

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: (i) sex or (ii) a factor that would constitute
2 unlawful discrimination under the Illinois Human Rights
3 Act.

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

7 Nothing in this Act may be construed to require an
8 employer to pay, to any employee at a workplace in a
9 particular county, wages that are equal to the wages paid by
10 that employer at a workplace in another county to employees
11 in jobs the performance of which requires equal skill,
12 effort, and responsibility, and which are performed under
13 similar working conditions.

14 (b) It is unlawful for any employer to interfere with,
15 restrain, or deny the exercise of or the attempt to exercise
16 any right provided under this Act. It is unlawful for any
17 employer to discharge or in any other manner discriminate
18 against any individual for inquiring about, disclosing,
19 comparing, or otherwise discussing the employee's wages or
20 the wages of any other employee, or aiding or encouraging any
21 person to exercise his or her rights under this Act.

22 (c) It is unlawful for any person to discharge or in any
23 other manner discriminate against any individual because the
24 individual:

25 (1) has filed any charge or has instituted or
26 caused to be instituted any proceeding under or related
27 to this Act;

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

31 (3) has testified, or is about to testify, in any
32 inquiry or proceeding relating to any right provided
33 under this Act.

1 Section 15. Enforcement. The Director or his or her
2 authorized representative shall administer and enforce the
3 provisions of this Act. The Director of Labor shall adopt
4 rules necessary to administer and enforce this Act.

5 The Department has the power to conduct investigations in
6 connection with the administration and enforcement of this
7 Act and the authorized officers and employees of the
8 Department are authorized to investigate and gather data
9 regarding the wages, hours, and other conditions and
10 practices of employment in any industry subject to this Act,
11 and may enter and inspect such places and such records at
12 reasonable times during regular business hours, question the
13 employees and investigate the facts, conditions, practices,
14 or matters as he or she may deem necessary or appropriate to
15 determine whether any person has violated any provision of
16 this Act, or which may aid in the enforcement of this Act.

17 Section 20. Recordkeeping requirements. An employer
18 subject to any provision of this Act shall make and preserve
19 records that document the name, address, and occupation of
20 each employee, the wages paid to each employee, and any other
21 information the Director may by rule deem necessary and
22 appropriate for enforcement of this Act. An employer subject
23 to any provision of this Act shall preserve those records for
24 a period of not less than 3 years and shall make reports from
25 the records as prescribed by rule or order of the Director.

26 Section 25. Witnesses; subpoena. The Director of Labor
27 or his or her authorized representative may administer oaths,
28 take or cause to be taken the depositions of witnesses, and
29 require by subpoena the attendance and testimony of witnesses
30 and the production of all books, records, and other evidence
31 relative to the matter under investigation. A subpoena
32 issued under this Section shall be signed and issued by the

1 Director of Labor or his or her authorized representative.

2 In case of failure of any person to comply with any
3 subpoena lawfully issued under this Section or on the refusal
4 of any witness to produce evidence or to testify to any
5 matter regarding which he or she may be lawfully
6 interrogated, it is the duty of any circuit court, upon
7 application of the Director, or his or her authorized
8 representative, to compel obedience by proceedings for
9 contempt, as in the case of disobedience of the requirements
10 of a subpoena issued by such court or a refusal to testify
11 therein. The Director may certify to official acts.

12 Section 30. Violations; fines and penalties.

13 (a) If an employee is paid by his or her employer less
14 than the wage to which he or she is entitled in violation of
15 Section 10 of this Act, the employee may recover in a civil
16 action the entire amount of any underpayment together with
17 interest and the costs and reasonable attorney's fees as may
18 be allowed by the court and as necessary to make the employee
19 whole. At the request of the employee or on a motion of the
20 Director, the Department may make an assignment of the wage
21 claim in trust for the assigning employee and may bring any
22 legal action necessary to collect the claim, and the employer
23 shall be required to pay the costs incurred in collecting the
24 claim. Every such action shall be brought within 3 years
25 from the date the employee learned of the underpayment.

