



Sen. Javier L. Cervantes

Filed: 4/4/2025

10400SB2339sam002

LRB104 09425 SPS 24987 a

1 AMENDMENT TO SENATE BILL 2339

2 AMENDMENT NO. _____. Amend Senate Bill 2339, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Right to Privacy in the Workplace Act is
6 amended by changing Sections 12, 13, 15, and 20 and by adding
7 Sections 16, 17, 18, 19, and 25 as follows:

8 (820 ILCS 55/12)

9 Sec. 12. Use of Employment Eligibility Verification
10 Systems.

11 (a) Prior to enrolling in any Electronic Employment
12 Verification System, including ~~the E-Verify program~~ and the
13 Basic Pilot program, as authorized by 8 U.S.C. 1324a, Notes,
14 Pilot Programs for Employment Eligibility Confirmation
15 (enacted by P.L. 104-208, div. C, title IV, subtitle A),
16 renamed the E-Verify program, employers are urged to consult

1 the Illinois Department of Labor's website for current
2 information on the accuracy of the E-Verify program and to
3 review and understand an employer's legal responsibilities
4 relating to the use of the E-Verify program. Nothing in this
5 Act shall be construed to require an employer to enroll in any
6 Electronic Employment Verification System, including the
7 E-Verify program ~~and the Basic Pilot program, as authorized by~~
8 ~~8 U.S.C. 1324a, Notes, Pilot Programs for Employment~~
9 ~~Eligibility Confirmation (enacted by P.L. 104-208, div. C,~~
10 ~~title IV, subtitle A)~~ beyond those obligations that have been
11 imposed upon them by federal law. Nothing in this Act shall be
12 construed to prohibit an employer from enrolling in any
13 Electronic Employment Verification System, including the
14 E-Verify program, whether voluntarily or as required or
15 permitted by federal law.

16 (a-1) The Illinois Department of Labor (IDOL) shall post
17 on its website information or links to information from the
18 United States Government Accountability Office, Westat, or a
19 similar reliable source independent of the Department of
20 Homeland Security regarding: (1) the accuracy of the E-Verify
21 databases; (2) the approximate financial burden and
22 expenditure of time that use of E-Verify requires from
23 employers; and (3) an overview of an employer's
24 responsibilities under federal and state law relating to the
25 use of E-Verify.

26 (b) Upon initial enrollment in an Employment Eligibility

1 Verification System or within 30 days after the effective date
2 of this amendatory Act of the 96th General Assembly, an
3 employer enrolled in E-Verify or any other Employment
4 Eligibility Verification System must attest, under penalty of
5 perjury, on a form prescribed by the IDOL available on the IDOL
6 website:

7 (1) that the employer has received the Basic Pilot or
8 E-Verify training materials from the Department of
9 Homeland Security (DHS), and that all employees who will
10 administer the program have completed the ~~Basic Pilot or~~
11 E-Verify Computer Based Tutorial (CBT); and

12 (2) that the employer has posted the notice from DHS
13 indicating that the employer is enrolled in the ~~Basic~~
14 ~~Pilot or~~ E-Verify program and the anti-discrimination
15 notice issued by the Immigrant and Employee Rights Section
16 (IER) ~~Office of Special Counsel for Immigration Related~~
17 ~~Unfair Employment Practices (OSC)~~, Civil Rights Division,
18 U.S. Department of Justice in a prominent place that is
19 clearly visible to both prospective and current employees.
20 The employer must maintain the signed original of the
21 attestation form prescribed by the IDOL, as well as all
22 CBT certificates of completion and make them available for
23 inspection or copying by the IDOL at any reasonable time.

24 (c) It is a violation of this Act for an employer enrolled
25 in an Employment Eligibility Verification System, including
26 the E-Verify program ~~and the Basic Pilot program~~:

1 (1) to fail to display the notices supplied by DHS and
2 IER ~~OSC~~ in a prominent place that is clearly visible to
3 both prospective and current employees;

4 (2) to allow any employee to use an Employment
5 Eligibility Verification System prior to having completed
6 CBT;

7 (3) to fail to take reasonable steps to prevent an
8 employee from circumventing the requirement to complete
9 the CBT by assuming another employee's E-Verify or Basic
10 Pilot user identification or password;

11 (4) to use the Employment Eligibility Verification
12 System to verify the employment eligibility of job
13 applicants prior to hiring or to otherwise use the
14 Employment Eligibility Verification System to screen
15 individuals prior to hiring and prior to the completion of
16 a Form I-9;

