



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB1708

Introduced 2/15/2013, by Sen. Ira I. Silverstein - William Delgado - Kimberly A. Lightford

#### SYNOPSIS AS INTRODUCED:

New Act

775 ILCS 5/2-101	from Ch. 68, par. 2-101
820 ILCS 105/3	from Ch. 48, par. 1003
820 ILCS 105/4a	from Ch. 48, par. 1004a
820 ILCS 125/1	from Ch. 48, par. 198.1
820 ILCS 140/2	from Ch. 48, par. 8b

Creates the Domestic Workers' Bill of Rights Act. Requires employers to make specific disclosures to domestic workers regarding terms of employment. Requires written contracts. Establishes provisions for duration of shifts, meal breaks, sleep and rest periods, paid time off, and other matters. Provides for enforcement by the Department of Labor. Authorizes civil actions. Amends the Illinois Human Rights Act, the Minimum Wage Law, the Wages of Women and Minors Act, and the One Day Rest In Seven Act to make various changes regarding domestic workers. Effective immediately.

LRB098 06054 JLS 36093 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 1. Short title. This Act may be cited as the  
5 Domestic Workers' Bill of Rights Act.

6 Section 5. Purpose and findings. Domestic workers play a  
7 critical role in Illinois' economy, working to ensure the  
8 health and prosperity of Illinois families and freeing others  
9 to participate in the workforce. Despite the value of their  
10 work, domestic workers have historically been excluded from the  
11 protections under State law extended to workers in other  
12 industries. Domestic workers are predominately women who labor  
13 to support families and children of their own and who receive  
14 low pay and minimal or no benefits. Without clear standards  
15 governing their workplaces and working alone and behind closed  
16 doors, domestic workers are among the most isolated and  
17 vulnerable workforce in the State. Workforce projections are  
18 one of growth for domestic workers, but the lack of decent pay  
19 and other workplace protections undermines the likelihood of  
20 building and maintaining a reliable and experienced workforce  
21 that is able to meet the needs of Illinois families. Therefore,  
22 the General Assembly finds that because domestic workers care  
23 for the most important elements of Illinoisans' lives--our

1 families and our homes--it is in the interest of employees,  
2 employers, and the people of Illinois to ensure that the rights  
3 of domestic workers are respected, protected, and enforced, and  
4 that this Act shall be interpreted liberally to aid this  
5 purpose.

6 Section 10. Definitions. As used in this Act:

7 "Department" means the Department of Labor.

8 "Director" means the Director of Labor and his or her  
9 authorized representatives.

10 "Domestic work" means: (1) housekeeping; (2) house  
11 cleaning; (3) home management; (4) nanny services including  
12 childcare and child monitoring; (5) caretaking or home health  
13 care services of individuals including sick, convalescing, or  
14 elderly individuals and individuals with a disability; (6)  
15 laundering; (7) cooking; (8) companion services; (9)  
16 chauffeuring; and (10) other household services for members of  
17 households or their guests in or about a private home or  
18 residence or any other location where the domestic work is  
19 performed.

20 "Domestic worker" means a person employed to perform  
21 domestic work. "Domestic worker" does not include: (i) a person  
22 performing domestic work who is the employer's parent, spouse,  
23 civil union partner, child, or other member of his or her  
24 immediate family, exclusive of individuals whose primary work  
25 duties are companionship, home care, or health care services

1 performed for the aged or people with disabilities; (ii) child  
2 and day care home providers participating in the child care  
3 assistance program under Section 9A-11 of the Illinois Public  
4 Aid Code; (iii) a person who is employed by one or more  
5 employers in or about a private home or residence or any other  
6 location where the domestic work is performed for less than 8  
7 hours in the aggregate in any workweek, exclusive of  
8 individuals whose primary work duties are companionship, home  
9 care, or health care services performed for the aged or people  
10 with disabilities; or (iv) a person who (A) has been and will  
11 continue to be free from control and direction over the  
12 performance of his or her work, both under a contract of  
13 service and in fact and (B) is engaged in an independently  
14 established trade, occupation, profession or business, or the  
15 person performing domestic work is deemed a legitimate sole  
16 proprietor or partnership under subsection (c) of Section 10 of  
17 the Employee Classification Act, except that the terms  
18 "contractor" and "subcontractor" shall be substituted for  
19 "employer" and "domestic worker" respectively as defined under  
20 this Act.

21 "Employ" includes to suffer or permit to work.

22 "Employer" means any individual; partnership; association;  
23 corporation; limited liability company; business trust;  
24 employment and labor placement agencies where wages are made  
25 directly or indirectly by the agency or business for work  
26 undertaken by employees under hire to a third party pursuant to

1 a contract between the business or agency with the third party;  
2 the State of Illinois and local governments, or any political  
3 subdivision of the State or local government, or State or local  
4 government agency; or any other person or group of persons  
5 acting directly or indirectly in the interest of an employer in  
6 relation to an employee; for which one or more persons is  
7 gainfully employed, express or implied, whether lawfully or  
8 unlawfully employed, who employs a domestic worker or who  
9 exercises control over the domestic worker's wage,  
10 remuneration, or other compensation, hours of employment,  
11 place of employment, or working conditions.

12 "Live-in domestic worker" means a domestic worker who lives  
13 in the establishment where he or she works.

14 "Working time" means the time during which a domestic  
15 worker is subject to the control of an employer, and includes  
16 all time the domestic worker is suffered or permitted to work,  
17 whether or not required to do so.

18 Section 15. Notice and written contract.

19 (a) Notice. An employer shall notify all domestic workers  
20 and, upon oral request, disclose in writing the following  
21 information when an offer of employment is made to a domestic  
22 worker:

- 23 (1) the starting date, time, and place of employment;  
24 (2) the wage rates to be paid;  
25 (3) the frequency of the payment of wages;

1 (4) the kinds of domestic work for which the domestic  
2 worker may be employed;

3 (5) the hours per day, days per week, and period of  
4 employment, including any meal breaks and rest periods;

5 (6) leave policies for both paid and unpaid time off  
6 for the domestic worker;

7 (7) notice and policies for involuntary time off for  
8 the domestic worker;

9 (8) the transportation and any other employee benefit  
10 to be provided, if any, and any costs to be charged for  
11 each of them;

12 (9) any other terms and conditions of employment,  
13 including any workplace hazards that may make the domestic  
14 worker vulnerable to illnesses and other physical  
15 problems, and notice of termination and severance  
16 policies; and

17 (10) whether the domestic worker is covered under the  
18 Workers' Compensation Act, Unemployment Insurance Act, and  
19 Illinois and federal employment tax laws.