26 (b) The Director is authorized to supervise the payment
27 of the unpaid wages owing to any employee or employees under
28 this Act and may bring any legal action necessary to recover
29 the amount of unpaid wages and penalties and the employer
30 shall be required to pay the costs. Any sums recovered by
31 the Director on behalf of an employee under this Section
32 shall be paid to the employee or employees affected.

33 (c) Any employer who violates any provision of this Act

1 or any rule adopted under the Act is subject to a civil
2 penalty not to exceed \$2,500 for each violation for each
3 employee affected. In determining the amount of the penalty,
4 the appropriateness of the penalty to the size of the
5 business of the employer charged and the gravity of the
6 violation shall be considered. The penalty may be recovered
7 in a civil action brought by the Director in any circuit
8 court.

9 Section 35. Refusal to pay wages or final compensation;
10 retaliatory discharge or discrimination.

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

18 (b) Any employer, or any agent of an employer, who
19 knowingly discharges or in any other manner knowingly
20 discriminates against any employee because that employee has
21 made a complaint to his or her employer, or to the Director
22 or his or her authorized representative, that he or she or
23 any employee of the employer has not been paid in accordance
24 with the provisions of this Act, or because that employee has
25 instituted or caused to be instituted any proceeding under or
26 related to this Act or consulted counsel for such purposes,
27 or because that employee has testified or is about to testify
28 in an investigation or proceeding under this Act, or offers
29 any evidence of any violation of this Act, shall be liable to
30 the employee for such legal and equitable relief as may be
31 appropriate to effectuate the purposes of this Section, the
32 value of any lost benefits, backpay, and front pay as
33 appropriate so long as the employee has made reasonable

1 efforts to mitigate his or her damages and an additional
2 equal amount as liquidated damages.

3 Section 40. Notification. Every employer covered by
4 this Act shall post and keep posted, in conspicuous places on
5 the premises of the employer where notices to employees are
6 customarily posted, a notice, to be prepared or approved by
7 the Director, summarizing the requirements of this Act and
8 information pertaining to the filing of a charge. The
9 Director shall furnish copies of summaries and rules to
10 employers upon request without charge.

11 Section 45. Outreach and education efforts. The
12 Department of Labor shall conduct ongoing outreach and
13 education efforts concerning this Act targeted toward
14 employers, labor organizations, and other appropriate
15 organizations. In addition, the Department of Labor shall
16 conduct studies and provide information biennially to
17 employers, labor organizations, and the general public
18 concerning the means available to eliminate pay disparities
19 between men and women, including:

20 (1) conducting and promoting research to develop the
21 means to correct the conditions leading to the pay
22 disparities;

23 (2) publishing and otherwise making available to
24 employers, labor organizations, professional
25 associations, educational institutions, the legislature,
26 the media, and the general public the findings resulting
27 from studies and other materials, relating to the pay
28 disparities;

29 (3) providing information to employers, labor
30 organizations, and other interested persons on the means
31 of eliminating pay disparities; and

32 (4) developing guidelines to enable employers to

1 evaluate job categories based on objective criteria such
2 as educational requirements, skill requirements,
3 independence, working conditions, and responsibility.
4 These guidelines shall be designed to enable employers to
5 voluntarily compare wages paid for different jobs to
6 determine if the pay scales involved adequately and
7 fairly reflect the educational requirements, skill
8 requirements, independence, working conditions, and
9 responsibility for each such job with the goal of
10 eliminating unfair pay disparities between occupations
11 traditionally dominated by men or women.

12 Section 50. Annual Report. The Department shall file
13 with the Governor and the General Assembly, no later than
14 January 1 of each year, a report of its activities regarding
15 administration and enforcement of this Act for the preceding
16 fiscal year.

17 Section 90. Severability. The provisions of this Act
18 are severable under Section 1.31 of the Statute on Statutes.