

SB1505



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1505

Introduced 2/7/2023, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

820 ILCS 115/2

from Ch. 48, par. 39m-2

Amends the Illinois Wage Payment and Collection Act. Provides that the definition of "employee" does not include an employer or any individual who has an ownership interest in the partnership, association, corporation (other than ownership of shares of a publicly traded corporation), limited liability company, business trust, or employment placement agency.

LRB103 28784 SPS 55169 b

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 5. The Illinois Wage Payment and Collection Act is
5 amended by changing Section 2 as follows:

6 (820 ILCS 115/2) (from Ch. 48, par. 39m-2)

7 Sec. 2. For all employees, other than separated employees,
8 "wages" shall be defined as any compensation owed an employee
9 by an employer pursuant to an employment contract or agreement
10 between the 2 parties, whether the amount is determined on a
11 time, task, piece, or any other basis of calculation. Payments
12 to separated employees shall be termed "final compensation"
13 and shall be defined as wages, salaries, earned commissions,
14 earned bonuses, and the monetary equivalent of earned vacation
15 and earned holidays, and any other compensation owed the
16 employee by the employer pursuant to an employment contract or
17 agreement between the 2 parties. Where an employer is legally
18 committed through a collective bargaining agreement or
19 otherwise to make contributions to an employee benefit, trust
20 or fund on the basis of a certain amount per hour, day, week or
21 other period of time, the amount due from the employer to such
22 employee benefit, trust, or fund shall be defined as "wage
23 supplements", subject to the wage collection provisions of

1 this Act.

2 As used in this Act, the term "employer" shall include any
3 individual, partnership, association, corporation, limited
4 liability company, business trust, employment and labor
5 placement agencies where wage payments are made directly or
6 indirectly by the agency or business for work undertaken by
7 employees under hire to a third party pursuant to a contract
8 between the business or agency with the third party, or any
9 person or group of persons acting directly or indirectly in
10 the interest of an employer in relation to an employee, for
11 which one or more persons is gainfully employed.

12 As used in this Act, the term "employee" shall include any
13 individual permitted to work by an employer in an occupation,
14 but shall not include any individual:

15 (1) who has been and will continue to be free from
16 control and direction over the performance of his work,
17 both under his contract of service with his employer and
18 in fact; and

19 (2) who performs work which is either outside the
20 usual course of business or is performed outside all ~~of~~
21 the places of business of the employer unless the employer
22 is in the business of contracting with third parties for
23 the placement of employees; and

24 (3) who is in an independently established trade,
25 occupation, profession or business.

26 "Employee" also does not include an employer or any

1 individual who has an ownership interest in the partnership,
2 association, corporation (other than ownership of shares of a
3 publicly traded corporation), limited liability company,
4 business trust, or employment placement agency.

5 The following terms apply to an employer's use of payroll
6 cards to pay wages to an employee under the requirements of
7 this Act:

8 "Payroll card" means a card provided to an employee by an
9 employer or other payroll card issuer as a means of accessing
10 the employee's payroll card account.

11 "Payroll card account" means an account that is directly
12 or indirectly established through an employer and to which
13 deposits of a participating employee's wages are made.

14 "Payroll card issuer" means a bank, financial institution,
15 or other entity that issues a payroll card to an employee under
16 an employer payroll card program.

17 (Source: P.A. 98-862, eff. 1-1-15.)