20 (b) Written contract. If the domestic worker works for one  
21 employer more than 8 hours in any workweek and that employment  
22 is expected to recur regularly such as every week, or  
23 periodically such as once every 6 weeks, the employer shall  
24 provide a written contract that includes:

25 (1) the rate of pay including overtime and additional  
26 compensation for added duties or multilingual skills;

- 1 (2) the frequency of the payment of wages;
- 2 (3) working hours including meal breaks and other time  
3 off, including, when applicable, the provisions for a day  
4 of rest, paid time off, holidays, severance, raises,  
5 transportation costs, health insurance, and any fees or  
6 other costs including costs for meals and lodging;
- 7 (4) living accommodations provided by the employer and  
8 policies on vacating the premises;
- 9 (5) the responsibilities associated with the job;
- 10 (6) the process for raising and addressing additional  
11 compensation if new duties are added and the process for  
12 addressing grievances;
- 13 (7) the right to privacy;
- 14 (8) the right to collect workers' compensation, if  
15 injured, unemployment insurance benefits, and social  
16 security benefits;
- 17 (9) notice of termination and severance pay policies;
- 18 (10) the contract period;
- 19 (11) reimbursement for work-related expenses; and
- 20 (12) any other rights or benefits afforded to the  
21 domestic worker, including State and federal employment  
22 taxes paid or to be paid by the employer related to the  
23 domestic worker's employment and notice of employment  
24 rights in State law.

25 Section 20. Working time of more or less than 24

1 consecutive hours.

2 (a) A domestic worker who is required to be on duty for 24  
3 consecutive hours or more shall have a minimum of 8 consecutive  
4 hours for uninterrupted sleep, except in an unforeseen  
5 emergency.

6 (b) If a domestic worker is required to be on duty for 24  
7 consecutive hours or more, the employer and the domestic worker  
8 may agree in writing to exclude a bona fide regularly scheduled  
9 sleeping period of not more than 8 hours for uninterrupted  
10 sleep from hours worked, provided that the employer otherwise  
11 complies with this Section. If sleep is interrupted more than  
12 once to perform work for up to 15 minutes, the entire period  
13 shall be considered working time. If no written agreement to  
14 the contrary is present, the 8 hours of sleeping shall  
15 constitute working time.

16 (c) There is a rebuttable presumption that a domestic  
17 worker did not receive 8 consecutive hours for uninterrupted  
18 sleep if he or she is required to be on duty for 24 consecutive  
19 hours or more and the employer does not hire a replacement  
20 worker for at least 8 consecutive hours in the 24-hour period.

21 (d) An employer shall pay the domestic worker for all time  
22 the domestic worker is required to be at the site, including  
23 time spent sleeping or doing other activities when not engaged  
24 in active domestic work, if on duty for less than 24  
25 consecutive hours.

26 (e) Domestic workers who work 24 consecutive hours or more,



1 including live-in domestic workers, shall be provided sleeping  
2 accommodations that are adequate, decent, safe, and sanitary.  
3 No domestic worker shall be required to share a bed.

4 (f) A live-in domestic worker who is not required to be on  
5 duty for 24 consecutive hours or more shall have at least 12  
6 consecutive hours free of duty during each workday of 24 hours,  
7 of which a minimum of 8 consecutive hours are for uninterrupted  
8 sleep. If sleep is interrupted more than once to perform work  
9 for up to 15 minutes, the entire period shall be considered  
10 working time. If no written agreement to the contrary is  
11 present, the 8 hours of sleeping shall constitute working time.

12 Section 25. Live-in domestic workers, working time and  
13 lodging.

14 (a) A live-in domestic worker suffered or permitted to work  
15 during the 12 consecutive off-duty hours shall be compensated  
16 in accordance with Section 4a of the Minimum Wage Law.

17 (b) If the domestic worker resides on the employer's  
18 premises, the domestic worker may voluntarily pay for lodging  
19 only if there is prior notice and a written agreement. The  
20 domestic worker shall not be charged if staying on the premises  
21 is an employment requirement. The charges for lodging may not  
22 result in the domestic worker earning less than the minimum  
23 wage and the charges may not exceed the lesser of the  
24 reasonable market rent or the actual cost of the lodging to the  
25 employer. The lodging must be adequate, decent, safe, and

1 sanitary, with provide a private area for sleeping and dressing  
2 with reasonable access to a bathroom, kitchen and laundry  
3 facilities. No domestic worker shall be required to share a  
4 bed.

5 (c) For live-in domestic workers, the employer shall  
6 provide written notice 30 days in advance to vacate and use the  
7 summary process to evict the domestic worker under Article IX  
8 of the Code of Civil Procedure if the domestic worker does not  
9 vacate after the initial 30 days' written notice, and take  
10 additional steps to ensure the domestic worker is not rendered  
11 homeless due the termination of employment.

12 Section 30. Meal and rest periods.

13 (a) An employer shall not employ a domestic worker for work  
14 time of more than 5 hours per day without a bona fide meal  
15 period of not less than 30 minutes, except that if the total  
16 work period for the day is not more than 6 hours, the bona fide  
17 meal period may be waived or taken at the beginning or end of  
18 work hours for the day by mutual consent of the employer and  
19 the domestic worker.

20 (b) An employer shall not employ a domestic worker for more  
21 than 10 hours per day without providing the domestic worker  
22 with a second bona fide meal period of not less than 30 minutes  
23 except that, if the total hours worked is not more than 12  
24 hours and only if the first meal period was not waived, the  
25 second bona fide meal may be waived or taken in combination

1 with the first bona fide meal period or taken at the beginning  
2 or end of work hours for the day by mutual consent of the  
3 employer and the domestic worker.

