



Sen. Karina Villa

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10300SB3208sam001

LRB103 37566 SPS 71948 a

1 AMENDMENT TO SENATE BILL 3208

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3208 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Wage Payment and Collection Act  
5 is amended by changing Sections 2, 10, and 14 as follows:

6 (820 ILCS 115/2) (from Ch. 48, par. 39m-2)

7 Sec. 2. Definitions. For all employees, other than  
8 separated employees, "wages" shall be defined as any  
9 compensation owed an employee by an employer pursuant to an  
10 employment contract or agreement between the 2 parties,  
11 whether the amount is determined on a time, task, piece, or any  
12 other basis of calculation. Payments to separated employees  
13 shall be termed "final compensation" and shall be defined as  
14 wages, salaries, earned commissions, earned bonuses, and the  
15 monetary equivalent of earned vacation and earned holidays,  
16 and any other compensation owed the employee by the employer

1 pursuant to an employment contract or agreement between the 2  
2 parties. Where an employer is legally committed through a  
3 collective bargaining agreement or otherwise to make  
4 contributions to an employee benefit, trust or fund on the  
5 basis of a certain amount per hour, day, week or other period  
6 of time, the amount due from the employer to such employee  
7 benefit, trust, or fund shall be defined as "wage  
8 supplements", subject to the wage collection provisions of  
9 this Act.

10 As used in this Act, the term "employer" shall include any  
11 individual, partnership, association, corporation, limited  
12 liability company, business trust, employment and labor  
13 placement agencies where wage payments are made directly or  
14 indirectly by the agency or business for work undertaken by  
15 employees under hire to a third party pursuant to a contract  
16 between the business or agency with the third party, or any  
17 person or group of persons acting directly or indirectly in  
18 the interest of an employer in relation to an employee, for  
19 which one or more persons is gainfully employed.

20 As used in this Act, the term "employee" shall include any  
21 individual permitted to work by an employer in an occupation,  
22 but shall not include any individual:

- 23 (1) who has been and will continue to be free from  
24 control and direction over the performance of his work,  
25 both under his contract of service with his employer and  
26 in fact; and

1           (2) who performs work which is either outside the  
2 usual course of business or is performed outside all of  
3 the places of business of the employer unless the employer  
4 is in the business of contracting with third parties for  
5 the placement of employees; and

6           (3) who is in an independently established trade,  
7 occupation, profession or business.

8           "Pay stub" means an itemized statement or statements  
9 reflecting an employee's hours worked, rate of pay, overtime  
10 pay and overtime hours worked, gross wages earned, deductions  
11 made from the employee's wages, and the total of wages and  
12 deductions year to date.

13           The following terms apply to an employer's use of payroll  
14 cards to pay wages to an employee under the requirements of  
15 this Act:

16           "Payroll card" means a card provided to an employee by an  
17 employer or other payroll card issuer as a means of accessing  
18 the employee's payroll card account.

19           "Payroll card account" means an account that is directly  
20 or indirectly established through an employer and to which  
21 deposits of a participating employee's wages are made.

22           "Payroll card issuer" means a bank, financial institution,  
23 or other entity that issues a payroll card to an employee under  
24 an employer payroll card program.

25           (Source: P.A. 98-862, eff. 1-1-15.)

1 (820 ILCS 115/10) (from Ch. 48, par. 39m-10)

2 Sec. 10.

3 (a) Employers shall notify employees, at the time of  
4 hiring, of the rate of pay and of the time and place of  
5 payment. Whenever possible, such notification shall be in  
6 writing and shall be acknowledged by both parties. Employers  
7 shall also notify employees of any changes in the  
8 arrangements, specified above, prior to the time of change.

9 (b) Employers shall keep records of names and addresses of  
10 all employees and of wages paid each payday, and shall furnish  
11 each employee with a pay stub ~~an itemized statement of~~  
12 ~~deductions made from his wages~~ for each pay period.

13 (c) An employer shall maintain a copy of an employee's pay  
14 stub for a period of not less than 3 years after the date of  
15 payment, regardless of whether the employee's employment ends  
16 during this period, whether the pay stub is furnished  
17 electronically or in paper form.

18 (d) In addition to furnishing a pay stub for each pay  
19 period as required under subsection (b), an employer shall  
20 furnish copies of pay stubs to current and former employees as  
21 follows:

22 (1) An employer shall provide an employee with a copy  
23 of the employee's pay stubs upon the employee's request.  
24 The employer may require that the employee submit the  
25 request in writing. The employer shall furnish the copy of  
26 the pay stubs to the employee by the end of the next pay

1 period following the employee's request. An employer is  
2 not required to grant an employee's request for a copy of  
3 pay stubs more than twice in a 12-month period.

4 (2) An employer shall provide a former employee with a  
5 copy of the former employee's previous pay stubs upon the  
6 former employee's request. The employer shall furnish the  
7 copy of the pay stubs to the former employee by the end of  
8 the following pay period following the former employee's  
9 request. An employer is not required to grant a former  
10 employee's request for a copy of pay stubs more than twice  
11 in a 12-month period or more than one year after the date  
12 of separation. The employer shall provide the copy of the  
13 pay stubs in either a physical or electronic format, as  
14 chosen by the former employee, including a communication  
15 that is transmitted through electronic mail, text message,  
16 computer system, or is otherwise sent and stored  
17 electronically and is capable of being downloaded or  
18 permanently retained by the former employee.

