



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by Carol Ronen

SYNOPSIS AS INTRODUCED:

820 ILCS 105/12

from Ch. 48, par. 1012

Amends the Minimum Wage Law. Makes a stylistic change in provisions concerning violations of the Act.

LRB093 15771 WGH 41381 b

1 AN ACT concerning employment.

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

4 Section 5. The Minimum Wage Law is amended by changing
5 Section 12 as follows:

6 (820 ILCS 105/12) (from Ch. 48, par. 1012)

7 Sec. 12. (a) If any employee is paid by his or her employer
8 less than the wage to which he is entitled under the provisions
9 of this Act, the employee may recover in a civil action the
10 amount of any such underpayments together with costs and such
11 reasonable attorney's fees as may be allowed by the Court, and
12 any agreement between him and his employer to work for less
13 than such wage is no defense to such action. At the request of
14 the employee or on motion of the Director of Labor, the
15 Department of Labor may make an assignment of such wage claim
16 in trust for the assigning employee and may bring any legal
17 action necessary to collect such claim, and the employer shall
18 be required to pay the costs incurred in collecting such claim.
19 Every such action shall be brought within 3 years from the date
20 of the underpayment. Such employer shall be liable to the
21 Department of Labor for 20% of the total employer's
22 underpayment and shall be additionally liable to the employee
23 for punitive damages in the amount of 2% of the amount of any
24 such underpayments for each month following the date of payment
25 during which such underpayments remain unpaid. The Director may
26 promulgate rules for the collection of these penalties. The
27 amount of a penalty may be determined, and the penalty may be
28 assessed, through an administrative hearing. The penalty may be
29 recovered in a civil action brought by the Director of Labor in
30 any circuit court. The penalty shall be imposed in cases in
31 which an employer's conduct is proven by a preponderance of the
32 evidence to be willful. In any such action, the Director of

1 Labor shall be represented by the Attorney General.

2 (b) The Director is authorized to supervise the payment of
3 the unpaid minimum wages and the unpaid overtime compensation
4 owing to any employee or employees under Sections 4 and 4a of
5 this Act and may bring any legal action necessary to recover
6 the amount of the unpaid minimum wages and unpaid overtime
7 compensation and an equal additional amount as punitive
8 damages, and the employer shall be required to pay the costs.
9 The action shall be brought within 5 years from the date of the
10 failure to pay the wages or compensation. Any sums thus
11 recovered by the Director on behalf of an employee pursuant to
12 this subsection shall be paid to the employee or employees
13 affected. Any sums which, more than one year after being thus
14 recovered, the Director is unable to pay to an employee shall
15 be deposited into the General Revenue Fund.

16 (Source: P.A. 92-392, eff. 1-1-02.)