4 (c) Unless a domestic worker is relieved of all duty during  
5 a meal period, the meal period shall be considered an on-duty  
6 meal period, not a bona fide meal period, and counted as time  
7 worked. An on-duty meal period shall be permitted only if the  
8 nature of the work prevents a domestic worker from being  
9 relieved of all duty, shall be by written agreement between the  
10 employer and the domestic worker, and shall be revocable at any  
11 time by the domestic worker.

12 (d) If an employer fails to provide to a domestic worker  
13 employee a meal period in accordance with this Section, the  
14 employer shall pay the domestic worker one additional hour of  
15 pay at the domestic worker's regular rate of compensation for  
16 each workday that the meal period is not provided.

17 (e) An employer shall permit a domestic worker who works 5  
18 hours or more to choose the food he or she eats and to prepare  
19 his or her own meals. A domestic worker may use the job site's  
20 kitchen facilities and kitchen appliances without charge or  
21 deduction from pay.

22 (f) If a domestic worker pays for food or beverages, the  
23 payment shall be at actual cost to the employer, and only if  
24 the food and beverages are voluntarily chosen by the domestic  
25 worker and actually consumed. There may not be a charge if the  
26 domestic worker cannot easily bring or prepare his or her own

1 meals or if the employer does not supply the domestic worker  
2 with receipts for the actual costs prior to any charge or  
3 deduction from pay.

4 (g) An employer shall authorize and permit the domestic  
5 worker to take rest periods that, insofar as practical, shall  
6 be in the middle of each work period. The authorized rest  
7 period time shall be based on the total hours worked daily at  
8 the rate of 10 minutes net rest time per 4 hours, or a major  
9 fraction thereof, of work. However, a rest period need not be  
10 authorized for the domestic worker whose total daily work time  
11 is less than 3.5 hours. Authorized rest period time shall be  
12 counted as hours worked for which there shall be no deduction  
13 from wages.

14 (h) If an employer fails to provide a domestic worker a  
15 rest period, the employer shall pay the domestic workers one  
16 additional hour of pay at the domestic worker's regular rate of  
17 compensation, but not less than minimum wage, for each work day  
18 that the rest period is not provided.

19 Section 35. Scheduled work.

20 (a) If a domestic worker is scheduled to work and is  
21 available to work but is not put to work or is furnished less  
22 than half of his or her usual or scheduled day's work, the  
23 domestic worker shall be paid for half the usual or scheduled  
24 day's work, but in no event less than 2 hours nor more than 4  
25 hours, at the domestic worker's regular rate of pay.

1           (b) If a domestic worker is scheduled to work and is  
2 available to work but is not put to work a second time in any  
3 one workday and is furnished less than 2 hours of work on the  
4 second time he or she reports for work, the domestic worker  
5 shall be paid for 2 hours at the domestic worker's regular rate  
6 of pay.

7           (c) If an employer does not require the domestic worker to  
8 report to work for one or more days on a temporary basis for  
9 any reason, such as the employer's vacation, or any other  
10 change in the working time schedule, such as changing from an  
11 8-hour a day to a 4-hour a day schedule, the employer shall  
12 provide to the domestic worker a notice in writing at least 21  
13 days in advance of the first day the worker is not required to  
14 report to work or there is a change in schedule, with the start  
15 and end dates of the involuntary time off, and the date the  
16 domestic worker is required to return to work or return to the  
17 regular schedule. If the employer cannot provide the 21 days'  
18 notice because the employer is not aware of the necessity for  
19 the domestic worker's involuntary time off, the employer shall  
20 provide written notice as soon as he or she is aware of the  
21 necessity for the involuntary time off. If no notice is  
22 provided prior to the first day of involuntary time off, but  
23 the domestic worker is notified before reporting to work, the  
24 domestic worker shall be paid for the usual scheduled day's  
25 work at the regular rate of pay, and no less than 2 hours each  
26 day at the regular rate of pay for each subsequent day or hours

1 of involuntary time off.

2 Section 40. Paid time off.

3 (a) Paid time off shall accrue at the rate of one hour of  
4 paid time off for every 30 hours of working time for one  
5 employer up to the maximum of 80 hours paid time off. Paid time  
6 off may be used as accrued, or be loaned by the employer, at  
7 its discretion, to the employee in advance of such accrual; in  
8 such case an employer shall not require a domestic worker to  
9 reimburse it for any unearned paid time off. Paid time off  
10 shall be permitted to be used in hourly increments. It is up to  
11 the domestic worker to determine when and how much accrued paid  
12 time off to take under this Act. Paid time off shall be  
13 provided upon the oral request of the domestic worker and for  
14 any purpose of the domestic worker's choosing. If the necessity  
15 for paid time off is foreseeable, the domestic worker shall  
16 provide the employer with not less than 3 days' oral notice  
17 before the date the leave is to begin. If the necessity for  
18 leave is not foreseeable, the domestic worker shall provide  
19 such notice as soon as is practical after the domestic worker  
20 is aware of the necessity of such leave. The employer may not  
21 require, as a condition of providing paid time off under this  
22 Act, that the domestic worker search for or find a replacement  
23 worker to cover the hours during which the domestic worker is  
24 on paid time off leave.

25 (b) Paid time off shall carry over annually to the extent

1 not used by the domestic worker, provided that nothing in this  
2 Act shall be construed to require an employer to allow a worker  
3 to use more than 80 hours of paid time off in a year unless an  
4 employer agrees to do so.

5 (c) Upon oral request, an employer shall provide to a  
6 domestic worker an annual statement in writing indicating the  
7 amount and periods of accrued paid time off.

8 (d) During any period a domestic worker takes leave under  
9 this Act, the employer shall maintain coverage for the domestic  
10 worker and any family member under any group health plan for  
11 the duration of such leave at at least the level and conditions  
12 of coverage would have been provided if the domestic worker had  
13 not taken the leave.

14 Section 45. Privacy. An employer is not permitted to  
15 videotape or otherwise record the domestic worker in any of the  
16 bathrooms, in the area where the sleeping accommodations are  
17 provided while the domestic worker is sleeping, or, in the case  
18 of a live-in domestic worker, the domestic worker's living  
19 area.

