



Rep. Mary Beth Canty

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10300HB3129ham001

LRB103 30957 SPS 59271 a

1 AMENDMENT TO HOUSE BILL 3129

2 AMENDMENT NO. _____. Amend House Bill 3129 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Equal Pay Act of 2003 is amended by
5 changing Sections 10, 20, and 30 as follows:

6 (820 ILCS 112/10)

7 Sec. 10. Prohibited acts.

8 (a) No employer may discriminate between employees on the
9 basis of sex by paying wages to an employee at a rate less than
10 the rate at which the employer pays wages to another employee
11 of the opposite sex for the same or substantially similar work
12 on jobs the performance of which requires substantially
13 similar skill, effort, and responsibility, and which are
14 performed under similar working conditions, except where the
15 payment is made under:

16 (1) a seniority system;

1 (2) a merit system;

2 (3) a system that measures earnings by quantity or
3 quality of production; or

4 (4) a differential based on any other factor other
5 than: (i) sex or (ii) a factor that would constitute
6 unlawful discrimination under the Illinois Human Rights
7 Act, provided that the factor:

8 (A) is not based on or derived from a differential
9 in compensation based on sex or another protected
10 characteristic;

11 (B) is job-related with respect to the position
12 and consistent with a business necessity; and

13 (C) accounts for the differential.

14 No employer may discriminate between employees by paying
15 wages to an African-American employee at a rate less than the
16 rate at which the employer pays wages to another employee who
17 is not African-American for the same or substantially similar
18 work on jobs the performance of which requires substantially
19 similar skill, effort, and responsibility, and which are
20 performed under similar working conditions, except where the
21 payment is made under:

22 (1) a seniority system;

23 (2) a merit system;

24 (3) a system that measures earnings by quantity or
25 quality of production; or

26 (4) a differential based on any other factor other

1 than: (i) race or (ii) a factor that would constitute
2 unlawful discrimination under the Illinois Human Rights
3 Act, provided that the factor:

4 (A) is not based on or derived from a differential
5 in compensation based on race or another protected
6 characteristic;

7 (B) is job-related with respect to the position
8 and consistent with a business necessity; and

9 (C) accounts for the differential.

10 An employer who is paying wages in violation of this Act
11 may not, to comply with this Act, reduce the wages of any other
12 employee.

13 Nothing in this Act may be construed to require an
14 employer to pay, to any employee at a workplace in a particular
15 county, wages that are equal to the wages paid by that employer
16 at a workplace in another county to employees in jobs the
17 performance of which requires equal skill, effort, and
18 responsibility, and which are performed under similar working
19 conditions.

20 (b) It is unlawful for any employer to interfere with,
21 restrain, or deny the exercise of or the attempt to exercise
22 any right provided under this Act. It is unlawful for any
23 employer to discharge or in any other manner discriminate
24 against any individual for inquiring about, disclosing,
25 comparing, or otherwise discussing the employee's wages or the
26 wages of any other employee, or aiding or encouraging any

1 person to exercise his or her rights under this Act. It is
2 unlawful for an employer to require an employee to sign a
3 contract or waiver that would prohibit the employee from
4 disclosing or discussing information about the employee's
5 wages, salary, benefits, or other compensation. An employer
6 may, however, prohibit a human resources employee, a
7 supervisor, or any other employee whose job responsibilities
8 require or allow access to other employees' wage or salary
9 information from disclosing that information without prior
10 written consent from the employee whose information is sought
11 or requested.

12 (b-5) It is unlawful for an employer or employment agency,
13 or employee or agent thereof, to (1) screen job applicants
14 based on their current or prior wages or salary histories,
15 including benefits or other compensation, by requiring that
16 the wage or salary history of an applicant satisfy minimum or
17 maximum criteria, (2) request or require a wage or salary
18 history as a condition of being considered for employment, as
19 a condition of being interviewed, as a condition of continuing
20 to be considered for an offer of employment, as a condition of
21 an offer of employment or an offer of compensation, or (3)
22 request or require that an applicant disclose wage or salary
23 history as a condition of employment.

24 (b-10) It is unlawful for an employer to seek the wage or
25 salary history, including benefits or other compensation, of a
26 job applicant from any current or former employer. This

1 subsection (b-10) does not apply if:

2 (1) the job applicant's wage or salary history is a
3 matter of public record under the Freedom of Information
4 Act, or any other equivalent State or federal law, or is
5 contained in a document completed by the job applicant's
6 current or former employer and then made available to the
7 public by the employer, or submitted or posted by the
8 employer to comply with State or federal law; or

9 (2) the job applicant is a current employee and is
10 applying for a position with the same current employer.