17 (5) to terminate an employee or take any other adverse
18 employment action against an individual prior to receiving
19 a final nonconfirmation notice from ~~the Social Security~~
20 ~~Administration or~~ the Department of Homeland Security;

21 (6) to fail to notify an individual, in writing, of
22 the employer's receipt of a tentative nonconfirmation
23 notice, of the individual's right to contest the tentative
24 nonconfirmation notice, and of the contact information for
25 the relevant government agency or agencies that the
26 individual must contact to resolve the tentative

1 nonconfirmation notice;

2 (7) to fail to safeguard the information contained in
3 the Employment Eligibility Verification System, and the
4 means of access to the system (such as passwords and other
5 privacy protections). An employer shall ensure that the
6 System is not used for any purpose other than employment
7 verification of newly hired employees and shall ensure
8 that the information contained in the System and the means
9 of access to the System are not disseminated to any person
10 other than employees who need such information and access
11 to perform the employer's employment verification
12 responsibilities.

13 (c-1) Any claim that an employer refused to hire,
14 segregated, or acted with respect to recruitment, hiring,
15 promotion, renewal or employment, selection for training or
16 apprenticeship, discharge, discipline, tenure or terms,
17 privileges, or conditions of employment without following the
18 procedures of the Employment Eligibility Verification System,
19 including ~~the Basic Pilot and the E-Verify program programs,~~
20 may be brought under paragraph (G) (2) of Section 2-102 of the
21 Illinois Human Rights Act.

22 (c-2) It is a violation of this Section for an individual
23 to falsely pose as an employer in order to enroll in an
24 Employment Eligibility Verification System or for an employer
25 to use an Employment Eligibility Verification System to access
26 information regarding an individual who is not an employee of

1 the employer.

2 (d) Preemption. Neither the State nor any of its political
3 subdivisions, nor any unit of local government, including a
4 home rule unit, may require any employer to use an Employment
5 Eligibility Verification System, including under the following
6 circumstances:

- 7 (1) as a condition of receiving a government contract;
8 (2) as a condition of receiving a business license; or
9 (3) as penalty for violating licensing or other
10 similar laws.

11 This subsection (d) is a denial and limitation of home
12 rule powers and functions under subsection (h) of Section 6 of
13 Article VII of the Illinois Constitution.

14 (Source: P.A. 103-879, eff. 1-1-25.)

15 (820 ILCS 55/13)

16 Sec. 13. Restrictions on the use of Employment Eligibility
17 Verification Systems.

18 (a) As used in this Section:

19 "Employee's authorized representative" means an exclusive
20 collective bargaining representative, an attorney, or, upon
21 written notification to the employer, any other representative
22 authorized by the employee.

23 "Inspecting entity" means the U.S. Department of Homeland
24 Security, the Immigrant Employee Rights Section, or the U.S.
25 Department of Labor, as required under 8 U.S.C. 1324a(b)(3)

1 ~~Immigration and Customs Enforcement, United States Customs and~~
2 ~~Border Protection, or any other federal entity enforcing civil~~
3 ~~immigration violations of an employer's I-9 Employment~~
4 ~~Eligibility Verification forms.~~

5 (b) An employer shall not impose work authorization
6 verification or re-verification requirements greater than
7 those required by federal law or, if enrolled in an Employment
8 Eligibility Verification System, including the E-Verify
9 program, shall not impose work authorization verification or
10 re-verification requirements greater than those required by
11 the Employment Eligibility Verification System, including the
12 E-Verify program.

13 (c) If an employer contends that there is a discrepancy in
14 an employee's employment verification information, the
15 employer must provide the employee with:

16 (1) The specific document or documents, if made
17 available to the employer, that the employer deems to be
18 deficient and the reason why the document or documents are
19 deficient. Upon request by the employee or the employee's
20 authorized representative, the employer shall give to the
21 employee the original document forming the basis for the
22 employer's contention of deficiency within 7 business
23 days, unless a shorter timeline is provided for under a
24 collective bargaining agreement.

25 (2) Instructions on how the employee can correct the
26 alleged deficient documents if required to do so by law.

1 (3) An explanation of the employee's right to have
2 representation present during related meetings,
3 discussions, or proceedings with the employer. If the
4 alleged discrepancy is based on information obtained
5 through the employer's participation in the E-Verify
6 program, the right to representation shall apply unless
7 not, ~~if~~ allowed by a memorandum of understanding
8 concerning the federal E-Verify system.

