

AN ACT concerning employment.

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

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

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

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

Section 10. Definitions. As used in this Act:

"Domestic work" means:

- (1) housekeeping;
- (2) house cleaning;
- (3) home management;
- (4) nanny services including childcare and child monitoring;
- (5) caregiving, personal care or home health services for elderly persons or persons with an illness, injury, or disability who require assistance in caring for themselves;
- (6) laundering;
- (7) cooking;
- (8) companion services;
- (9) chauffeuring; or
- (10) other household services for members of households or their guests in or about a private home or residence or any other location where the domestic work is performed.

"Domestic worker" means a person employed to perform

domestic work. "Domestic worker" does not include: (i) a person performing domestic work who is the employer's parent, spouse, child, or other member of his or her immediate family, exclusive of individuals whose primary work duties are caregiving, companion services, personal care or home health services for elderly persons or persons with an illness, injury, or disability who require assistance in caring for themselves; (ii) child and day care home providers participating in the child care assistance program under Section 9A-11 of the Illinois Public Aid Code; (iii) a person who is employed by one or more employers in or about a private home or residence or any other location where the domestic work is performed for 8 hours or less in the aggregate in any workweek on a regular basis, exclusive of individuals whose primary work duties are caregiving, companion services, personal care or home health services for elderly persons or persons with an illness, injury, or disability who require assistance in caring for themselves; or (iv) a person who the employer establishes: (A) has been and will continue to be free from control and direction over the performance of his or her work, both under a contract of service and in fact; (B) is engaged in an independently established trade, occupation, profession or business; or (C) is deemed a legitimate sole proprietor or partnership. A sole proprietor or partnership shall be deemed to be legitimate if the employer establishes that:

(1) the sole proprietor or partnership is performing the service free from the direction or control over the means and manner of providing the service, subject only to the right of the employer for whom the service is provided to specify the desired result;

(2) the sole proprietor or partnership is not subject to cancellation or destruction upon severance of the relationship with the employer;

(3) the sole proprietor or partnership has a substantial investment of capital in the sole proprietorship or partnership beyond ordinary tools and equipment and a personal vehicle;

(4) the sole proprietor or partnership owns the capital goods and gains the profits and bears the losses of the sole proprietorship or partnership;

(5) the sole proprietor or partnership makes its services available to the general public on a continuing basis;

(6) the sole proprietor or partnership includes services rendered on a Federal Income Tax Schedule as an independent business or profession;

(7) the sole proprietor or partnership performs services for the contractor under the sole proprietorship's or partnership's name;

(8) when the services being provided require a license or permit, the sole proprietor or partnership obtains and

pays for the license or permit in the sole proprietorship's or partnership's name;

(9) the sole proprietor or partnership furnishes the tools and equipment necessary to provide the service;

(10) if necessary, the sole proprietor or partnership hires its own employees without approval of the employer, pays the employees without reimbursement from the employer and reports the employees' income to the Internal Revenue Service;

(11) the employer does not represent the sole proprietorship or partnership as an employee of the employer to the public; and

(12) the sole proprietor or partnership has the right to perform similar services for others on whatever basis and whenever it chooses.

"Employ" includes to suffer or permit to work.

"Employee" means a domestic worker.

"Employer" means: any individual; partnership; association; corporation; limited liability company; business trust; employment and labor placement agency where wages are made directly or indirectly by the agency or business for work undertaken by employees under hire to a third party pursuant to a contract between the business or agency with the third party; the State of Illinois and local governments, or any political subdivision of the State or local government, or State or local government agency; for which one or more persons is gainfully

employed, express or implied, whether lawfully or unlawfully employed, who employs a domestic worker or who exercises control over the domestic worker's wage, remuneration, or other compensation, hours of employment, place of employment, or working conditions, or whose agent or any other person or group of persons acting directly or indirectly in the interest of an employer in relation to the employee exercises control over the domestic worker's wage, remuneration or other compensation, hours of employment, place of employment, or working conditions.

Section 90. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 92. The Illinois Human Rights Act is amended by changing Section 2-101 as follows:

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

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

(A) Employee.

(1) "Employee" includes:

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

(b) An apprentice;

(c) An applicant for any apprenticeship.

