

1 AN ACT in relation to equal pay.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short Title. This Act may be cited as the
5 Equal Pay Act of 2003.

6 Section 5. Definitions. As used in this Act:

7 "Director" means the Director of Labor.

8 "Department" means the Department of Labor.

9 "Employee" means any individual permitted to work by an
10 employer.

11 "Employer" means an individual, partnership, corporation,
12 association, business, trust, person, or entity for whom 4 or
13 more employees are gainfully employed in Illinois and
14 includes the State of Illinois, any state officer,
15 department, or agency, any unit of local government, and any
16 school district.

17 Section 10. Prohibited acts.

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

26 (1) a seniority system;

27 (2) a merit system;

28 (3) a system that measures earnings by quantity or
29 quality of production; or

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

1 than sex.

2 An employer who is paying wages in violation of this Act
3 may not, to comply with this Act, reduce the wages of any
4 other employee.

5 (b) It is unlawful for any employer to interfere with,
6 restrain, or deny the exercise of or the attempt to exercise
7 any right provided under this Act. It is unlawful for any
8 employer to discharge or in any other manner discriminate
9 against any individual for inquiring about, disclosing,
10 comparing, or otherwise discussing the employee's wages or
11 the wages of any other employee, or aiding or encouraging any
12 person to exercise his or her rights under this Act.

13 (c) It is unlawful for any person to discharge or in any
14 other manner discriminate against any individual because the
15 individual:

16 (1) has filed any charge or has instituted or
17 caused to be instituted any proceeding under or related
18 to this Act;

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

22 (3) has testified, or is about to testify, in any
23 inquiry or proceeding relating to any right provided
24 under this Act.

25 Section 15. Enforcement. The Director or his or her
26 authorized representative shall administer and enforce the
27 provisions of this Act. The Director of Labor shall adopt
28 rules necessary to administer and enforce this Act.

29 The Department has the power to conduct investigations in
30 connection with the administration and enforcement of this
31 Act and the authorized officers and employees of the
32 Department are authorized to investigate and gather data
33 regarding the wages, hours, and other conditions and

1 practices of employment in any industry subject to this Act,
2 and may enter and inspect such places and such records at
3 reasonable times during regular business hours, question the
4 employees and investigate the facts, conditions, practices,
5 or matters as he or she may deem necessary or appropriate to
6 determine whether any person has violated any provision of
7 this Act, or which may aid in the enforcement of this Act.

8 Section 20. Recordkeeping requirements. An employer
9 subject to any provision of this Act shall make and preserve
10 records that document the name, address, and occupation of
11 each employee, the wages paid to each employee, and any other
12 information the Director may by rule deem necessary and
13 appropriate for enforcement of this Act. An employer subject
14 to any provision of this Act shall preserve those records for
15 a period of not less than 3 years and shall make reports from
16 the records as prescribed by rule or order of the Director.

17 Section 25. Witnesses; subpoena. The Director of Labor
18 or his or her authorized representative may administer oaths,
19 take or cause to be taken the depositions of witnesses, and
20 require by subpoena the attendance and testimony of witnesses
21 and the production of all books, records, and other evidence
22 relative to the matter under investigation. A subpoena
23 issued under this Section shall be signed and issued by the
24 Director of Labor or his or her authorized representative

25 In case of failure of any person to comply with any
26 subpoena lawfully issued under this Section or on the refusal
27 of any witness to produce evidence or to testify to any
28 matter regarding which he or she may be lawfully
29 interrogated, it is the duty of any circuit court, upon
30 application of the Director, or his or her authorized
31 representative, to compel obedience by proceedings for
32 contempt, as in the case of disobedience of the requirements

1 of a subpoena issued by such court or a refusal to testify
2 therein. The Director may certify to official acts.

3 Section 30. Violations; fines and penalties.

4 (a) If an employee is paid by his or her employer less
5 than the wage to which he or she is entitled in violation of
6 Section 10 of this Act, the employee may recover in a civil
7 action the amount of any underpayment together with the costs
8 and reasonable attorney's fees as may be allowed by the
9 court. At the request of the employee or on a motion of the
10 Director, the Department may make an assignment of the wage
11 claim in trust for the assigning employee and may bring any
12 legal action necessary to collect the claim, and the employer
13 shall be required to pay the costs incurred in collecting the
14 claim. Every such action shall be brought within 3 years
15 from the date of the underpayment.

