



Sen. Cristina H. Pacione-Zayas

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10300HB3129sam002

LRB103 30957 SPS 61552 a

1 AMENDMENT TO HOUSE BILL 3129

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3129, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Equal Pay Act of 2003 is amended by  
6 changing Sections 5, 10, 15, 20, and 30 as follows:

7 (820 ILCS 112/5)

8 Sec. 5. Definitions. As used in this Act:

9 "Director" means the Director of Labor.

10 "Department" means the Department of Labor.

11 "Employee" means any individual permitted to work by an  
12 employer.

13 "Employer" means an individual, partnership, corporation,  
14 association, business, trust, person, or entity for whom  
15 employees are gainfully employed in Illinois and includes the  
16 State of Illinois, any state officer, department, or agency,

1 any unit of local government, and any school district.

2 "Pay scale and benefits" means the wage or salary, or the  
3 wage or salary range, and a general description of the  
4 benefits and other compensation, including, but not limited  
5 to, bonuses, stock options, or other incentives the employer  
6 reasonably expects in good faith to offer for the position,  
7 set by reference to any applicable pay scale, the previously  
8 determined range for the position, the actual range of others  
9 currently holding equivalent positions, or the budgeted amount  
10 for the position, as applicable.

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

12 (820 ILCS 112/10)

13 Sec. 10. Prohibited acts.

14 (a) No employer may discriminate between employees on the  
15 basis of sex by paying wages to an employee at a rate less than  
16 the rate at which the employer pays wages to another employee  
17 of the opposite sex for the same or substantially similar work  
18 on jobs the performance of which requires substantially  
19 similar skill, effort, and responsibility, and which are  
20 performed under similar working conditions, except where the  
21 payment is made under:

22 (1) a seniority system;

23 (2) a merit system;

24 (3) a system that measures earnings by quantity or  
25 quality of production; or

1 (4) a differential based on any other factor other  
2 than: (i) sex or (ii) a factor that would constitute  
3 unlawful discrimination under the Illinois Human Rights  
4 Act, provided that the factor:

5 (A) is not based on or derived from a differential  
6 in compensation based on sex or another protected  
7 characteristic;

8 (B) is job-related with respect to the position  
9 and consistent with a business necessity; and

10 (C) accounts for the differential.

11 No employer may discriminate between employees by paying  
12 wages to an African-American employee at a rate less than the  
13 rate at which the employer pays wages to another employee who  
14 is not African-American for the same or substantially similar  
15 work on jobs the performance of which requires substantially  
16 similar skill, effort, and responsibility, and which are  
17 performed under similar working conditions, except where the  
18 payment is made under:

19 (1) a seniority system;

20 (2) a merit system;

21 (3) a system that measures earnings by quantity or  
22 quality of production; or

23 (4) a differential based on any other factor other  
24 than: (i) race or (ii) a factor that would constitute  
25 unlawful discrimination under the Illinois Human Rights  
26 Act, provided that the factor:

1 (A) is not based on or derived from a differential  
2 in compensation based on race or another protected  
3 characteristic;

4 (B) is job-related with respect to the position  
5 and consistent with a business necessity; and

6 (C) accounts for the 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  
11 employer to pay, to any employee at a workplace in a particular  
12 county, wages that are equal to the wages paid by that employer  
13 at a 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, salary, benefits, or other compensation. An employer  
3 may, however, prohibit a human resources employee, a  
4 supervisor, or any other employee whose job responsibilities  
5 require or allow access to other employees' wage or salary  
6 information from disclosing that information without prior  
7 written consent from the employee whose information is sought  
8 or requested.