9 (4) An explanation of any other rights that the
10 employee may have in connection with the employer's
11 contention.

12 (d) (Blank). ~~When an employer receives notification from~~
13 ~~any federal or State agency, including, but not limited to,~~
14 ~~the Social Security Administration or the Internal Revenue~~
15 ~~Service, of a discrepancy as it relates to work authorization,~~
16 ~~the following rights and protections are granted to the~~
17 ~~employee:~~

18 ~~(1) The employer must not take any adverse action~~
19 ~~against the employee, including re verification, based on~~
20 ~~the receipt of the notification.~~

21 ~~(2) The employer must provide a notice to the employee~~
22 ~~and, if allowed by a memorandum of understanding~~
23 ~~concerning the federal E-Verify system, to the employee's~~
24 ~~authorized representative, if any, as soon as practicable,~~
25 ~~but not more than 5 business days after the date of receipt~~
26 ~~of the notification, unless a shorter timeline is provided~~

1 ~~for under federal law or a collective bargaining~~
2 ~~agreement. The notice to the employee shall include, but~~
3 ~~not be limited to: (i) an explanation that the federal or~~
4 ~~State agency has notified the employer that the employee's~~
5 ~~work authorization documents presented by the employee do~~
6 ~~not appear to be valid or reasonably relate to the~~
7 ~~employee; and (ii) the time period the employee has to~~
8 ~~contest the federal or State agency's determination. The~~
9 ~~employer shall notify the employee in person and deliver~~
10 ~~the notification by hand, if possible. If hand delivery is~~
11 ~~not possible, then the employer shall notify the employee~~
12 ~~by mail and email, if the email address of the employee is~~
13 ~~known, and shall notify the employee's authorized~~
14 ~~representative. Upon request by the employee or the~~
15 ~~employee's authorized representative, the employer shall~~
16 ~~give to the employee the original notice from the federal~~
17 ~~or State agency, including, but not limited to, the Social~~
18 ~~Security Administration or the Internal Revenue Service,~~
19 ~~within 7 business days. This original notice shall be~~
20 ~~redacted in compliance with State and federal privacy laws~~
21 ~~and shall relate only to the employee receiving the~~
22 ~~notification.~~

23 ~~(3) The employee may have a representative of the~~
24 ~~employee's choosing in any meetings, discussions, or~~
25 ~~proceedings with the employer.~~

26 ~~The procedures described in this subsection do not apply~~

1 ~~to inspections of an employer's I-9 Employment Verification~~
2 ~~Forms by an inspecting entity or any relevant procedure~~
3 ~~otherwise described in subsection (g).~~

4 (d-5) If an employer receives a written notification from
5 any federal agency or other outside vendor not responsible for
6 the enforcement of immigration law, including, but not limited
7 to, the Social Security Administration, the Internal Revenue
8 Service, or an insurance company, of a discrepancy as it
9 relates to an employee's individual taxpayer identification
10 number or other identifying documents, the following rights
11 and protections are granted to the employee:

12 (1) The employer shall not take any adverse action
13 against the employee, including requiring an employee to
14 re-verify the employee's authorization to work in the
15 United States solely based on the receipt of the
16 notification.

17 (2) The employer shall provide a notice to the
18 employee and to the employee's authorized representative,
19 if any, as soon as practicable, but not more than 5
20 business days after the date of receipt of the
21 notification or after the employer makes the determination
22 that an employee must respond to the notification in any
23 manner, whichever is longer, unless a shorter timeline is
24 provided for under federal law or a collective bargaining
25 agreement. The employer shall notify the employee in
26 person and deliver the notification by hand, if possible.

1 If hand delivery is not possible, then the employer shall
2 notify the employee by mail and email, if the email
3 address of the employee is known, and shall notify the
4 employee's authorized representative. Upon request by the
5 employee or the employee's authorized representative, the
6 employer shall give to the employee the original
7 notification. The notice to the employee shall include,
8 but shall not be limited to: (A) an explanation that the
9 federal agency or outside vendor not responsible for the
10 enforcement of immigration law has notified the employer
11 that the identification documents presented by the
12 employee do not appear to match; (B) the time period the
13 employee has to contest the disputed information, if such
14 a time period is required by federal law; and (C) any
15 action the employer is requiring the employee to take.

