

1 AN ACT in relation to wages.

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

4 Section 1. Short title. This Act may be cited as the
5 Living Wage Law.

6 Section 5. Legislative policy. The General Assembly
7 finds that in industries, trades, and businesses, including
8 offices, mercantile establishments, and other places of
9 employment in Illinois, there are conditions detrimental to
10 the maintenance of a self-sufficient living wage for workers
11 and their families. This places burdens on the State and all
12 other political bodies of the State to assist and supply
13 necessary moneys and goods to workers and their families to
14 aid them to exist on a minimum budget for their needs,
15 resulting in an unnecessary burden on the taxpayers of this
16 State. Therefore, it is the policy of this State to establish
17 a living wage standard for workers that is sufficient to
18 support the costs of living, working, raising a family, and
19 paying taxes in Illinois; to safeguard a living wage against
20 the unfair competition of wage and hour standards that do
21 not provide adequate standards of living; and to sustain
22 purchasing power and increase self-sufficiency through steady
23 employment.

24 Section 10. Definitions. In this Act:

25 "Director" means the Director of Labor.

26 "Department" means the Department of Labor.

27 "Wages" means compensation due to an employee by reason
28 of his or her employment, including allowances determined by
29 the Director in accordance with the provisions of this Act
30 for gratuities and, when furnished by the employer, for meals

1 and lodging actually used by the employee.

2 "Employer" includes any individual, partnership,
3 association, corporation, business trust, governmental or
4 quasi-governmental body, or any person or group of persons
5 acting directly or indirectly in the interest of an employer
6 in relation to an employee, for which one or more persons are
7 gainfully employed on some day within a calendar year. An
8 employer is subject to this Act in a calendar year on and
9 after the first day in that calendar year in which he or she
10 employs one or more persons and in the following calendar
11 year.

12 "Employee" includes any individual permitted to work by
13 an employer in an occupation, but does not include any
14 individual permitted to work:

15 (1) For an employer employing fewer than 4
16 employees exclusive of the employer's parents, spouse,
17 children, or other members of the employer's immediate
18 family.

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

1 subparagraph): (i) is 16 years of age or under and is
2 employed as a hand harvest laborer, is paid on a piece
3 rate basis in an operation that has been, and is
4 customarily and generally recognized as having been, paid
5 on a piece rate basis in the region of employment, (ii)
6 is employed on the same farm as his or her parent or
7 person standing in the place of his or her parent, and
8 (iii) is paid at the same piece rate as employees over 16
9 years of age are paid on the same farm.

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

11 (4) As an outside salesman.

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

14 (6) At an accredited Illinois college or university
15 at which he or she is a student if the individual is
16 covered under the provisions of the Fair Labor Standards
17 Act of 1938, as heretofore or hereafter amended.

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

25 These exclusions from the term "employee" may be further
26 defined by rules of the Director.

27 "Occupation" means an industry, trade, business, or class
28 of work in which employees are gainfully employed.

29 "Gratuities" means voluntary monetary contributions to an
30 employee from a guest, patron, or customer in connection with
31 services rendered.

32 "Outside salesman" means an employee regularly engaged in
33 making sales or obtaining orders or contracts for services if
34 a major portion of those duties are performed away from his

1 or her employer's place of business.

2 "Living wage" means the amount of income calculated at an
3 hourly rate of pay needed by an employee to provide for
4 adequate housing, food, child care, health care,
5 transportation, employment related and other miscellaneous
6 but basic expenses, and the payment of taxes for a family of
7 4 without reliance on public or private assistance. If an
8 employee is employed in a county that is located in a
9 Metropolitan Statistical Area as defined by the Department
10 of Employment Security, the living wage of that employee is
11 the living wage for that Metropolitan Statistical Area. If
12 an employee is employed in a county that is not located in a
13 Metropolitan Statistical Area, the living wage for that
14 employee is the living wage established in that county.

15 Section 15. Establishment of the living wage. The
16 Department must establish a living wage for every
17 Metropolitan Statistical Area in Illinois and county not in a
18 Metropolitan Statistical Area in Illinois. In establishing
19 the living wage, the Department must take into account county
20 by county variations in the costs of the following factors:
21 housing, child care, food, transportation, medical care,
22 employment related and other miscellaneous but basic
23 expenses, the differential inflation rates that affect growth
24 of these costs, and the effect of existing federal, State,
25 and local tax laws, including, but not limited to State
26 occupation and use taxes, payroll taxes, federal and State
27 income taxes, federal child care tax credits, and the federal
28 and State earned income tax credit.

29 Section 20. Consultation. In developing the living wage,
30 the Department must rely to the extent possible on data
31 reported by the United States Department of Commerce, Bureau
32 of the Census, the United States Department of Housing and

1 Urban Development, and on data reported to State and federal
2 agencies using standardized methodology, and must consult
3 with State departments or agencies that serve low-income
4 populations. Housing costs shall be fair-market rents for
5 apartments as reported by the United States Department of
6 Housing and Urban Development. Child care costs shall be
7 average costs for licensed child care facilities and family
8 day care homes as reported to Department of Human Services.

9 Section 25. Advisory board.

10 (a) An advisory board shall be established by the
11 Department to advise the Department on all matters related to
12 the development of a living wage and future revisions to the
13 living wage. The members of the advisory board shall serve
14 for a term of 2 years and may not be compensated except for
15 expenses incurred to carry out their duties. The board shall
16 consist of one member appointed by the Governor from each of
17 the following Departments: the Department of Labor, the
18 Department of Commerce and Community Affairs, the Department
19 of Employment Security, the Department of Public Health, and
20 the Department of Human Services. The Governor shall also
21 appoint 2 members from labor organizations, 2 members
22 representing employers, and one member each from the Board of
23 Higher Education and the Association of Community Colleges.
24 The President of the Senate, the Minority Leader of the
25 Senate, the Speaker of the House of Representatives, and the
26 Minority Leader of the House of Representatives shall each
27 appoint one member to the advisory board.