9 (b-5) It is unlawful for an employer or employment agency,  
10 or employee or agent thereof, to (1) screen job applicants  
11 based on their current or prior wages or salary histories,  
12 including benefits or other compensation, by requiring that  
13 the wage or salary history of an applicant satisfy minimum or  
14 maximum criteria, (2) request or require a wage or salary  
15 history as a condition of being considered for employment, as  
16 a condition of being interviewed, as a condition of continuing  
17 to be considered for an offer of employment, as a condition of  
18 an offer of employment or an offer of compensation, or (3)  
19 request or require that an applicant disclose wage or salary  
20 history as a condition of employment.

21 (b-10) It is unlawful for an employer to seek the wage or  
22 salary history, including benefits or other compensation, of a  
23 job applicant from any current or former employer. This  
24 subsection (b-10) does not apply if:

25 (1) the job applicant's wage or salary history is a  
26 matter of public record under the Freedom of Information

1 Act, or any other equivalent State or federal law, or is  
2 contained in a document completed by the job applicant's  
3 current or former employer and then made available to the  
4 public by the employer, or submitted or posted by the  
5 employer to comply with State or federal law; or

6 (2) the job applicant is a current employee and is  
7 applying for a position with the same current employer.

8 (b-15) Nothing in subsections (b-5) and (b-10) shall be  
9 construed to prevent an employer or employment agency, or an  
10 employee or agent thereof, from:

11 (1) providing information about the wages, benefits,  
12 compensation, or salary offered in relation to a position;  
13 or

14 (2) engaging in discussions with an applicant for  
15 employment about the applicant's expectations with respect  
16 to wage or salary, benefits, and other compensation,  
17 including unvested equity or deferred compensation that  
18 the applicant would forfeit or have canceled by virtue of  
19 the applicant's resignation from the applicant's current  
20 employer. If, during such discussion, the applicant  
21 voluntarily and without prompting discloses that the  
22 applicant would forfeit or have canceled by virtue of the  
23 applicant's resignation from the applicant's current  
24 employer unvested equity or deferred compensation, an  
25 employer may request the applicant to verify the aggregate  
26 amount of such compensation by submitting a letter or

1 document stating the aggregate amount of the unvested  
2 equity or deferred compensation from, at the applicant's  
3 choice, one of the following: (1) the applicant's current  
4 employer or (2) the business entity that administers the  
5 funds that constitute the unvested equity or deferred  
6 compensation.

7 (b-20) An employer is not in violation of subsections  
8 (b-5) and (b-10) when a job applicant voluntarily and without  
9 prompting discloses his or her current or prior wage or salary  
10 history, including benefits or other compensation, on the  
11 condition that the employer does not consider or rely on the  
12 voluntary disclosures as a factor in determining whether to  
13 offer a job applicant employment, in making an offer of  
14 compensation, or in determining future wages, salary,  
15 benefits, or other compensation.

16 (b-25) It is unlawful for an employer with 15 or more  
17 employees to fail to include the pay scale and benefits for a  
18 position in any specific job posting. The inclusion of a  
19 hyperlink to a publicly viewable webpage that includes the pay  
20 scale and benefits satisfies the requirements for inclusion  
21 under this subsection. If an employer engages a third party to  
22 announce, post, publish, or otherwise make known a job  
23 posting, the employer shall provide the pay scale and  
24 benefits, or a hyperlink to the pay scale and benefits, to the  
25 third party and the third party shall include the pay scale and  
26 benefits, or a hyperlink to the pay scale and benefits, in the

1 job posting. The third party is liable for failure to include  
2 the pay scale and benefits in the job posting, unless the third  
3 party can show that the employer did not provide the necessary  
4 information regarding pay scale and benefits. An employer  
5 shall announce, post, or otherwise make known all  
6 opportunities for promotion to all current employees no later  
7 than 14 calendar days after the employer makes an external job  
8 posting for the position, except for positions in the State of  
9 Illinois workforce designated as exempt from competitive  
10 selection. Nothing in this subsection requires an employer to  
11 make a job posting. Posting of a relevant and up to date  
12 general benefits description in an easily accessible, central,  
13 and public location on an employer's website and referring to  
14 this posting in the job posting shall be deemed to satisfy the  
15 benefits posting requirement under this subsection. This  
16 subsection only applies to positions that (i) will be  
17 physically performed, at least in part, in Illinois or (ii)  
18 will be physically performed outside of Illinois, but the  
19 employee reports to a supervisor, office, or other work site  
20 in Illinois. Nothing in this subsection prohibits an employer  
21 or employment agency from asking an applicant about his or her  
22 wage or salary expectations for the position the applicant is  
23 applying for. An employer or employment agency shall disclose  
24 to an applicant for employment the pay scale and benefits to be  
25 offered for the position prior to any offer or discussion of  
26 compensation and at the applicant's request, if a public or



