Illinois Pay Equity

Statute

- Equal Pay Act of 2003, 820 Ill. Comp. Stat. 112/10

- HB 3129, Act 103-0539, An Act Concerning Employment (Equal Pay Act of 2003 Amendment), Effective January 1, 2025

Classes protected

- Sex and Race (African American)

Key language on pay discrimination

- The Illinois Equal Pay Act prohibits discrimination between employees on the basis of sex or race by paying wages to an employee at a rate less than the rate at which the employer ways wages to another employee of the opposite sex or a different race for the same or substantially similar work which requires substantially similar skill, effort, and responsibility, and which are performed under similar working conditions.

Exceptions for pay disparities (including affirmative defenses)

- Seniority system

- Merit system

- System that measures earnings by quantity or quality of production

- Differential based on any other factor other than sex or a factor that would constitute unlawful discrimination under the Illinois Human Rights Act, provided that the factor is not based on or derived from a differential in compensation based on race or another protected characteristic, is job-related with respect to the position and consistent with a business necessity, and accounts for the differential

Prohibition on salary history inquiry

- Unlawful to screen applicants based on salary history and to request or require disclosure of salary history

Anti-retaliation

- Prohibits retaliation against an employee for inquiring about, disclosing, comparing, or otherwise discussing the employee's wages or the wages of another employee, or aiding or encouraging any person to exercise his or her rights under the law.

Wage Disclosure Requirements

- Section 11 of the Equal Pay Act of 2003 (820 ILCS 112/11) requires private employers with more than 100 employees in the state of Illinois to submit an application to the Illinois Department of Labor ("IDOL") for an Equal Pay Registration Certification ("EPRC"). These submissions are due between May 2022 and May 2024, depending on the deadline assigned to a business. Subsequently, employers must re-certify every 2 years.

- The covered employers' application must include the submission of wage records covering an employer's Illinois-based employee population, and a signed verification that the business complies with certain state and federal anti-discrimination laws.

- A unique requirement under the law is that current employees of the employer may request and will receive anonymized data regarding their job classification or title, and the pay for that classification

- There is no safe harbor provision; the fact that an employer has received an equal pay registration certificate from the IDOL does not constitute a defense against a violation"

- Effective January 1, 2025, employers with 15 or more employees must disclose "pay scale and benefits" in all job postings.

  - The required disclosures include the wage or salary, or the wage or salary range, as well as a general description of benefits and other forms of compensation, including bonuses, stock options and other incentives the employer expects to offer for the position.

  - The pay disclosure requirements apply only to those jobs that (1) will be performed, at least in part, in Illinois, or (2) will be performed outside of Illinois if the hired employee will report to a supervisor, office or other work site in Illinois.

  - Employers must announce, post, or otherwise make known all job opportunities to all current employees no later than 14 days after the job is posted externally.

Other key provisions

- Specific to comparing employees within the county.

- Employers must make and preserve records that document the name, address, and occupation of each employee, the wages paid to each employee, the pay scale and benefits for each position, and the job posting for each position for a period of not less than 5 years.

Pay Equity Team

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