For purposes of subsection (D) of Section 2-102 of this Act, "employee" also includes an unpaid intern. An unpaid intern is a person who performs work for an employer under the following circumstances:

(i) the employer is not committed to hiring the person performing the work at the conclusion of the intern's tenure;

(ii) the employer and the person performing the work agree that the person is not entitled to wages for the work performed; and

(iii) the work performed:

(I) supplements training given in an educational environment that may enhance the employability of the intern;

(II) provides experience for the benefit of the person performing the work;

(III) does not displace regular employees;

(IV) is performed under the close supervision of existing staff; and

(V) provides no immediate advantage to the employer providing the training and may occasionally impede the operations of the employer.

(2) "Employee" does not include:

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

(b) Individuals employed by persons who are not

"employers" as defined by this Act;

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

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

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

(B) Employer.

(1) "Employer" includes:

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

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

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

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



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

(2) "Employer" does not include any religious corporation, association, educational institution, society, or non-profit nursing institution conducted by and for those who rely upon treatment by prayer through spiritual means in accordance with the tenets of a recognized church or religious denomination with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, society or non-profit nursing institution of its activities.

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

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

connection with employment, including apprenticeships or applications for apprenticeships.

(E) Sexual Harassment. "Sexual harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

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

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

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

thereof.

(I) Public Officer. "Public officer" means a person who is elected to office pursuant to the Constitution or a statute or ordinance, or who is appointed to an office which is established, and the qualifications and duties of which are prescribed, by the Constitution or a statute or ordinance, to discharge a public duty for the State, agency or department thereof, unit of local government, school district, instrumentality or political subdivision.

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

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

(1) a born U.S. citizen;

(2) a naturalized U.S. citizen;

(3) a U.S. national; or

(4) a person born outside the United States and not a U.S. citizen who is not an unauthorized alien and who is protected from discrimination under the provisions of

Section 1324b of Title 8 of the United States Code, as now or hereafter amended.

(Source: P.A. 97-877, eff. 8-2-12; 98-1037, eff. 1-1-15; 98-1050, eff. 1-1-15; revised 10-3-14.)

Section 93. The Minimum Wage Law is amended by changing Section 3 as follows:

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

Sec. 3. As used in this Act:

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

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

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

year.

(d) "Employee" includes any individual permitted to work by an employer in an occupation, and includes, notwithstanding subdivision (1) of this subsection (d), one or more domestic workers as defined in Section 10 of the Domestic Workers' Bill of Rights Act, but does not include any individual permitted to work:

(1) For an employer employing fewer than 4 employees exclusive of the employer's parent, spouse or child or other members of his immediate family.

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

years of age or under and is employed as a hand harvest laborer, is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) is employed on the same farm as his parent or person standing in the place of his parent, and (iii) is paid at the same piece rate as employees over 16 are paid on the same farm.

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

(4) As an outside salesman.

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

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

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

The above exclusions from the term "employee" may be

further defined by regulations of the Director.

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

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

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

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

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

Section 94. The Wages of Women and Minors Act is amended by changing Section 1 as follows:

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

Sec. 1. As used in this Act:

"Department" means the Department of Labor.

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

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

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

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

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

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

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



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

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

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

Section 95. The One Day Rest In Seven Act is amended by changing Section 2 as follows:

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

Sec. 2. Hours and days of rest in every calendar week.

(a) Every employer shall allow every employee except those specified in this Section at least twenty-four consecutive hours of rest in every calendar week in addition to the regular period of rest allowed at the close of each working day.

A person employed as a domestic worker, as defined in Section 10 of the Domestic Workers' Bill of Rights Act, shall be allowed at least 24 consecutive hours of rest in every calendar week. This subsection (a) does not prohibit a domestic worker from voluntarily agreeing to work on such day of rest required by this subsection (a) if the worker is compensated at the overtime rate for all hours worked on such day of rest. The day of rest authorized under this subsection (a) should, whenever possible, coincide with the traditional day reserved by the domestic worker for religious worship.

(b) Subsection (a) ~~This Section~~ does not apply to the following:

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

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

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

(4) Employees engaged in the occupation of canning and processing perishable agricultural products, if such employees are employed by an employer in such occupation on a seasonal basis and for not more than 20 weeks during any calendar year or 12 month period; and

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

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

(7) Employees who are employed as crew members of any

Public Act 099-0758

HB1288 Enrolled

LRB099 05152 JLS 25181 b

uninspected towing vessel, as defined by Section 2101(40) of Title 46 of the United States Code, operating in any navigable waters in or along the boundaries of the State of Illinois.

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

Section 99. Effective date. This Act takes effect January 1, 2017.