16 (3) The employee may have a representative of the
17 employee's choosing in any meetings, discussions, or
18 proceedings with the employer.

19 (e) Except as otherwise required by federal law, an
20 employer shall provide a notice to each current employee, by
21 posting in English and in any language commonly used in the
22 workplace, of any inspections of I-9 Employment Eligibility
23 Verification forms or other employment records conducted by
24 the inspecting entity within 72 hours after receiving notice
25 of the inspection. Written notice shall also be given within
26 72 hours to the employee's authorized representative, if any.

1 The posted notice shall contain the following information:

2 (1) the name of the entity conducting the inspections
3 of I-9 Employment Eligibility Verification forms or other
4 employment records;

5 (2) the date that the employer received notice of the
6 inspection;

7 (3) the nature of the inspection to the extent known
8 by the employer; and

9 (4) a copy of the notice received by the employer.

10 An employer, upon reasonable request, shall provide an
11 employee a copy of the Notice of Inspection of I-9 Employment
12 Eligibility Verification forms.

13 (f) On or before 6 months after the effective date of this
14 amendatory Act of the 103rd General Assembly, the Department
15 shall develop a template posting that employers may use to
16 comply with the requirements of subsection (e) to inform
17 employees of a notice of inspection to be conducted of I-9
18 Employment Eligibility Verification forms or other employment
19 records conducted by the inspecting entity. The Department
20 shall make the template available on its website so that it is
21 accessible to any employer.

22 (g) Except as otherwise required by federal law, if during
23 an inspection of the employer's I-9 Employment Eligibility
24 Verification forms by an inspecting entity, the inspecting
25 entity makes a determination that the employee's work
26 authorization documents do not establish that the employee is

1 authorized to work in the United States and provide the
2 employer with notice of that determination, the employer shall
3 provide a written notice as set forth in this subsection to the
4 employee within 5 business days, unless a shorter timeline is
5 provided for under federal law or a collective bargaining
6 agreement. The employer's notice to the employee shall relate
7 to the employee only. The employer shall notify the employee
8 in person and deliver the notification by hand, if possible.
9 If hand delivery is not possible, then the employer shall
10 notify the employee by mail and email, if the email address of
11 the employee is known, and shall notify the employee's
12 authorized representative. The employer's notice to the
13 employee shall contain the following information:

14 (1) an explanation that the inspecting entity has
15 determined that the employee's work authorization
16 documents presented by the employee do not appear to be
17 valid or reasonably relate to the employee;

18 (2) the time period for the employee to notify the
19 employer whether the employee is contesting or not
20 contesting the determination by the inspecting entity, if
21 any time period is required by federal law;

22 (3) if known by the employer, the time and date of any
23 meeting with the employer and employee or with the
24 inspecting entity and employee related to the correction
25 of the inspecting entity's determination that the
26 employee's work authorization documents presented by the

1 employee do not appear to be valid or reasonably relate to
2 the employee; and

3 (4) notice that the employee has the right to
4 representation during any meeting scheduled with the
5 employer and the inspecting entity.

6 If the employee contests the inspecting entity's
7 determination, the employer will notify the employee within 72
8 hours after receipt of any final determination by the
9 inspecting entity related to the employee's work authorization
10 status. Upon request by the employee or the employee's
11 authorized representative, the employer shall give the
12 employee the original notice from the inspecting entity within
13 7 business days. This original notice shall be redacted in
14 compliance with State and federal privacy laws and shall
15 relate only to the employee receiving the notification.

16 (h) This Section does not require a penalty to be imposed
17 upon an employer or person who fails to provide notice to an
18 employee at the express and specific direction or request of
19 the federal government. ~~In determining the amount of the~~
20 ~~penalty, the appropriateness of the penalty to the size of the~~
21 ~~business of the employer charged and the gravity of the~~
22 ~~violation shall be considered. The penalty may be recovered in~~
23 ~~a civil action brought by the Director in any circuit court.~~
24 Upon request by the employee or the employee's authorized
25 representative, the employer shall give the employee the
26 original notice from the inspecting entity within 7 business

1 days.

2 (i) This Section applies to public and private employers.

3 (j) Nothing in this Section shall be interpreted,
4 construed, or applied to restrict or limit an employer's
5 compliance with a memorandum of understanding concerning the
6 use of the federal E-Verify system.

7 (Source: P.A. 103-879, eff. 1-1-25.)