11 (b-15) Nothing in subsections (b-5) and (b-10) shall be
12 construed to prevent an employer or employment agency, or an
13 employee or agent thereof, from:

14 (1) providing information about the wages, benefits,
15 compensation, or salary offered in relation to a position;
16 or

17 (2) engaging in discussions with an applicant for
18 employment about the applicant's expectations with respect
19 to wage or salary, benefits, and other compensation,
20 including unvested equity or deferred compensation that
21 the applicant would forfeit or have canceled by virtue of
22 the applicant's resignation from the applicant's current
23 employer. If, during such discussion, the applicant
24 voluntarily and without prompting discloses that the
25 applicant would forfeit or have canceled by virtue of the
26 applicant's resignation from the applicant's current

1 employer unvested equity or deferred compensation, an
2 employer may request the applicant to verify the aggregate
3 amount of such compensation by submitting a letter or
4 document stating the aggregate amount of the unvested
5 equity or deferred compensation from, at the applicant's
6 choice, one of the following: (1) the applicant's current
7 employer or (2) the business entity that administers the
8 funds that constitute the unvested equity or deferred
9 compensation.

10 (b-20) An employer is not in violation of subsections
11 (b-5) and (b-10) when a job applicant voluntarily and without
12 prompting discloses his or her current or prior wage or salary
13 history, including benefits or other compensation, on the
14 condition that the employer does not consider or rely on the
15 voluntary disclosures as a factor in determining whether to
16 offer a job applicant employment, in making an offer of
17 compensation, or in determining future wages, salary,
18 benefits, or other compensation.

19 (b-25) It is unlawful for an employer with 15 or more
20 employees to fail to include the pay scale and benefits for a
21 position in any job posting. If an employer with 15 or more
22 employees engages a third party to announce, post, publish, or
23 otherwise make known a job posting, the employer shall provide
24 the pay scale and benefits to the third party and the third
25 party shall include the pay scale and benefits in the job
26 posting. An employer is liable for a third party's failure to

1 include the pay scale and benefits in the job posting. An
2 employer shall announce, post, or otherwise make known all
3 opportunities for promotion to all current employees no later
4 than the same calendar day that the employer makes an external
5 job posting for the position. Nothing in this subsection
6 requires an employer to make a job posting. As used in this
7 subsection, "pay scale and benefits" means the wage or salary,
8 or the wage or salary range, and a general description of the
9 benefits and other compensation the employer reasonably
10 expects to offer for the position.

11 (c) It is unlawful for any person to discharge or in any
12 other manner discriminate against any individual because the
13 individual:

14 (1) has filed any charge or has instituted or caused
15 to be instituted any proceeding under or related to this
16 Act;

17 (2) has given, or is about to give, any information in
18 connection with any inquiry or proceeding relating to any
19 right provided under this Act;

20 (3) has testified, or is about to testify, in any
21 inquiry or proceeding relating to any right provided under
22 this Act; or

23 (4) fails to comply with any wage or salary history
24 inquiry.

25 (Source: P.A. 101-177, eff. 9-29-19; 102-277, eff. 1-1-22.)

1 (820 ILCS 112/20)

2 Sec. 20. Recordkeeping requirements. An employer subject
3 to any provision of this Act shall make and preserve records
4 that document the name, address, and occupation of each
5 employee, the wages paid to each employee, the pay scale and
6 benefits, as defined in subsection (b-25) of Section (10), for
7 a position, and any other information the Director may by rule
8 deem necessary and appropriate for enforcement of this Act. An
9 employer subject to any provision of this Act shall preserve
10 those records for a period of not less than 5 years and shall
11 make reports from the records as prescribed by rule or order of
12 the Director, unless the records relate to an ongoing
13 investigation or enforcement action under this Act, in which
14 case the records must be maintained until their destruction is
15 authorized by the Department or by court order.

16 (Source: P.A. 96-467, eff. 8-14-09.)