20 Section 50. Recordkeeping requirements. An employer  
21 subject to any provision of this Act shall make and preserve  
22 records that document the name and address of each employee,  
23 whether or not the employee was a live-in domestic worker, the  
24 work hours each day in each workweek, the rates of pay, the

1 amount paid each pay period, all deductions made from wages or  
2 final compensation, the number of paid time off hours earned  
3 each year and the dates on which paid time off hours were taken  
4 and paid, a copy of a written contract, if applicable, any  
5 charges or deduction from wages for meals or lodging or other  
6 reason, and any other information the Director may by rule deem  
7 necessary and appropriate for enforcement of this Act. An  
8 employer subject to any provision of this Act shall preserve  
9 those records for a period of not less than 5 years and shall  
10 make reports from the records as prescribed by rule or order of  
11 the Director, unless the records relate to an ongoing  
12 investigation or enforcement action under this Act, in which  
13 case the records must be maintained until their destruction is  
14 authorized by the Department or by court order.

15 An employer shall, upon the oral request of a current of  
16 former employee or his or her representative, make these  
17 records available for inspection by a current or former  
18 employee or his or her representative, at the employee's  
19 current or past place of employment during normal working hours  
20 for the employee, or another agreed upon location or time  
21 convenient to the employee or his or her representative, within  
22 7 calendar days after such a request. If, however, the employer  
23 can reasonably show such deadline cannot be met, the employer  
24 shall have an additional 7 days to comply. Upon oral request,  
25 an employee or his or her representative shall obtain a copy of  
26 the information or part of the information contained in the



1 employee's record. An employer may charge a fee for providing a  
2 copy of such information. The fee shall be limited to the  
3 actual cost of duplicating the information.

4 In the absence of employer records, a domestic worker may  
5 not be denied recovery of wages or final compensation on the  
6 basis that the domestic worker is unable to prove the precise  
7 extent of uncompensated work or final compensation.

8 If an employer requires evidence of hours worked for other  
9 employers, a sworn statement by the employee stating that he or  
10 she has performed or is scheduled to perform domestic work for  
11 8 or more hours in the aggregate for the relevant workweek  
12 shall satisfy any documentation requirements of hours worked  
13 under this Act. The employer shall not require more than one  
14 sworn statement in a calendar quarter if the hours the employee  
15 has performed or is scheduled to perform domestic work have not  
16 decreased to less than 8 hours in the aggregate in any workweek  
17 in that calendar quarter or less than 100 hours in the  
18 aggregate in the calendar quarter. An employer that requires  
19 evidence of hours worked must give the domestic worker written  
20 notice of such request and allow no less than 10 days or until  
21 the next scheduled work day, whichever is greater, for the  
22 domestic worker to comply.

23 Section 55. Prohibited acts.

24 (a) Interference with rights.

25 (1) It shall be unlawful and a violation of this Act

1 for any employer or any other person who discharges,  
2 threatens, penalizes, or in any other manner  
3 discriminates, retaliates, or takes any adverse action  
4 against an employee, because the employee or a person or  
5 organization acting on the employee's behalf: (i)  
6 exercises rights or attempts to exercise rights under this  
7 Act; (ii) opposes practices such employee believes to be in  
8 violation of this Act; or (iii) supports the exercise of  
9 rights under this Act. Exercising rights, opposing  
10 practices, or supporting the exercise of rights under this  
11 Act shall include, but not be limited to: (i) filing an  
12 action or instituting or causing to be instituted any  
13 proceeding under or related to this Act; (ii) providing or  
14 preparing to provide any information in connection with any  
15 inquiry or proceeding relating to any right provided under  
16 this Act; (iii) testifying or preparing to testify in any  
17 inquiry or proceeding relating to any right provided under  
18 this Act, in a public hearing, or to a community  
19 organization; or (iv) informing any other person that his  
20 or her employer engages in conduct that the employee  
21 reasonably and in good faith believes violates any  
22 provisions of this Act.

23 (2) An agreement by an employee to waive his or her  
24 rights under this Act is void as against public policy. The  
25 benefits provided to employees under this Act may not be  
26 diminished by a collective bargaining agreement or an

1 employment benefit program or plan entered into or renewed  
2 after the effective date of this Act.

3 (3) It shall be unlawful for an employer to interfere  
4 with, restrain, or deny the exercise of or the attempt to  
5 exercise any right provided under or in connection with  
6 this Act including, but not limited to, using the taking of  
7 paid time off as a negative factor in an employment action  
8 such as hiring, termination, evaluation, promotion,  
9 discipline, or counting the paid time off under a no-fault  
10 attendance policy.

11 (b) Nothing in this Act shall limit an employer's ability  
12 to provide more generous wages, benefits, or working conditions  
13 than those provided under this Act.

14 Section 60. Enforcement.

15 (a) A domestic worker aggrieved by a violation of this Act  
16 or any rule adopted under this Act shall be entitled to  
17 recover, through a claim filed with the Department of Labor or  
18 in a civil action, but not both, actual, compensatory, and  
19 punitive damages with interest at the prevailing rate and such  
20 equitable relief as may be appropriate. The Department and the  
21 court in such an action shall, in addition to any judgment  
22 awarded to the domestic worker, allow a reasonable attorney's  
23 fee, reasonable expert witness fees, and other costs of the  
24 action to be paid by the defendant or employer. If the domestic  
25 worker's representative is other than an attorney in an action

1 before the Department, no attorney's fees shall be awarded.  
2 Necessary legal action may be brought by the Department or the  
3 domestic worker to collect the judgment, and the employer shall  
4 be required to pay the costs incurred in collecting the  
5 judgment. An action may be brought under this Act no more than  
6 5 years after the date of the last event constituting the  
7 alleged violation for which the action is brought.

