted to exercise his or her
26 rights under local or State laws governing the payment of

1 wages, the rights of employees, or the rights of
2 individuals who experience misclassification or the hiring
3 entity or other person believes that such employee or
4 hired individual has exercised, attempted to exercise, or
5 plans to exercise such rights.

6 (d) No provision of this Act shall permit an employer to
7 reclassify an individual who was an employee on the effective
8 date of this Act as an independent contractor or reclassify a
9 worker who receives gratuities, as defined under the Minimum
10 Wage Law, based solely or in part on this Act.

11 Section 30. Notice to individuals receiving pay for hire.

12 (a) Every hiring entity shall post or distribute in a
13 prominent and accessible manner a legible statement, provided
14 by the Department, that describes the responsibility of
15 independent contractors to pay taxes required by State and
16 federal law, the rights of employees to workers' compensation,
17 unemployment benefits, minimum wage, overtime and other
18 federal and State workplace protections, the protections
19 against retaliation, and the penalties under this Act if the
20 hiring entity fails to properly classify an individual as an
21 employee. This notice shall also contain contact information
22 for individuals to file complaints or inquire with the
23 Department about employment classification status. This
24 information shall be provided in English, Spanish, and other
25 languages that are spoken as a primary language by a

1 significant portion of the workers in a place of employment or
2 by a significant portion of the State's population, as
3 determined by the Department.

4 (b) Within 30 days of the effective date of this Act, the
5 Department shall create the notice described in subsection (a)
6 and post the notice on the Department's website for
7 downloading by hiring entities.

8 (c) Any hiring entity that violates this Section shall be
9 subject to a civil penalty of up to \$1,500 for a first
10 violation and up to \$5,000 for a subsequent violation and any
11 additional violations thereafter.

12 Section 35. Enforcement.

13 (a) Any interested party that believes that a hiring
14 entity or employer is in violation of this Act may file a
15 complaint with the Department against the hiring entity or
16 employer covered under this Act. It is the duty of the
17 Department to enforce the provisions of this Act either on the
18 basis of a complaint received or a random audit conducted by
19 the Department. The Department has the power to conduct random
20 audits of entities subject to this Act to determine compliance
21 with this Act. The Department has the power to conduct
22 investigations in connection with the administration and
23 enforcement of this Act and any investigator with the
24 Department is authorized to visit and inspect, at all
25 reasonable times, any places covered by this Act and is

1 authorized to inspect, at all reasonable times, documents
2 deemed by the Department to be relevant to the determination
3 of whether an individual is an employee under this Act. The
4 Department may compel, by subpoena, the attendance and
5 testimony of witnesses and the production of books, payrolls,
6 records, papers, and other evidence in any investigation and
7 may administer oaths to witnesses. The Department's
8 investigation may exceed the scope of the allegations,
9 persons, and entities contained in a complaint.

10 (b) Complaints under this Section must be filed within 5
11 years after the final date of performing services to the
12 hiring entity.

13 (c) Whenever the Department believes upon investigation
14 that there has been a violation of any of the provisions of
15 this Act or any rules adopted under this Act, the Department
16 may:

17 (1) issue and cause to be served on any party an order
18 to cease and desist from further violation of the Act;

19 (2) take affirmative or other action as deemed
20 reasonable to eliminate the effect of the violation;

21 (3) collect the amount of any wages, salary,
22 employment benefits, or other compensation denied or lost
23 to the individual; and

24 (4) assess any civil penalty allowed by this Act.

25 (d) If, upon investigation, the Department finds cause to
26 believe that Section 15 or Section 20 of this Act has been

1 violated, the Department shall notify the hiring entity, in
2 writing, of its finding and any relief due and penalties
3 assessed and that the matter will be referred to an
4 Administrative Law Judge to schedule a formal hearing in
5 accordance with the Illinois Administrative Procedure Act.

6 (e) A final decision by an Administrative Law Judge issued
7 in accordance with this Section is subject to the provisions
8 of the Administrative Review Law and shall be enforceable in
9 an action brought in the name of the people of the State of
10 Illinois by the Attorney General or by any other interested
11 party.