16 (b) The Director is authorized to supervise the payment
17 of the unpaid wages owing to any employee or employees under
18 this Act and may bring any legal action necessary to recover
19 the amount of unpaid wages and penalties and the employer
20 shall be required to pay the costs. Any sums recovered by
21 the Director on behalf of an employee under this Section
22 shall be paid to the employee or employees affected.

23 (c) Any employer who violates any provision of this Act
24 or any rule adopted under the Act is subject to a civil
25 penalty not to exceed \$5,000 for each violation for each
26 employee affected. In determining the amount of the penalty,
27 the appropriateness of the penalty to the size of the
28 business of the employer charged and the gravity of the
29 violation shall be considered. The penalty may be recovered
30 in a civil action brought by the Director in any circuit
31 court.

32 Section 35. Refusal to pay wages or final compensation;

1 retaliatory discharge or discrimination.

2 (a) Any employer who has been ordered by the Director of
3 Labor or the court to pay wages due an employee and who fails
4 to do so within 15 days after the order is entered is liable
5 to pay a penalty of 1% per calendar day to the employee for
6 each day of delay in paying the wages to the employee, up to
7 an amount equal to twice the sum of unpaid wages due the
8 employee.

9 (b) Any employer, or any agent of an employer, who
10 knowingly discharges or in any other manner knowingly
11 discriminates against any employee because that employee has
12 made a complaint to his or her employer, or to the Director
13 or his or her authorized representative, that he or she or
14 any employee of the employer has not been paid in accordance
15 with the provisions of this Act, or because that employee has
16 instituted or caused to be instituted any proceeding under or
17 related to this Act, or because that employee has testified
18 or is about to testify in an investigation or proceeding
19 under this Act, or offers any evidence of any violation of
20 this Act, commits a Class B misdemeanor.

21 Section 40. Notification. Every employer covered by
22 this Act shall post and keep posted, in conspicuous places on
23 the premises of the employer where notices to employees are
24 customarily posted, a notice, to be prepared or approved by
25 the Director, summarizing the requirements of this Act and
26 information pertaining to the filing of a charge. The
27 Director shall furnish copies of summaries and rules to
28 employers upon request without charge.

29 Section 45. Outreach and education efforts. The
30 Department of Labor shall conduct ongoing outreach and
31 education efforts concerning this Act targeted toward
32 employers, labor organizations, and other appropriate

1 organizations. In addition, the Department of Labor shall
2 conduct studies and provide information biennially to
3 employers, labor organizations, and the general public
4 concerning the means available to eliminate pay disparities
5 between men and women, including:

6 (1) conducting and promoting research to develop the
7 means to correct the conditions leading to the pay
8 disparities;

9 (2) publishing and otherwise making available to
10 employers, labor organizations, professional
11 associations, educational institutions, the legislature,
12 the media, and the general public the findings resulting
13 from studies and other materials, relating to the pay
14 disparities;

15 (3) providing information to employers, labor
16 organizations, and other interested persons on the means
17 of eliminating pay disparities; and

18 (4) developing guidelines to enable employers to
19 evaluate job categories based on objective criteria such
20 as educational requirements, skill requirements,
21 independence, working conditions, and responsibility.
22 These guidelines shall be designed to enable employers to
23 voluntarily compare wages paid for different jobs to
24 determine if the pay scales involved adequately and
25 fairly reflect the educational requirements, skill
26 requirements, independence, working conditions, and
27 responsibility for each such job with the goal of
28 eliminating unfair pay disparities between occupations
29 traditionally dominated by men or women.

30 Section 50. Annual Report. The Department shall file
31 with the Governor and the General Assembly, no later than
32 January 1 of each year, a report of its activities regarding
33 administration and enforcement of this Act for the preceding

1 fiscal year.

2 Section 90. Severability. The provisions of this Act

3 are severable under Section 1.31 of the Statute on Statutes.