1 internal posting for the job, promotion, transfer, or other  
2 employment opportunity has not been made available to the  
3 applicant. This subsection shall only apply to job postings  
4 that have been posted after the effective date of this  
5 amendatory Act of the 103rd General Assembly.

6 (b-30) An employer or an employment agency shall not  
7 refuse to interview, hire, promote, or employ, and shall not  
8 otherwise retaliate against, an applicant for employment or an  
9 employee for exercising any rights under subsection (b-25).

10 (c) It is unlawful for any person to discharge or in any  
11 other manner discriminate against any individual because the  
12 individual:

13 (1) has filed any charge or has instituted or caused  
14 to be instituted any proceeding under or related to this  
15 Act;

16 (2) has given, or is about to give, any information in  
17 connection with any inquiry or proceeding relating to any  
18 right provided under this Act;

19 (3) has testified, or is about to testify, in any  
20 inquiry or proceeding relating to any right provided under  
21 this Act; or

22 (4) fails to comply with any wage or salary history  
23 inquiry.

24 (Source: P.A. 101-177, eff. 9-29-19; 102-277, eff. 1-1-22.)

1           Sec. 15. Enforcement.

2           (a) The Director or his or her authorized representative  
3 shall administer and enforce the provisions of this Act. The  
4 Director of Labor shall adopt rules necessary to administer  
5 and enforce this Act.

6           (b) An employee, ~~or~~ former employee, or, for the purposes  
7 of a violation of subsection (b-25) of Section 10, any person  
8 that claims to be aggrieved by a violation of that subsection,  
9 may file a complaint with the Department alleging a violation  
10 of this Act by submitting a signed, completed complaint form.  
11 All complaints shall be filed with the Department within one  
12 year from the date of the relevant violation ~~underpayment~~.

13           (c) The Department has the power to conduct investigations  
14 in connection with the administration and enforcement of this  
15 Act and the authorized officers and employees of the  
16 Department are authorized to investigate and gather data  
17 regarding the wages, hours, and other conditions and practices  
18 of employment in any industry subject to this Act, and may  
19 enter and inspect such places and such records at reasonable  
20 times during regular business hours, question the employees  
21 and investigate the facts, conditions, practices, or matters  
22 as he or she may deem necessary or appropriate to determine  
23 whether any person has violated any provision of this Act, or  
24 which may aid in the enforcement of this Act.

25           (d) The Department may refer a complaint alleging a  
26 violation of this Act to the Department of Human Rights for

1 investigation if the subject matter of the complaint also  
2 alleges a violation of the Illinois Human Rights Act and the  
3 Department of Human Rights has jurisdiction over the matter.  
4 When a complaint is referred to the Department of Human Rights  
5 under this subsection, the Department of Human Rights shall  
6 also file the complaint under the Illinois Human Rights Act  
7 and be the agency responsible for investigating the complaint.  
8 The Department shall review the Department of Human Rights'  
9 investigation and findings to determine whether a violation of  
10 this Act has occurred or whether further investigation by the  
11 Department is necessary and take any necessary or appropriate  
12 action required to enforce the provisions of this Act. The  
13 Director of Labor and the Department of Human Rights shall  
14 adopt joint rules necessary to administer and enforce this  
15 subsection.

