



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB1913

Introduced 2/15/2013, by Sen. Kwame Raoul

#### SYNOPSIS AS INTRODUCED:

820 ILCS 105/11  
820 ILCS 115/14

from Ch. 48, par. 1011  
from Ch. 48, par. 39m-14

Amends the Minimum Wage Law and the Illinois Wage Payment and Collection Act. Provides that it is unlawful for an employer to interfere with an employee in the exercise of his or her rights under those Acts. Effective immediately.

LRB098 09933 JLS 40091 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. Findings and Purposes.

5 (a) The General Assembly finds the following:

6 (1) The intent of the Illinois General Assembly in  
7 enacting the Minimum Wage Law and the Illinois Wage Payment  
8 and Collection Act was to provide a statutory basis for a  
9 claim of retaliatory discharge.

10 (2) In *Trochuck v. Patterson*, 851 F.Supp.2d 1147, the  
11 United States District Court for the Southern District of  
12 Illinois held that the Minimum Wage Law and the Illinois  
13 Wage Payment and Collection Act cannot form the basis for a  
14 legally viable common law retaliatory discharge claim.

15 (b) The purposes of this Act are as follows:

16 (1) To clearly state that the holding in *Trochuck v.*  
17 *Patterson* as stated above is not the intent of the Illinois  
18 General Assembly.

19 (2) To provide a basis for a claim of retaliatory  
20 discharge under the Minimum Wage Law and the Illinois Wage  
21 Payment and Collection Act.

22 Section 10. The Minimum Wage Law is amended by changing  
23 Section 11 as follows:

1 (820 ILCS 105/11) (from Ch. 48, par. 1011)

2 Sec. 11. Violations and enforcement.

3 (a) Any employer or his agent, or the officer or agent of  
4 any private employer who:

5 (1) Hinders or delays the Director or his authorized  
6 representative in the performance of his duties in the  
7 enforcement of this Act; or

8 (2) Refuses to admit the Director or his authorized  
9 representative to any place of employment; or

10 (3) Fails to keep the records required under this Act  
11 or to furnish such records required or any information to  
12 be furnished under this Act to the Director or his  
13 authorized representative upon request; or

14 (4) Fails to make and preserve any records as required  
15 hereunder; or

16 (5) Falsifies any such record; or

17 (6) Refuses to make such records available to the  
18 Director or his authorized representative; or

19 (7) Refuses to furnish a sworn statement of such  
20 records or any other information required for the proper  
21 enforcement of this Act; or

22 (8) Fails to post a summary of this Act or a copy of  
23 any applicable regulation as required by Section 9 of this  
24 Act; shall be guilty of a Class B misdemeanor; and each day  
25 of such failure to keep the records required under this Act

1 or to furnish such records or information to the Director  
2 or his authorized representative or to fail to post  
3 information as required herein constitutes a separate  
4 offense.

5 (b) Any employer or his agent, or the officer or agent of  
6 any private employer, who pays or agrees to pay to any employee  
7 wages at a rate less than the rate applicable under this Act or  
8 of any regulation issued under this Act is guilty of a Class B  
9 misdemeanor, and each week on any day of which such employee is  
10 paid less than the wage rate applicable under this Act  
11 constitutes a separate offense.

12 (c) It is unlawful for any employer or his or her agent, or  
13 the officer or agent of any private employer, to interfere  
14 with, restrain, or coerce an employee in any manner whatsoever  
15 in the exercise of the rights or remedies granted to him or her  
16 by this Act or to discriminate, attempt to discriminate, or  
17 threaten to discriminate against an employee in any way because  
18 of his or her exercise of the rights or remedies granted to him  
19 or her by this Act.

20 Any employer or his agent, or the officer or agent of any  
21 private employer, who discharges or in any other manner  
22 discriminates against any employee because that employee has  
23 made a complaint to his employer, or to the Director or his  
24 authorized representative, that he has not been paid wages in  
25 accordance with the provisions of this Act, or because that  
26 employee has caused to be instituted or is about to cause to be

1 instituted any proceeding under or related to this Act, or  
2 because that employee has testified or is about to testify in  
3 an investigation or proceeding under this Act, is guilty of a  
4 Class B misdemeanor.

5 (d) It is the duty of the Department of Labor to inquire  
6 diligently for any violations of this Act, and to institute the  
7 action for penalties herein provided, and to enforce generally  
8 the provisions of this Act.

9 (Source: P.A. 86-799.)