19 (3) An employer who furnishes electronic pay stubs in  
20 a manner that a former employee cannot access for at least  
21 a full year after separation shall, upon an employee's  
22 separation from employment, offer to provide the outgoing  
23 employee with a record of all of the outgoing employee's  
24 pay stubs from the year preceding the date of separation.  
25 The offer shall be made to the outgoing employee by the end  
26 of the outgoing employee's final pay period. An employer

1       shall record in writing the date on which this offer was  
2       made to the outgoing employee and if and how the outgoing  
3       employee responded.

4       (e) Every employer shall post and keep posted at each  
5 regular place of business in a position easily accessible to  
6 all employees one or more notices indicating the regular  
7 paydays and the place and time for payment of his employees,  
8 and on forms supplied from time to time by the Department of  
9 Labor containing a copy or summary of the provisions of this  
10 Act.

11       (Source: P.A. 81-593.)

12       (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

13       Sec. 14. Penalties.

14       (a) Any employee not timely paid wages, final  
15 compensation, or wage supplements by his or her employer as  
16 required by this Act shall be entitled to recover through a  
17 claim filed with the Department of Labor or in a civil action,  
18 but not both, the amount of any such underpayments and damages  
19 of 5% of the amount of any such underpayments for each month  
20 following the date of payment during which such underpayments  
21 remain unpaid. In a civil action, such employee shall also  
22 recover costs and all reasonable attorney's fees.

23       (a-5) In addition to the remedies provided in subsections  
24 (a), (b), and (c) of this Section, any employer or any agent of  
25 an employer, who, being able to pay wages, final compensation,

1 or wage supplements and being under a duty to pay, willfully  
2 ~~wilfully~~ refuses to pay as provided in this Act, or falsely  
3 denies the amount or validity thereof or that the same is due,  
4 with intent to secure for himself or other person any  
5 underpayment of such indebtedness or with intent to annoy,  
6 harass, oppress, hinder, delay or defraud the person to whom  
7 such indebtedness is due, upon conviction, is guilty of:

8 (1) for unpaid wages, final compensation or wage  
9 supplements in the amount of \$5,000 or less, a Class B  
10 misdemeanor; or

11 (2) for unpaid wages, final compensation or wage  
12 supplements in the amount of more than \$5,000, a Class A  
13 misdemeanor.

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

16 Any employer or any agent of an employer who violates this  
17 Section of the Act a subsequent time within 2 years of a prior  
18 criminal conviction under this Section is guilty, upon  
19 conviction, of a Class 4 felony.

20 (b) Any employer who has been demanded or ordered by the  
21 Department or ordered by the court to pay wages, final  
22 compensation, or wage supplements due an employee shall be  
23 required to pay a non-waivable administrative fee to the  
24 Department of Labor in the amount of \$250 if the amount ordered  
25 by the Department as wages owed is \$3,000 or less; \$500 if the  
26 amount ordered by the Department as wages owed is more than

1 \$3,000, but less than \$10,000; and \$1,000 if the amount  
2 ordered by the Department as wages owed is \$10,000 or more. Any  
3 employer who has been so demanded or ordered by the Department  
4 or ordered by a court to pay such wages, final compensation, or  
5 wage supplements and who fails to seek timely review of such a  
6 demand or order as provided for under this Act and who fails to  
7 comply within 15 calendar days after such demand or within 35  
8 days of an administrative or court order is entered shall also  
9 be liable to pay a penalty to the Department of Labor of 20% of  
10 the amount found owing and a penalty to the employee of 1% per  
11 calendar day of the amount found owing for each day of delay in  
12 paying such wages to the employee. All moneys recovered as  
13 fees and civil penalties under this Act, except those owing to  
14 the affected employee, shall be deposited into the Wage Theft  
15 Enforcement Fund, a special fund which is hereby created in  
16 the State treasury. Moneys in the Fund may be used for  
17 enforcement of this Act and for outreach and educational  
18 activities of the Department related to the recovery of unpaid  
19 or underpaid compensation and the disbursement of moneys to  
20 affected parties.

21 (b-5) Penalties and fees under this Section may be  
22 assessed by the Department and recovered in a civil action  
23 brought by the Department in any circuit court or in any  
24 administrative adjudicative proceeding under this Act. In any  
25 such civil action or administrative adjudicative proceeding  
26 under this Act, the Department shall be represented by the



1 Attorney General.

2 (c) Any employer, or any agent of an employer, who  
3 discharges or in any other manner discriminates against any  
4 employee because that employee has made a complaint to his or  
5 her employer, to the Director of Labor or his or her authorized  
6 representative, in a public hearing, or to a community  
7 organization that he or she has not been paid in accordance  
8 with the provisions of this Act, or because that employee has  
9 caused to be instituted any proceeding under or related to  
10 this Act, or because that employee has testified or is about to  
11 testify in an investigation or proceeding under this Act, is  
12 guilty, upon conviction, of a Class C misdemeanor. An employee  
13 who has been unlawfully retaliated against shall be entitled  
14 to recover through a claim filed with the Department of Labor  
15 or in a civil action, but not both, all legal and equitable  
16 relief as may be appropriate. In a civil action, such employee  
17 shall also recover costs and all reasonable attorney's fees.

18 (d) Except as provided under subsections (a), (b), and  
19 (c), an employer who fails to furnish an employee or former  
20 employee with a pay stub as required by this Act or commits any  
21 other violation of this Act shall be subject to a civil penalty  
22 of up to \$500 per violation payable to the Department. In  
23 determining the amount of the penalty under this subsection,  
24 the Department shall consider the appropriateness of the  
25 penalty to the size of the business of the employer charged and  
26 the gravity of the violation.

1 (Source: P.A. 102-50, eff. 7-9-21; 103-182, eff. 6-30-23.)".