8 A domestic worker or a representative of domestic workers  
9 aggrieved by a violation of this Act or any rule adopted under  
10 this Act may file suit in circuit court in the county where the  
11 alleged violation occurred or where any domestic worker who is  
12 a party to this action resides, without regard to exhaustion of  
13 remedies provided in this Act. Actions may be brought by one or  
14 more domestic workers for and on behalf of themselves and other  
15 domestic workers similarly situated. An employer that violates  
16 any provision of this Act or any rule adopted under this Act is  
17 subject to a civil money penalty not to exceed \$3,000 for each  
18 separate offense, payable to the domestic worker. In  
19 determining the amount of the penalty, the gravity of the  
20 violation shall be considered. An individual whose rights have  
21 been violated under this Act may seek any and all remedies  
22 provided in this Act, including reasonable attorney's fees for  
23 the prevailing employee, whether those remedies are obtained  
24 through court order, a suit, or a claim that is settled by  
25 private agreement. The rights and remedies specified under this  
26 Act are cumulative and nonexclusive and are in addition to any

1 other rights or remedies afforded by contract or under other  
2 provisions of Illinois law.

3 In an action filed with the Department of Labor, an  
4 employer shall be liable to the Department for up to 20% of the  
5 total damages where the employer's conduct is proven by a  
6 preponderance of the evidence to be willful, repeated, or with  
7 reckless disregard of this Act or any rule adopted under this  
8 Act. These penalties may be recovered by the Department in a  
9 civil action brought by the Director in any circuit court. In  
10 any such action, the Director shall be represented by the  
11 Attorney General.

12 An employer that has been demanded by the Department or  
13 ordered by the court to pay wages, damages, or penalties due an  
14 employee and who fails to do so within 15 days after such  
15 demand or order is entered shall be liable to pay a penalty of  
16 2% per calendar day to the employee for each day of delay in  
17 paying such wages, damages, or penalties to the employee, up to  
18 an amount equal to treble the sum of unpaid wages, damages, and  
19 penalties due the employee.

20 (b) The Director of Labor or his or her authorized  
21 representatives shall administer and enforce the provisions of  
22 this Act. An employee or a representative of employees who  
23 believes his or her rights under this Act have been violated  
24 may, within 5 years after the alleged violation occurs, file a  
25 complaint with the Department requesting a review of the  
26 alleged violation. A copy of the complaint shall be sent to the

1 person who allegedly committed the violation, who shall be the  
2 respondent. Upon receipt of a complaint, the Director shall  
3 cause such investigation to be made. The investigation shall  
4 provide an opportunity for a public hearing at the request of  
5 any party to the review to enable the parties to present  
6 information relating to the alleged allegation. The parties  
7 shall be given written notice of the time and place of the  
8 hearing at least 7 days before the hearing. Upon receiving the  
9 report of the investigation, the Director shall make findings  
10 of fact. If the Director finds that a violation did occur, he  
11 or she shall issue a decision incorporating his or her findings  
12 and requiring the party committing the violation to take such  
13 affirmative action to abate the violation as the Director deems  
14 appropriate, including damages equal to the amount of wages,  
15 salary, employment benefits, or other compensation denied or  
16 lost to such individual by reason of the violation, and the  
17 interest on that amount calculated at the prevailing rate;  
18 compensatory damages for emotional distress; and liquidated  
19 damages not to exceed \$3,000 for each separate offense, payable  
20 to the domestic worker. In determining the amount of the  
21 penalty, the Director shall consider the gravity of the  
22 violation; such equitable relief as may be appropriate  
23 including, but not limited to, reinstatement, reasonable  
24 attorney's fees, reasonable expert witness fees, and other  
25 costs of the action to be paid by the respondent to a  
26 prevailing employee. If the domestic worker's representative

1 is other than an attorney in an action before the Department,  
2 no attorney's fees shall be awarded.

3 If the Director finds that there was no violation, he or  
4 she shall issue an order denying the complaint. An order issued  
5 by the Director under this Section shall be final and subject  
6 to judicial review under the Administrative Review Law.

7 The Director shall adopt rules necessary to administer and  
8 enforce this Act in accordance with the Illinois Administrative  
9 Procedure Act. The Director shall have the powers and the  
10 parties shall have the rights provided in the Illinois  
11 Administrative Procedure Act for contested cases including,  
12 but not limited to, provisions for depositions, subpoena power  
13 and procedures, and discovery and protective order procedures.

14 The Director of Labor or his or her authorized  
15 representatives shall administer and enforce the provisions of  
16 this Act. In order to accomplish the objectives of this Act and  
17 to carry out the duties prescribed in this Act, the Director  
18 shall, within one year from the effective date of this Act,  
19 promulgate rules necessary to administer and enforce the  
20 provisions of this Act including the procedures that shall be  
21 followed for hearings under this Section.

22 The Attorney General of Illinois may intervene on behalf of  
23 the Department if the Department certifies that the case is of  
24 general public importance. Upon such intervention the court may  
25 award such relief as is authorized to be granted an employee  
26 who has filed a complaint or whose representative has filed a

1 complaint under this Section.

2 Section 91. The Illinois Human Rights Act is amended by  
3 changing Section 2-101 as follows:

4 (775 ILCS 5/2-101) (from Ch. 68, par. 2-101)

5 Sec. 2-101. Definitions. The following definitions are  
6 applicable strictly in the context of this Article.

7 (A) Employee.

8 (1) "Employee" includes:

9 (a) Any individual performing services for  
10 remuneration within this State for an employer;

11 (b) An apprentice;

12 (c) An applicant for any apprenticeship.

13 (2) "Employee" does not include:

14 (a) (Blank); ~~Domestic servants in private homes;~~

15 (b) Individuals employed by persons who are not  
16 "employers" as defined by this Act;

17 (c) Elected public officials or the members of  
18 their immediate personal staffs;

19 (d) Principal administrative officers of the State  
20 or of any political subdivision, municipal corporation  
21 or other governmental unit or agency;

22 (e) A person in a vocational rehabilitation  
23 facility certified under federal law who has been  
24 designated an evaluatee, trainee, or work activity



1 client.

2 (B) Employer.

3 (1) "Employer" includes:

4 (a) Any person employing 15 or more employees  
5 within Illinois during 20 or more calendar weeks within  
6 the calendar year of or preceding the alleged  
7 violation;

8 (b) Any person employing one or more employees when  
9 a complainant alleges civil rights violation due to  
10 unlawful discrimination based upon his or her physical  
11 or mental disability unrelated to ability or sexual  
12 harassment;

13 (c) The State and any political subdivision,  
14 municipal corporation or other governmental unit or  
15 agency, without regard to the number of employees;

16 (d) Any party to a public contract without regard  
17 to the number of employees;

18 (e) A joint apprenticeship or training committee  
19 without regard to the number of employees;

20 (f) A person employing one or more domestic  
21 workers.