16 (Source: P.A. 98-1051, eff. 1-1-15.)

17 (820 ILCS 112/20)

18 Sec. 20. Recordkeeping requirements. An employer subject  
19 to any provision of this Act shall make and preserve records  
20 that document the name, address, and occupation of each  
21 employee, the wages paid to each employee, the pay scale and  
22 benefits for each position, the job posting for each position,  
23 and any other information the Director may by rule deem  
24 necessary and appropriate for enforcement of this Act. An  
25 employer subject to any provision of this Act shall preserve

1 those records for a period of not less than 5 years and shall  
2 make reports from the records as prescribed by rule or order of  
3 the Director, unless the records relate to an ongoing  
4 investigation or enforcement action under this Act, in which  
5 case the records must be maintained until their destruction is  
6 authorized by the Department or by court order.

7 (Source: P.A. 96-467, eff. 8-14-09.)

8 (820 ILCS 112/30)

9 Sec. 30. Violations; fines and penalties.

10 (a) If an employee is paid by his or her employer less than  
11 the wage to which he or she is entitled in violation of Section  
12 10 or 11 of this Act, the employee may recover in a civil  
13 action the entire amount of any underpayment together with  
14 interest, compensatory damages if the employee demonstrates  
15 that the employer acted with malice or reckless indifference,  
16 punitive damages as may be appropriate, injunctive relief as  
17 may be appropriate, and the costs and reasonable attorney's  
18 fees as may be allowed by the court and as necessary to make  
19 the employee whole. At the request of the employee or on a  
20 motion of the Director, the Department may make an assignment  
21 of the wage claim in trust for the assigning employee and may  
22 bring any legal action necessary to collect the claim, and the  
23 employer shall be required to pay the costs incurred in  
24 collecting the claim. Every such action shall be brought  
25 within 5 years from the date of the underpayment. For purposes

1 of this Act, "date of the underpayment" means each time wages  
2 are underpaid.

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

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

22 (c) Employers who violate any provision of this Act or any  
23 rule adopted under the Act, except for a violation of  
24 subsection (b-25) of Section 10, are subject to a civil  
25 penalty for each employee affected as follows:

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

1 offense, a fine not to exceed \$500; second offense, a fine  
2 not to exceed \$2,500; third or subsequent offense, a fine  
3 not to exceed \$5,000.

4 (2) An employer with between 4 and 99 employees: first  
5 offense, a fine not to exceed \$2,500; second offense, a  
6 fine not to exceed \$3,000; third or subsequent offense, a  
7 fine not to exceed \$5,000.

8 (3) An employer with 100 or more employees who  
9 violates any Section of this Act except for Section 11  
10 shall be fined up to \$10,000 per employee affected. An  
11 employer with 100 or more employees that is a business as  
12 defined under Section 11 and commits a violation of  
13 Section 11 shall be fined up to \$10,000.

14 Before any imposition of a penalty under this subsection,  
15 an employer with 100 or more employees who violates item (b) of  
16 Section 11 and inadvertently fails to file an initial  
17 application or recertification shall be provided 30 calendar  
18 days by the Department to submit the application or  
19 recertification.

20 An employer or person who violates subsection (b), (b-5),  
21 (b-10), (b-20), or (c) of Section 10 is subject to a civil  
22 penalty not to exceed \$5,000 for each violation for each  
23 employee affected.

24 (c-5) The Department may initiate investigations of  
25 alleged violations of subsection (b-25) of Section 10 upon  
26 receiving a complaint from any person that claims to be

1 aggrieved by a violation of that subsection or at the  
2 Department's discretion. Any person that claims to be  
3 aggrieved by a violation of subsection (b-25) of Section 10  
4 may submit a complaint of an alleged violation of that  
5 subsection to the Department within one year after the date of  
6 the violation. If the Department has determined that a  
7 violation has occurred, it shall issue to the employer a  
8 notice setting forth the violation, the applicable penalty as  
9 described in subsections (c-10) and (c-15), and the period to  
10 cure the violation as described in subsection (c-10).