12 Section 40. Penalties.

13 (a) Whenever the Department believes upon investigation
14 that there has been a violation of this Act or any rules
15 adopted in accordance with this Act, the Department may:

16 (1) issue and cause to be served on any party an order
17 to cease and desist from further violation of the Act;

18 (2) take affirmative or other action as deemed
19 reasonable to eliminate the effect of the violation;

20 (3) collect the amount of any wages, salary,
21 employment benefits, or other compensation denied or lost
22 to the individual; and

23 (4) assess any civil penalty allowed by this Act.

24 (b) The civil penalties set forth in this Section shall be
25 imposed as follows: by the Department when such penalty is

1 based on a violation of this Act; by the chair of the Illinois
2 Workers' Compensation Commission when such penalty is based on
3 a violation of workers' compensation law; and by the Director
4 of the Department of Revenue when such penalty is based on a
5 violation of tax law, provided that no more than one civil
6 penalty under this Section may be imposed per employee per
7 incident of misclassification.

8 (c) Any hiring entity who fails to properly classify an
9 individual as an employee as provided under this Act shall be
10 subject to a civil penalty of up to \$2,500 for the first
11 violation per misclassified employee and to a civil penalty of
12 up to \$5,000 for each subsequent violation per misclassified
13 employee. In determining the amount of the penalty, the
14 Department shall consider the appropriateness of the penalty
15 to the hiring entity charged and the gravity of the violation.

16 (d) Any hiring entity that willfully fails to properly
17 classify an individual as provided under this Act shall be
18 subject to a civil penalty of an additional \$2,500 for the
19 first violation per misclassified employee and to an
20 additional civil penalty of up to \$5,000 for each subsequent
21 violation per misclassified employee within a 5-year period.

22 (e) If the hiring entity is a corporation, any officer of
23 such corporation or shareholder who owns or controls at least
24 10% of the outstanding stock of such corporation who knowingly
25 permits the corporation to violate the provisions of this Act
26 shall also be in violation of this Act and the civil penalties

1 herein shall attach to such officer.

2 (f) Any hiring entity subject to civil penalties under
3 this Act shall also be subject to any other applicable
4 penalties or remedies provided by law for failure to pay any
5 other statutory payment or coverage obligations, including,
6 but not limited to, unemployment insurance, workers'
7 compensation insurance, and corporate or personal income tax.

8 (g) Any hiring entity or any officer or shareholder who
9 owns or controls at least 10% of the outstanding stock of such
10 corporation that has been convicted of a misdemeanor shall be
11 subject to debarment and be ineligible to submit a bid on or be
12 awarded any public works contract under the Illinois
13 Procurement Code with the State, any municipal corporation,
14 public benefit corporation, public authority, or public body
15 for a period of up to one year from the date of a first such
16 conviction or final determination and up to 5 years from the
17 date of any subsequent violation.

18 (h) In addition to any other remedies available, an action
19 for injunctive relief to prevent the continued
20 misclassification of employees as independent contractors may
21 be prosecuted against the putative employer in court by the
22 Attorney General or by a State's Attorney upon his or her own
23 complaint or upon the complaint of an interested party.

24 (i) Nothing in this Section limits the availability of
25 other remedies at law or in equity for a violation of this Act.

26 (j) Penalties imposed shall be collected by the Department

1 and deposited into the Day and Temporary Labor Services
2 Enforcement Fund.

3 Section 45. Private right of action.

4 (a) An interested party or person aggrieved by a violation
5 of this Act or any rule adopted under this Act by a hiring
6 entity that is not the State of Illinois or its officers,
7 agencies, or political subdivisions may file suit in circuit
8 court in the county where the alleged offense occurred or
9 where any person who is party to the action resides without
10 regard to exhaustion of any administrative remedies. If a
11 complaint filed against the State of Illinois or its officers,
12 agencies, or political subdivisions with the Department
13 pursuant to Section 45 of this Act has been pending for more
14 than 75 days with the Department, that interested party or
15 person aggrieved may file suit in circuit court in the county
16 where the alleged offense occurred or where any person who is
17 party to the action resides without regard to exhaustion of
18 administrative remedies. Actions may be brought by one or more
19 persons for and on behalf of themselves and other persons
20 similarly situated. A person whose rights have been violated
21 under this Act by a hiring entity is entitled to collect:

22 (1) the amount of any wages, salary, employment
23 benefits, or other compensation denied or lost to the
24 person by reason of the violation, plus an equal amount in
25 liquidated damages;

1 (2) civil penalties pursuant to subsection (d);

2 (3) in the case of unlawful retaliation, all legal or
3 equitable relief as may be appropriate, including, but not
4 limited to, reinstatement to the worker's former position
5 or its equivalent, an award of lost compensation or front
6 pay, and restitution and liquidated damages equal to the
7 economic compensation lost due to the retaliation; and

8 (4) the costs and reasonable attorney's fees of
9 pursuing the cause of action.