22 (2) "Employer" does not include any religious  
23 corporation, association, educational institution,  
24 society, or non-profit nursing institution conducted by  
25 and for those who rely upon treatment by prayer through  
26 spiritual means in accordance with the tenets of a

1 recognized church or religious denomination with respect  
2 to the employment of individuals of a particular religion  
3 to perform work connected with the carrying on by such  
4 corporation, association, educational institution, society  
5 or non-profit nursing institution of its activities.

6 (C) Employment Agency. "Employment Agency" includes both  
7 public and private employment agencies and any person, labor  
8 organization, or labor union having a hiring hall or hiring  
9 office regularly undertaking, with or without compensation, to  
10 procure opportunities to work, or to procure, recruit, refer or  
11 place employees.

12 (D) Labor Organization. "Labor Organization" includes any  
13 organization, labor union, craft union, or any voluntary  
14 unincorporated association designed to further the cause of the  
15 rights of union labor which is constituted for the purpose, in  
16 whole or in part, of collective bargaining or of dealing with  
17 employers concerning grievances, terms or conditions of  
18 employment, or apprenticeships or applications for  
19 apprenticeships, or of other mutual aid or protection in  
20 connection with employment, including apprenticeships or  
21 applications for apprenticeships.

22 (E) Sexual Harassment. "Sexual harassment" means any  
23 unwelcome sexual advances or requests for sexual favors or any  
24 conduct of a sexual nature when (1) submission to such conduct  
25 is made either explicitly or implicitly a term or condition of  
26 an individual's employment, (2) submission to or rejection of

1 such conduct by an individual is used as the basis for  
2 employment decisions affecting such individual, or (3) such  
3 conduct has the purpose or effect of substantially interfering  
4 with an individual's work performance or creating an  
5 intimidating, hostile or offensive working environment.

6 (F) Religion. "Religion" with respect to employers  
7 includes all aspects of religious observance and practice, as  
8 well as belief, unless an employer demonstrates that he is  
9 unable to reasonably accommodate an employee's or prospective  
10 employee's religious observance or practice without undue  
11 hardship on the conduct of the employer's business.

12 (G) Public Employer. "Public employer" means the State, an  
13 agency or department thereof, unit of local government, school  
14 district, instrumentality or political subdivision.

15 (H) Public Employee. "Public employee" means an employee of  
16 the State, agency or department thereof, unit of local  
17 government, school district, instrumentality or political  
18 subdivision. "Public employee" does not include public  
19 officers or employees of the General Assembly or agencies  
20 thereof.

21 (I) Public Officer. "Public officer" means a person who is  
22 elected to office pursuant to the Constitution or a statute or  
23 ordinance, or who is appointed to an office which is  
24 established, and the qualifications and duties of which are  
25 prescribed, by the Constitution or a statute or ordinance, to  
26 discharge a public duty for the State, agency or department

1       thereof, unit of local government, school district,  
2       instrumentality or political subdivision.

3       (J) Eligible Bidder. "Eligible bidder" means a person who,  
4       prior to a bid opening, has filed with the Department a  
5       properly completed, sworn and currently valid employer report  
6       form, pursuant to the Department's regulations. The provisions  
7       of this Article relating to eligible bidders apply only to bids  
8       on contracts with the State and its departments, agencies,  
9       boards, and commissions, and the provisions do not apply to  
10      bids on contracts with units of local government or school  
11      districts.

12      (K) Citizenship Status. "Citizenship status" means the  
13      status of being:

14              (1) a born U.S. citizen;

15              (2) a naturalized U.S. citizen;

16              (3) a U.S. national; or

17              (4) a person born outside the United States and not a  
18      U.S. citizen who is not an unauthorized alien and who is  
19      protected from discrimination under the provisions of  
20      Section 1324b of Title 8 of the United States Code, as now  
21      or hereafter amended.

22      (L) Domestic Worker. "Domestic worker" means a person  
23      employed to perform domestic work including housekeeping,  
24      house cleaning, home management, nanny services including  
25      childcare and child monitoring, caretaking or home health care  
26      services of individuals including sick, convalescing or

1 elderly individuals and individuals with a disability,  
2 laundrying, cooking, companion services, chauffeuring, and  
3 other household services for members of households or their  
4 guests in or about a private home or residence or any other  
5 location where the domestic work is performed.

6 (Source: P.A. 97-877, eff. 8-2-12.)

7 Section 92. The Minimum Wage Law is amended by changing  
8 Sections 3 and 4a as follows:

9 (820 ILCS 105/3) (from Ch. 48, par. 1003)

10 Sec. 3. As used in this Act:

11 (a) "Director" means the Director of the Department of  
12 Labor, and "Department" means the Department of Labor.

13 (b) "Wages" means compensation due to an employee by reason  
14 of his employment, including allowances determined by the  
15 Director in accordance with the provisions of this Act for  
16 gratuities and, when furnished by the employer, for meals and  
17 lodging actually used by the employee.

18 (c) "Employer" includes any individual, partnership,  
19 association, corporation, limited liability company, business  
20 trust, governmental or quasi-governmental body, or any person  
21 or group of persons acting directly or indirectly in the  
22 interest of an employer in relation to an employee, for which  
23 one or more persons are gainfully employed on some day within a  
24 calendar year. An employer is subject to this Act in a calendar

1 year on and after the first day in such calendar year in which  
2 he employs one or more persons, and for the following calendar  
3 year.

4 (d) "Employee" includes any individual permitted to work by  
5 an employer in an occupation, but does not include any  
6 individual permitted to work:

7 (1) For an employer employing fewer than 4 employees  
8 exclusive of the employer's parent, spouse or child or  
9 other members of his immediate family and exclusive of one  
10 or more domestic workers as defined in the Domestic  
11 Workers' Bill of Rights Act.