11 (c-7) A job posting found to be in violation of subsection  
12 (b-25) of Section 10 shall be considered as one violating job  
13 posting regardless of the number of duplicative postings that  
14 list the job opening.

15 (c-10) The penalties for a job posting or batch of  
16 postings that are active at the time the Department issues a  
17 notice of violation for violating subsection (b-25) of Section  
18 10 are as follows:

19 (1) For a first offense, following a cure period of 14  
20 days to remedy the violation, a fine not to exceed \$500 at  
21 the discretion of the Department. A first offense may be  
22 either a single job posting that violates subsection  
23 (b-25) of Section 10 or multiple job postings that violate  
24 subsection (b-25) of Section 10 and are identified at the  
25 same time by the Department. The Department shall have  
26 discretion to waive any civil penalty under this

1 paragraph.

2 (2) For a second offense, following a cure period of 7  
3 days to remedy the violation, a fine not to exceed \$2,500  
4 at the discretion of the Department. A second offense is a  
5 single job posting that violates subsection (b-25) of  
6 Section 10. The Department shall have discretion to waive  
7 any civil penalty under this paragraph.

8 (3) For a third or subsequent offense, no cure period,  
9 a fine not to exceed \$10,000 at the discretion of the  
10 Department. A third or subsequent offense is a single job  
11 posting that violates subsection (b-25) of Section 10. The  
12 Department shall have discretion to waive any civil  
13 penalty under this paragraph. If a company has had a third  
14 offense, it shall incur automatic penalties without a cure  
15 period for a period of 5 years, at the completion of which  
16 any future offense shall count as a first offense. The  
17 5-year period shall restart if, during that period, an  
18 employer receives a subsequent notice of violation from  
19 the Department.

20 (c-15) The penalties for a job posting or batch of job  
21 postings that are not active at the time the Department issues  
22 a notice of violation for violating subsection (b-25) of  
23 Section 10 are as follows:

24 (1) For a first offense, a fine not to exceed \$250 at  
25 the discretion of the Department. A first offense may be  
26 either a single job posting that violates subsection



1       (b-25) of Section 10 or multiple job postings that violate  
2       subsection (b-25) of Section 10 and are identified at the  
3       same time by the Department. The Department shall have  
4       discretion to waive any civil penalty under this  
5       paragraph.

6       (2) For a second offense, a fine not to exceed \$2,500  
7       at the discretion of the Department. A second offense is a  
8       single job posting that violates subsection (b-25) of  
9       Section 10. The Department shall have discretion to waive  
10      any civil penalty under this paragraph.

11      (3) For a third or subsequent offense, a fine not to  
12      exceed \$10,000 at the discretion of the Department. A  
13      third or subsequent offense is a single job posting that  
14      violates subsection (b-25) of Section 10. The Department  
15      shall have discretion to waive any civil penalty under  
16      this paragraph.

17      For the purposes of this subsection, the Department,  
18      during its investigation of a complaint, shall make a  
19      determination as to whether a job posting is not active by  
20      considering the totality of the circumstances, including, but  
21      not limited to: (i) whether a position has been filled; (ii)  
22      the length of time a posting has been accessible to the public;  
23      (iii) the existence of a date range for which a given position  
24      is active; and (iv) whether the violating posting is for a  
25      position for which the employer is no longer accepting  
26      applications.

1           (d) In determining the amount of the penalty under this  
2 Section, the appropriateness of the penalty to the size of the  
3 business of the employer charged and the gravity of the  
4 violation shall be considered. The penalty may be recovered in  
5 a civil action brought by the Director in any circuit court.  
6 (Source: P.A. 101-177, eff. 9-29-19; 102-36, eff. 6-25-21.)

7           Section 99. Effective date. This Act takes effect January  
8 1, 2025."