28 (b) No later than March 1, 2002, the Department shall
29 report the living wage for each MSA and each county not in an
30 MSA to the General Assembly and the Governor. The living
31 wage shall take effect on July 1, 2002 and shall be updated
32 by the Department every even-numbered year thereafter. It
33 shall be reported on March 1 of those years to the General

1 Assembly and to the Governor prior to the enforcement of the
2 living wage each year of update.

3 Section 30. Public policy. Beginning July 1, 2002, it
4 is against public policy for an employer to pay his or her
5 employees an amount less than the living wage established
6 under this Act. Payment of any amount less than that amount
7 established under this Act is an unreasonable and oppressive
8 wage and less than sufficient to meet the minimum cost of
9 self-sufficient living in Illinois. Any contract, agreement,
10 or understanding entered into on or after July 1, 2002 for or
11 in relation to such unreasonable and oppressive wage for any
12 employment covered by this Act is void.

13 Section 35. Posting of provisions. Every employer
14 subject to this Act or of any rules issued under this Act
15 must keep a summary of this Act approved by the Director, and
16 copies of any applicable rules issued under this Act or a
17 summary of those rules, posted in a conspicuous and
18 accessible place in or about the premises wherever any person
19 subject to this Act is employed. Employers must be furnished
20 copies of the summaries and rules by the State on request
21 without charge.

22 Section 40. Enforcement and penalties.

23 (a) Any employer or his or her agent, or the officer or
24 agent of any private employer, who does any of the following
25 violates this Act:

26 (1) hinders or delays the Director or his or her
27 authorized representative in the performance of his or
28 her duties in the enforcement of this Act;

29 (2) refuses to admit the Director or his or her
30 authorized representative to any place of employment;

31 (3) fails to keep the records required under this

1 Act or to furnish the records required or any information
2 to be furnished under this Act to the Director or his or
3 her authorized representative upon request;

4 (4) fails to make and preserve any records as
5 required by this Act;

6 (5) falsifies any such record;

7 (6) refuses to make the records available to the
8 Director or his or her authorized representative;

9 (7) refuses to furnish a sworn statement of the
10 records or any other information required for the proper
11 enforcement of this Act; or

12 (8) fails to post a summary of this Act or a copy
13 of any applicable rules as required by Section 35 of this
14 Act.

15 A violation of this subsection (a) is a Class B
16 misdemeanor. Each day of failure to keep the records required
17 under this Act, to furnish those records or information to
18 the Director or his or her authorized representative, or to
19 fail to post information as required in Section 35
20 constitutes a separate offense.

21 (b) Any employer or his or her agent, or the officer or
22 agent of any private employer, who pays or agrees to pay to
23 any employee wages at a rate less than the rate applicable
24 under this Act or of any rules issued under this Act is
25 guilty of a Class B misdemeanor, and each week on any day of
26 which the employee is paid less than the wage rate applicable
27 under this Act constitutes a separate offense.

28 (c) Any employer or his or her agent, or the officer or
29 agent of any private employer, who discharges or in any other
30 manner discriminates against any employee because that
31 employee has made a complaint to his or her employer, or to
32 the Director or his or her authorized representative, that
33 the employee has not been paid wages in accordance with the
34 provisions of this Act, because that employee has caused to

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

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

10 Section 45. Civil actions.

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

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

5 (b) The Director is authorized to supervise the payment
6 of the unpaid living wages owing to any employee or employees
7 under this Act and may bring any legal action necessary to
8 recover the amount of the unpaid living wages and an equal
9 additional amount as punitive damages, and the employer shall
10 be required to pay the costs. Any sums thus recovered by the
11 Director on behalf of an employee under this subsection (b)
12 must be paid to the employee or employees affected. Any sums
13 that, more than one year after being thus recovered, the
14 Director is unable to pay to an employee shall be deposited
15 into the General Revenue Fund.

16 Section 50. Investigations. The Director or his or her
17 authorized representatives have the authority to:

18 (a) Investigate and gather data regarding the wages,
19 hours, and other conditions and practices of employment in
20 any industry, trade, or business subject to this Act, enter
21 and inspect sites and records (and make transcriptions of
22 those records) at reasonable times during regular business
23 hours, not including lunch time at a restaurant, question the
24 employees, and investigate such facts, conditions, practices,
25 or matters as he or she may deem necessary or appropriate to
26 determine whether any person has violated any provision of
27 this Act or that may aid in the enforcement of this Act.

28 (b) Require from any employer full and correct
29 statements and reports in writing, including sworn
30 statements, at such times as the Director may deem necessary,
31 of the wages, hours, names, addresses, and other information
32 pertaining to his or her employees as the Director may deem
33 necessary for the enforcement of this Act.

1 Section 55. Records. Every employer subject to any
2 provision of this Act or of any order issued under this Act
3 must make and keep, for a period of not less than 3 years,
4 true and accurate records of the name, address, and
5 occupation of each of his or her employees, the rate of pay
6 and the amount paid each pay period to each employee, the
7 hours worked each day in each work week by each employee, and
8 such other information and make such reports to the Director
9 as the Director may by rule prescribe as necessary or
10 appropriate for the enforcement of the provisions of this Act
11 or of the rules adopted under this Act. The records shall be
12 open for inspection or transcription by the Director or his
13 or her authorized representative at any reasonable time as
14 limited by paragraph (a) of Section 50 of this Act. Every
15 employer must furnish to the Director or his or her
16 authorized representative on demand a sworn statement
17 concerning those records and information upon forms
18 prescribed or approved by the Director.