8 (820 ILCS 55/15) (from Ch. 48, par. 2865)

9 Sec. 15. Administration and enforcement by the Department.

10 (a) It shall be the duty of the Department to enforce the
11 provisions of this Act when, in the Department's judgment,
12 there is cause and sufficient resources for investigation. The
13 Department shall have the power to conduct investigations in
14 connection with the administration and enforcement of this
15 Act, and any investigator with the Department shall be
16 authorized to visit and inspect, at all reasonable times, any
17 places covered by this Act and shall be authorized to inspect,
18 at all reasonable times, records of the employer or
19 prospective employer related to its employees or prospective
20 employees and related to its participation in and compliance
21 with the E-Verify program. The Department shall have the
22 authority to request the issuance of a search warrant or
23 subpoena to inspect the files of the employer or prospective
24 employer, if necessary. The Department shall conduct hearings
25 in accordance with the Illinois Administrative Procedure Act

1 upon written complaint by an investigator of the Department.
2 After the hearing, if supported by the evidence, the
3 Department may (i) issue and cause to be served on any party an
4 order to cease and desist from further violation of the Act,
5 (ii) take affirmative or other action as deemed reasonable to
6 eliminate the effect of the violation, and (iii) determine the
7 amount of any civil penalty allowed by the Act. The Director of
8 Labor or his or her representative may compel, by subpoena,
9 the attendance and testimony of witnesses and the production
10 of books, payrolls, records, papers, and other evidence in any
11 investigation or hearing and may administer oaths to witnesses
12 ~~The Director of Labor or his authorized representative shall~~
13 ~~administer and enforce the provisions of this Act. The~~
14 ~~Director of Labor may issue rules and regulations necessary to~~
15 ~~administer and enforce the provisions of this Act.~~

16 (b) If an employee or applicant for employment alleges
17 that he or she has been denied his or her rights under this
18 Act, he or she may file a complaint with the Department of
19 Labor. The Department shall investigate the complaint pursuant
20 to its authority under subsection (a) ~~and shall have authority~~
21 ~~to request the issuance of a search warrant or subpoena to~~
22 ~~inspect the files of the employer or prospective employer, if~~
23 ~~necessary.~~ The Department shall attempt to resolve the
24 complaint by conference, conciliation, or persuasion. If the
25 complaint is not so resolved and the Department finds the
26 employer or prospective employer has violated the Act, the

1 Department may commence an action in the circuit court to
2 enforce the provisions of this Act including an action to
3 compel compliance. The circuit court for the county in which
4 the complainant resides or in which the complainant is
5 employed shall have jurisdiction in such actions.

6 (c) (Blank). ~~If an employer or prospective employer~~
7 ~~violates this Act, an employee or applicant for employment may~~
8 ~~commence an action in the circuit court to enforce the~~
9 ~~provisions of this Act, including actions to compel~~
10 ~~compliance, where efforts to resolve the employee's or~~
11 ~~applicant for employment's complaint concerning the violation~~
12 ~~by conference, conciliation or persuasion under subsection (b)~~
13 ~~have failed and the Department has not commenced an action in~~
14 ~~circuit court to redress the violation. The circuit court for~~
15 ~~the county in which the complainant resides or in which the~~
16 ~~complainant is employed shall have jurisdiction in such~~
17 ~~actions.~~

18 (d) (Blank). ~~Failure to comply with an order of the court~~
19 ~~may be punished as contempt. In addition, the court shall~~
20 ~~award an employee or applicant for employment prevailing in an~~
21 ~~action under this Act the following damages:~~

22 ~~(1) Actual damages plus costs.~~

23 ~~(2) For a willful and knowing violation of this Act,~~
24 ~~\$200 plus costs, reasonable attorney's fees, and actual~~
25 ~~damages.~~

26 ~~(3) For a willful and knowing violation of Section~~

1 ~~12(c) or Section 12(c-2) of this Act, \$500 per affected~~
2 ~~employee plus costs, reasonable attorney's fees, and~~
3 ~~actual damages.~~

4 ~~(4) For a willful and knowing violation of Section 13,~~
5 ~~a civil penalty of a minimum of \$2,000 up to a maximum of~~
6 ~~\$5,000 for a first violation and a civil penalty of a~~
7 ~~minimum of \$5,000 up to a maximum of \$10,000 for each~~
8 ~~subsequent violation per affected employee plus costs,~~
9 ~~reasonable attorney's fees, and actual damages.~~

10 (e) Any employer or prospective employer or his agent who
11 violates the provisions of this Act is guilty of a petty
12 offense.