10 Section 15. The Illinois Wage Payment and Collection Act is  
11 amended by changing Section 14 as follows:

12 (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

13 Sec. 14. (a) Any employee not timely paid wages, final  
14 compensation, or wage supplements by his or her employer as  
15 required by this Act shall be entitled to recover through a  
16 claim filed with the Department of Labor or in a civil action,  
17 but not both, the amount of any such underpayments and damages  
18 of 2% of the amount of any such underpayments for each month  
19 following the date of payment during which such underpayments  
20 remain unpaid. In a civil action, such employee shall also  
21 recover costs and all reasonable attorney's fees.

22 (a-5) In addition to the remedies provided in subsections  
23 (a), (b), and (c) of this Section, any employer or any agent of  
24 an employer, who, being able to pay wages, final compensation,

1 or wage supplements and being under a duty to pay, wilfully  
2 refuses to pay as provided in this Act, or falsely denies the  
3 amount or validity thereof or that the same is due, with intent  
4 to secure for himself or other person any underpayment of such  
5 indebtedness or with intent to annoy, harass, oppress, hinder,  
6 delay or defraud the person to whom such indebtedness is due,  
7 upon conviction, is guilty of:

8 (1) for unpaid wages, final compensation or wage  
9 supplements in the amount of \$5,000 or less, a Class B  
10 misdemeanor; or

11 (2) for unpaid wages, final compensation or wage  
12 supplements in the amount of more than \$5,000, a Class A  
13 misdemeanor.

14 Each day during which any violation of this Act continues  
15 shall constitute a separate and distinct offense.

16 Any employer or any agent of an employer who violates this  
17 Section of the Act a subsequent time within 2 years of a prior  
18 criminal conviction under this Section is guilty, upon  
19 conviction, of a Class 4 felony.

20 (b) Any employer who has been demanded or ordered by the  
21 Department or ordered by the court to pay wages, final  
22 compensation, or wage supplements due an employee shall be  
23 required to pay a non-waivable administrative fee of \$250 to  
24 the Department of Labor. Any employer who has been so demanded  
25 or ordered by the Department or ordered by a court to pay such  
26 wages, final compensation, or wage supplements and who fails to

1 seek timely review of such a demand or order as provided for  
2 under this Act and who fails to comply within 15 calendar days  
3 after such demand or within 35 days of an administrative or  
4 court order is entered shall also be liable to pay a penalty to  
5 the Department of Labor of 20% of the amount found owing and a  
6 penalty to the employee of 1% per calendar day of the amount  
7 found owing for each day of delay in paying such wages to the  
8 employee. All moneys recovered as fees and civil penalties  
9 under this Act, except those owing to the affected employee,  
10 shall be deposited into the Wage Theft Enforcement Fund, a  
11 special fund which is hereby created in the State treasury.  
12 Moneys in the Fund may be used only for enforcement of this  
13 Act.

14 (b-5) Penalties and fees under this Section may be assessed  
15 by the Department and recovered in a civil action brought by  
16 the Department in any circuit court or in any administrative  
17 adjudicative proceeding under this Act. In any such civil  
18 action or administrative adjudicative proceeding under this  
19 Act, the Department shall be represented by the Attorney  
20 General.

21 (c) It is be unlawful for any employer or any agent of an  
22 employer to interfere with, restrain, or coerce an employee in  
23 any manner whatsoever in the exercise of the rights or remedies  
24 granted to him or her by this Act or to discriminate, attempt  
25 to discriminate, or threaten to discriminate against an  
26 employee in any way because of his or her exercise of the

1 rights or remedies granted to him or her by this Act.

2 Any employer, or any agent of an employer, who discharges  
3 or in any other manner discriminates against any employee  
4 because that employee has made a complaint to his employer, to  
5 the Director of Labor or his authorized representative, in a  
6 public hearing, or to a community organization that he or she  
7 has not been paid in accordance with the provisions of this  
8 Act, or because that employee has caused to be instituted any  
9 proceeding under or related to this Act, or because that  
10 employee has testified or is about to testify in an  
11 investigation or proceeding under this Act, is guilty, upon  
12 conviction, of a Class C misdemeanor. An employee who has been  
13 unlawfully retaliated against shall be entitled to recover  
14 through a claim filed with the Department of Labor or in a  
15 civil action, but not both, all legal and equitable relief as  
16 may be appropriate. In a civil action, such employee shall also  
17 recover costs and all reasonable attorney's fees.

18 (Source: P.A. 95-209, eff. 8-16-07; 96-1407, eff. 1-1-11.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.