17 (820 ILCS 112/30)

18 Sec. 30. Violations; fines and penalties.

19 (a) If an employee is paid by his or her employer less than
20 the wage to which he or she is entitled in violation of Section
21 10 or 11 of this Act, the employee may recover in a civil
22 action the entire amount of any underpayment together with
23 interest, compensatory damages if the employee demonstrates
24 that the employer acted with malice or reckless indifference,
25 punitive damages as may be appropriate, injunctive relief as

1 may be appropriate, and the costs and reasonable attorney's
2 fees as may be allowed by the court and as necessary to make
3 the employee whole. At the request of the employee or on a
4 motion of the Director, the Department may make an assignment
5 of the wage claim in trust for the assigning employee and may
6 bring any legal action necessary to collect the claim, and the
7 employer shall be required to pay the costs incurred in
8 collecting the claim. Every such action shall be brought
9 within 5 years from the date of the underpayment. For purposes
10 of this Act, "date of the underpayment" means each time wages
11 are underpaid.

12 (a-5) If an employer violates subsection (b), (b-5),
13 (b-10), ~~or~~ (b-20), or (b-25) of Section 10, the employee may
14 recover in a civil action any damages incurred, special
15 damages not to exceed \$10,000, injunctive relief as may be
16 appropriate, and costs and reasonable attorney's fees as may
17 be allowed by the court and as necessary to make the employee
18 whole. If special damages are available, an employee may
19 recover compensatory damages only to the extent such damages
20 exceed the amount of special damages. Such action shall be
21 brought within 5 years from the date of the violation.

22 (b) The Director is authorized to supervise the payment of
23 the unpaid wages under subsection (a) or damages under
24 subsection (b), (b-5), (b-10), ~~or~~ (b-20), or (b-25) of Section
25 10 owing to any employee or employees under this Act and may
26 bring any legal action necessary to recover the amount of

1 unpaid wages, damages, and penalties or to seek injunctive
2 relief, and the employer shall be required to pay the costs.
3 Any sums recovered by the Director on behalf of an employee
4 under this Section shall be paid to the employee or employees
5 affected.

6 (c) Employers who violate any provision of this Act or any
7 rule adopted under the Act, except for a violation of
8 subsection (b-25) of Section 10, are subject to a civil
9 penalty for each employee affected as follows:

10 (1) An employer with fewer than 4 employees: first
11 offense, a fine not to exceed \$500; second offense, a fine
12 not to exceed \$2,500; third or subsequent offense, a fine
13 not to exceed \$5,000.

14 (2) An employer with between 4 and 99 employees: first
15 offense, a fine not to exceed \$2,500; second offense, a
16 fine not to exceed \$3,000; third or subsequent offense, a
17 fine not to exceed \$5,000.

18 (3) An employer with 100 or more employees who
19 violates any Section of this Act except for Section 11
20 shall be fined up to \$10,000 per employee affected. An
21 employer with 100 or more employees that is a business as
22 defined under Section 11 and commits a violation of
23 Section 11 shall be fined up to \$10,000.

24 Before any imposition of a penalty under this subsection,
25 an employer with 100 or more employees who violates item (b) of
26 Section 11 and inadvertently fails to file an initial

1 application or recertification shall be provided 30 calendar
2 days by the Department to submit the application or
3 recertification.

4 An employer or person who violates subsection (b), (b-5),
5 (b-10), (b-20), or (c) of Section 10 is subject to a civil
6 penalty not to exceed \$5,000 for each violation for each
7 employee affected.

8 (c-5) The Department may initiate investigations of
9 alleged violations of subsection (b-25) of Section (10) upon
10 receiving a complaint from any individual, or at the
11 Department's discretion. Any individual may submit a complaint
12 of a violation of subsection (b-25) of Section (10) to the
13 Department within one year after the date the individual
14 learned of the violation. If the Department has determined
15 that a violation of subsection (b-25) of Section (10) has
16 occurred, the employer has 7 days upon receipt of notice of a
17 violation from the Department to remedy the violation. The
18 employer shall demonstrate to the Department that the
19 violation has been remedied or the employer shall be subject
20 to a civil penalty of \$100 per day for each day that a
21 violation continues after the 7-day notice period. Each job
22 posting not in compliance with the requirements of subsection
23 (b-25) of Section (10) shall be considered a separate
24 violation.

25 (d) In determining the amount of the penalty, the
26 appropriateness of the penalty to the size of the business of

1 the employer charged and the gravity of the violation shall be
2 considered. The penalty may be recovered in a civil action
3 brought by the Director in any circuit court.

4 (Source: P.A. 101-177, eff. 9-29-19; 102-36, eff. 6-25-21.)

5 Section 99. Effective date. This Act takes effect January
6 1, 2024.".