10 (b) The Court may order appropriate injunctive relief.

11 (c) The right of an interested party or aggrieved person
12 to bring an action under this Section terminates upon the
13 passing of 5 years from the final date of performing services
14 to the hiring entity. This limitations period is tolled if the
15 hiring entity has deterred a person's exercise of rights under
16 this Act or during the time a complaint is pending before the
17 Department.

18 (d) An employee or hired individual may seek the civil
19 penalties provided under Section 35 of this Act if, at the
20 commencement of the action, a copy of the complaint is served
21 on the Department and the Department has declined or failed to
22 initiate an investigation. The commencement of an action under
23 this Section shall terminate the administrative proceeding
24 before the Department. The Department shall be granted
25 intervenor status as of right if sought by the Department
26 within 30 days of the service of the complaint for the purpose

1 of collecting civil penalties under Section 35 of this Act.
2 Any award of civil penalties obtained as a result of an action
3 brought under this Section by an aggrieved employee or hired
4 individual, on behalf of themselves or others similarly
5 situated shall be awarded in the name of the State, of which
6 the plaintiff shall be entitled to a 25% allotment, in
7 addition to the other relief that may be recovered under this
8 Section.

9 Section 55. Contempt. Whenever it appears that any hiring
10 entity has violated a valid order or any final determination
11 from the Department issued under this Act, the Department
12 shall refer the matter to the Attorney General who shall
13 commence an action and obtain from the court an order
14 commanding the hiring entity to obey the order of the
15 Department or be adjudged guilty of contempt of court and
16 punished accordingly.

17 Section 60. Rulemaking. The Department may adopt
18 reasonable rules to implement and administer this Act. For
19 purposes of this Act, the General Assembly finds that the
20 adoption of rules to implement this Act is deemed an emergency
21 and necessary for the public interest and welfare.

22 Section 65. No waivers. There shall be no waiver of any
23 provision of this Act. Any such waiver shall be considered an

1 unlawful employment practice under Section 25.

2 Section 67. Conflict of law. To the extent that any
3 provision of this Act conflicts with any Act that seeks to
4 define employee, the provisions of this Act shall control,
5 except for the Unemployment Insurance Act which shall control
6 for the purposes of administering unemployment insurance
7 benefits only.

8 Section 70. Cooperation. The Department, the Department of
9 Employment Security, the Department of Revenue, and the
10 Illinois Workers' Compensation Commission shall cooperate
11 under this Act by sharing information concerning any suspected
12 misclassification by a hiring entity of one or more of its
13 employees as independent contractors. Upon determining that a
14 hiring entity has misclassified employees as independent
15 contractors in violation of this Act, the Department shall
16 notify the Department of Employment Security, the Department
17 of Revenue, the Office of the State Comptroller, and the
18 Illinois Workers' Compensation Commission each of which shall
19 be obliged to check such hiring entity's compliance with laws
20 it administers, utilizing its own definitions, standards, and
21 procedures.

22 Section 75. Waiver of sovereign immunity. For the purposes
23 of this Act, the State of Illinois waives sovereign immunity.

1 Section 90. The Illinois Administrative Procedure Act is
2 amended by adding Section 5-45.8 as follows:

3 (5 ILCS 100/5-45.8 new)

4 Sec. 5-45.8. Emergency rulemaking; Fair Play in Employment
5 Act. To provide for the expeditious and timely implementation
6 of the Fair Play in Employment Act, emergency rules
7 implementing that Act may be adopted in accordance with
8 Section 5-45 by the Department of Labor. The adoption of
9 emergency rules authorized by Section 5-45 and this Section is
10 deemed to be necessary for the public interest, safety, and
11 welfare.

12 This Section is repealed on January 1, 2027."