12 (2) As an employee employed in agriculture or  
13 aquaculture (A) if such employee is employed by an employer  
14 who did not, during any calendar quarter during the  
15 preceding calendar year, use more than 500 man-days of  
16 agricultural or aquacultural labor, (B) if such employee is  
17 the parent, spouse or child, or other member of the  
18 employer's immediate family, (C) if such employee (i) is  
19 employed as a hand harvest laborer and is paid on a piece  
20 rate basis in an operation which has been, and is  
21 customarily and generally recognized as having been, paid  
22 on a piece rate basis in the region of employment, (ii)  
23 commutes daily from his permanent residence to the farm on  
24 which he is so employed, and (iii) has been employed in  
25 agriculture less than 13 weeks during the preceding  
26 calendar year, (D) if such employee (other than an employee

1 described in clause (C) of this subparagraph): (i) is 16  
2 years of age or under and is employed as a hand harvest  
3 laborer, is paid on a piece rate basis in an operation  
4 which has been, and is customarily and generally recognized  
5 as having been, paid on a piece rate basis in the region of  
6 employment, (ii) is employed on the same farm as his parent  
7 or person standing in the place of his parent, and (iii) is  
8 paid at the same piece rate as employees over 16 are paid  
9 on the same farm.

10 (3) (Blank) ~~In domestic service in or about a private~~  
11 ~~home.~~

12 (4) As an outside salesman.

13 (5) As a member of a religious corporation or  
14 organization.

15 (6) At an accredited Illinois college or university  
16 employed by the college or university at which he is a  
17 student who is covered under the provisions of the Fair  
18 Labor Standards Act of 1938, as heretofore or hereafter  
19 amended.

20 (7) For a motor carrier and with respect to whom the  
21 U.S. Secretary of Transportation has the power to establish  
22 qualifications and maximum hours of service under the  
23 provisions of Title 49 U.S.C. or the State of Illinois  
24 under Section 18b-105 (Title 92 of the Illinois  
25 Administrative Code, Part 395 - Hours of Service of  
26 Drivers) of the Illinois Vehicle Code.

1           The above exclusions from the term "employee" may be  
2 further defined by regulations of the Director.

3           (e) "Occupation" means an industry, trade, business or  
4 class of work in which employees are gainfully employed.

5           (f) "Gratuities" means voluntary monetary contributions to  
6 an employee from a guest, patron or customer in connection with  
7 services rendered.

8           (g) "Outside salesman" means an employee regularly engaged  
9 in making sales or obtaining orders or contracts for services  
10 where a major portion of such duties are performed away from  
11 his employer's place of business.

12           (h) "Day camp" means a seasonal recreation program in  
13 operation for no more than 16 weeks intermittently throughout  
14 the calendar year, accommodating for profit or under  
15 philanthropic or charitable auspices, 5 or more children under  
16 18 years of age, not including overnight programs. The term  
17 "day camp" does not include a "day care agency", "child care  
18 facility" or "foster family home" as licensed by the Illinois  
19 Department of Children and Family Services.

20           (Source: P.A. 94-1025, eff. 7-14-06; 95-945, eff. 1-1-09.)

21           (820 ILCS 105/4a) (from Ch. 48, par. 1004a)

22           Sec. 4a. (1) Except as otherwise provided in this Section,  
23 no employer shall employ any of his employees for a workweek of  
24 more than 40 hours unless such employee receives compensation  
25 for his employment in excess of the hours above specified at a



1 rate not less than 1 1/2 times the regular rate at which he is  
2 employed.

3 (1.5) No employer who employs a domestic worker shall  
4 require a domestic worker to work more than 40 hours in a week,  
5 or 44 hours in a week for domestic worker who resides in the  
6 home of his or her employer, unless he or she receives  
7 compensation for overtime at a rate not less than 1.5 times the  
8 regular rate at which he or she is employed.

9 (2) The provisions of subsection (1) of this Section are  
10 not applicable to:

11 A. Any salesman or mechanic primarily engaged in  
12 selling or servicing automobiles, trucks or farm  
13 implements, if he is employed by a nonmanufacturing  
14 establishment primarily engaged in the business of selling  
15 such vehicles or implements to ultimate purchasers.

16 B. Any salesman primarily engaged in selling trailers,  
17 boats, or aircraft, if he is employed by a nonmanufacturing  
18 establishment primarily engaged in the business of selling  
19 trailers, boats, or aircraft to ultimate purchasers.

20 C. Any employer of agricultural labor, with respect to  
21 such agricultural employment.

22 D. Any employee of a governmental body excluded from  
23 the definition of "employee" under paragraph (e)(2)(C) of  
24 Section 3 of the Federal Fair Labor Standards Act of 1938.

25 E. Any employee employed in a bona fide executive,  
26 administrative or professional capacity, including any

1 radio or television announcer, news editor, or chief  
2 engineer, as defined by or covered by the Federal Fair  
3 Labor Standards Act of 1938 and the rules adopted under  
4 that Act, as both exist on March 30, 2003, but compensated  
5 at the amount of salary specified in subsections (a) and  
6 (b) of Section 541.600 of Title 29 of the Code of Federal  
7 Regulations as proposed in the Federal Register on March  
8 31, 2003 or a greater amount of salary as may be adopted by  
9 the United States Department of Labor. For bona fide  
10 executive, administrative, and professional employees of  
11 not-for-profit corporations, the Director may, by  
12 regulation, adopt a weekly wage rate standard lower than  
13 that provided for executive, administrative, and  
14 professional employees covered under the Fair Labor  
15 Standards Act of 1938, as now or hereafter amended.

16 F. Any commissioned employee as described in paragraph  
17 (i) of Section 7 of the Federal Fair Labor Standards Act of  
18 1938 and rules and regulations promulgated thereunder, as  
19 now or hereafter amended.

20 G. Any employment of an employee in the stead of  
21 another employee of the same employer pursuant to a  
22 worktime exchange agreement between employees.

23 H. Any employee of a not-for-profit educational or  
24 residential child care institution who (a) on a daily basis  
25 is directly involved in educating or caring for children  
26 who (1) are orphans, foster children, abused, neglected or

1 abandoned children, or are otherwise homeless children and  
2 (2) reside in residential facilities of the institution and  
3 (b) is compensated at an annual rate of not less than  
4 \$13,000 or, if the employee resides in such facilities and  
5 receives without cost board and lodging from such  
6 institution, not less than \$10,000.

