

1 AN ACT concerning wages.

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

1 in which an employer's conduct is proven by a preponderance
2 of the evidence to be willful. In any such action, the
3 Director of Labor shall be represented by the Attorney
4 General.

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

20 (Source: P.A. 88-431.)