



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3644

Introduced 2/11/2010, by Sen. Linda Holmes

SYNOPSIS AS INTRODUCED:

820 ILCS 115/14

from Ch. 48, par. 39m-14

Amends the Illinois Wage Payment and Collection Act. Provides that if an employer fails to include all commissions earned by a separated employee in the final compensation paid to the separated employee within the time limit set forth in the Act, the employer shall, in addition to any other penalties, pay the employee an amount equal to 3 times the amount of the commissions that were not paid, as well as the employee's court costs, attorney's fees, and any other associated costs incurred in successfully pursuing a legal action against the employer. Effective immediately.

LRB096 20318 WGH 35944 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 Illinois Wage Payment and Collection Act is
5 amended by changing Section 14 as follows:

6 (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

7 Sec. 14. (a) Any employer or any agent of an employer, who,
8 being able to pay wages, final compensation, or wage
9 supplements and being under a duty to pay, wilfully refuses to
10 pay as provided in this Act, or falsely denies the amount or
11 validity thereof or that the same is due, with intent to secure
12 for himself or other person any underpayment of such
13 indebtedness or with intent to annoy, harass, oppress, hinder,
14 delay or defraud the person to whom such indebtedness is due,
15 upon conviction, is guilty of a Class C misdemeanor. Each day
16 during which any violation of this Act continues shall
17 constitute a separate and distinct offense.

18 (a-5) If an employer fails to include all commissions
19 earned by a separated employee in the final compensation paid
20 to the separated employee within the time limit set forth in
21 Section 5, the employer shall, in addition to any other
22 penalties, pay the employee an amount equal to 3 times the
23 amount of the commissions that were not paid, as well as the

1 employee's court costs, attorney's fees, and any other
2 associated costs incurred in successfully pursuing a legal
3 action against the employer.

4 (b) Any employer who has been demanded by the Director of
5 Labor or ordered by the court to pay wages due an employee and
6 who shall fail to do so within 15 days after such demand or
7 order is entered shall be liable to pay a penalty of 1% per
8 calendar day to the employee for each day of delay in paying
9 such wages to the employee up to an amount equal to twice the
10 sum of unpaid wages due the employee. Such employer shall also
11 be liable to the Department of Labor for 20% of such unpaid
12 wages.

13 (b-5) Penalties under this Section may be recovered in a
14 civil action brought by the Director in any circuit court. In
15 this litigation, the Director of Labor shall be represented by
16 the Attorney General.

17 (c) Any employer, or any agent of an employer, who
18 knowingly discharges or in any other manner knowingly
19 discriminates against any employee because that employee has
20 made a complaint to his employer, or to the Director of Labor
21 or his authorized representative, that he or she has not been
22 paid in accordance with the provisions of this Act, or because
23 that employee has caused to be instituted any proceeding under
24 or related to this Act, or because that employee has testified
25 or is about to testify in an investigation or proceeding under
26 this Act, is guilty, upon conviction, of a Class C misdemeanor.

1 (Source: P.A. 94-1025, eff. 7-14-06; 95-209, eff. 8-16-07.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.