7 I. Any employee employed as a crew member of any  
8 uninspected towing vessel, as defined by Section 2101(40)  
9 of Title 46 of the United States Code, operating in any  
10 navigable waters in or along the boundaries of the State of  
11 Illinois.

12 (3) Any employer may employ any employee for a period or  
13 periods of not more than 10 hours in the aggregate in any  
14 workweek in excess of the maximum hours specified in subsection  
15 (1) of this Section without paying the compensation for  
16 overtime employment prescribed in subsection (1) if during that  
17 period or periods the employee is receiving remedial education  
18 that:

19 (a) is provided to employees who lack a high school  
20 diploma or educational attainment at the eighth grade  
21 level;

22 (b) is designed to provide reading and other basic  
23 skills at an eighth grade level or below; and

24 (c) does not include job specific training.

25 (4) A governmental body is not in violation of subsection  
26 (1) if the governmental body provides compensatory time

1 pursuant to paragraph (o) of Section 7 of the Federal Fair  
2 Labor Standards Act of 1938, as now or hereafter amended, or is  
3 engaged in fire protection or law enforcement activities and  
4 meets the requirements of paragraph (k) of Section 7 or  
5 paragraph (b)(20) of Section 13 of the Federal Fair Labor  
6 Standards Act of 1938, as now or hereafter amended.

7 (Source: P.A. 92-623, eff. 7-11-02; 93-672, eff. 4-2-04.)

8 Section 93. The Wages of Women and Minors Act is amended by  
9 changing Section 1 as follows:

10 (820 ILCS 125/1) (from Ch. 48, par. 198.1)

11 Sec. 1. As used in this Act:

12 "Department" means the Department of Labor.

13 "Director" means the Director of the Department of Labor.

14 "Wage Board" means a board created as provided in this Act.

15 "Woman" means a female of 18 years or over.

16 "Minor" means a person under the age of 18 years.

17 "Occupation" means an industry, trade or business or branch  
18 thereof or class of work therein in which women or minors are  
19 gainfully employed, but does not include ~~domestic service in~~  
20 ~~the home of the employer or~~ labor on a farm.

21 "An oppressive and unreasonable wage" means a wage which is  
22 both less than the fair and reasonable value of the services  
23 rendered and less than sufficient to meet the minimum cost of  
24 living necessary for health.

1 "A fair wage" means a wage fairly and reasonably  
2 commensurate with the value of the services or class of service  
3 rendered. In establishing a minimum fair wage for any service  
4 or class of service under this Act the Department and the wage  
5 board without being bound by any technical rules of evidence or  
6 procedure (1) may take into account all relevant circumstances  
7 affecting the value of the service or class of service  
8 rendered, and (2) may be guided by like considerations as would  
9 guide a court in a suit for the reasonable value of services  
10 rendered where services are rendered at the request of an  
11 employer without contract as to the amount of the wage to be  
12 paid, and (3) may consider the wages paid in the State for work  
13 of like or comparable character by employers who voluntarily  
14 maintain minimum fair wage standards.

15 "A directory order" means an order the nonobservance of  
16 which may be published as provided in Section 9 of this Act.

17 "A mandatory order" means an order the violation of which  
18 is subject to the penalties prescribed in paragraph 2 of  
19 Section 15 of this Act.

20 (Source: P.A. 91-357, eff. 7-29-99.)

21 Section 94. The One Day Rest In Seven Act is amended by  
22 changing Section 2 as follows:

23 (820 ILCS 140/2) (from Ch. 48, par. 8b)

24 Sec. 2. (a) Every employer shall allow every employee

1 except those specified in this Section at least twenty-four  
2 consecutive hours of rest in every calendar week in addition to  
3 the regular period of rest allowed at the close of each working  
4 day.

5 A person employed as a domestic worker, as defined in  
6 Section 2 of the Domestic Workers' Bill of Rights Act, shall be  
7 allowed at least 24 consecutive hours of rest in every calendar  
8 week. This subsection (a) does not prohibit a domestic worker  
9 from voluntarily agreeing to work on such day of rest required  
10 by this subsection (a); provided that the worker is compensated  
11 at the overtime rate for all hours worked on such day of rest.  
12 The day of rest authorized under this subsection (a) should,  
13 whenever possible, coincide with the traditional day reserved  
14 by the domestic worker for religious worship. The hours and  
15 days of rest allowed under this Act shall be in addition to any  
16 paid time off earned under Section 8 of the Domestic Workers  
17 Bill of Rights Act.

18 (b) This Section does not apply to the following:

19 (1) Part-time employees whose total work hours for one  
20 employer during a calendar week do not exceed 20; and

21 (2) Employees needed in case of breakdown of machinery or  
22 equipment or other emergency requiring the immediate services  
23 of experienced and competent labor to prevent injury to person,  
24 damage to property, or suspension of necessary operation; and

25 (3) Employees employed in agriculture or coal mining; and

26 (4) Employees engaged in the occupation of canning and

1 processing perishable agricultural products, if such employees  
2 are employed by an employer in such occupation on a seasonal  
3 basis and for not more than 20 weeks during any calendar year  
4 or 12 month period; and

5 (5) Employees employed as watchmen or security guards; and

6 (6) Employees who are employed in a bonafide executive,  
7 administrative, or professional capacity or in the capacity of  
8 an outside salesman, as defined in Section 12 (a) (1) of the  
9 federal Fair Labor Standards Act, as amended, and those  
10 employed as supervisors as defined in Section 2 (11) of the  
11 National Labor Relations Act, as amended; and

12 (7) Employees who are employed as crew members of any  
13 uninspected towing vessel, as defined by Section 2101(40) of  
14 Title 46 of the United States Code, operating in any navigable  
15 waters in or along the boundaries of the State of Illinois.

16 (Source: P.A. 92-623, eff. 7-11-02.)

17 Section 97. Severability. If any provision of this Act of  
18 the application of such provision to any person or circumstance  
19 is preempted by or held to be in violation of Illinois or  
20 federal law or regulation, the remainder of the provisions of  
21 this Act and the application of those provisions to any person  
22 or circumstance shall not be affected.

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.