13 (f) Any employer or prospective employer, or the officer
14 or agent of any employer or prospective employer, who
15 discharges or in any other manner discriminates against any
16 employee or applicant for employment because that employee or
17 applicant for employment has made a complaint to his employer,
18 or to the Director of Labor or his authorized representative,
19 or because that employee or applicant for employment has
20 caused to be instituted or is about to cause to be instituted
21 any proceeding under or related to this Act, or because that
22 employee or applicant for employment has testified or is about
23 to testify in an investigation or proceeding under this Act,
24 is guilty of a petty offense.

25 (g) No employer or prospective employer shall be subject
26 to concurrent or duplicative enforcement actions under both

1 Sections 16 and 17. Upon the initiation of any action under
2 either Section 16 or 17, all other rights of action under the
3 other Section shall be precluded. The first action commenced
4 shall bar any further enforcement based on the same set of
5 facts or alleged violation. For the purposes of this Section,
6 an action is deemed to be initiated upon the filing of a
7 complaint in circuit court.

8 (Source: P.A. 103-879, eff. 1-1-25.)

9 (820 ILCS 55/16 new)

10 Sec. 16. Action for civil penalties brought by an
11 interested party.

12 (a) As used in this Section, "interested party" means a
13 not-for-profit corporation, as defined by the General Not For
14 Profit Corporation Act of 1986, or a labor organization, as
15 defined by 29 U.S.C. 152(5), that monitors or is attentive to
16 compliance with worker safety and privacy laws, wage and hour
17 requirements, or other statutory requirements.

18 (b) Upon a reasonable belief that an employer or
19 prospective employer covered by this Act is in violation of
20 any part of this Act, an interested party may bring a civil
21 action in the county where the alleged offenses occurred or
22 where any party to the action resides, in the name of the State
23 and for the benefit of any impacted employees or prospective
24 employees.

25 (1) No later than 30 days after filing an action, the

1 interested party shall serve upon the State through the
2 Attorney General a copy of the complaint and written
3 disclosure of substantially all material evidence and
4 information the interested party possesses.

5 (2) The State may elect to intervene and proceed with
6 the action no later than 60 days after it receives both the
7 complaint and the material evidence and information. The
8 State may, for good cause shown, move the court for an
9 extension of the time to intervene and proceed with the
10 action.

11 (3) Before the expiration of the 60-day period or any
12 extensions under subparagraph (2), the State shall:

13 (i) proceed with the action, in which case the
14 action shall be conducted by the State; or

15 (ii) notify the court that it declines to take the
16 action, in which case the interested party bringing
17 the action shall have the right to conduct the action.

18 (4) When the State conducts the action, the interested
19 party shall have the right to continue as a party to the
20 action subject to the following limitations:

21 (i) the State may dismiss the action
22 notwithstanding the objections of the interested party
23 initiating the action if the interested party has been
24 notified by the State of the filing of the motion and
25 the court has provided the interested party with an
26 opportunity for a hearing on the motion; and

1 (ii) the State may settle the action with the
2 defendant notwithstanding the objections of the person
3 initiating the action if the court determines, after a
4 hearing, that the proposed settlement is fair,
5 adequate, and reasonable under all the circumstances.

6 (5) If an interested party brings an action under this
7 Section, no person other than the State may intervene or
8 bring a related action on behalf of the State based on the
9 facts underlying the pending action.

10 (6) An action brought in court by an interested party
11 under this Section may be dismissed if the court and the
12 Attorney General give written consent to the dismissal and
13 their reasons for consenting.

14 (c) Any claim or action filed by an interested party under
15 this Section shall be made no later 3 years after the alleged
16 conduct resulting in the complaint, plus any period for which
17 the limitations period has been tolled.

18 (d) In an action brought by an interested party under this
19 Section, an interested party may recover against the covered
20 entity any statutory penalties set forth in Section 17,
21 injunctive relief, and any other relief available to the
22 Department. An interested party who prevails in a civil action
23 shall receive 10% of any statutory penalties assessed, plus
24 any attorney's fees and costs. The remaining 90% of any
25 statutory penalties assessed shall be deposited into a special
26 fund of the Department for enforcement of this Act.

1 (820 ILCS 55/17 new)

2 Sec. 17. Private right of action.

3 (a) A person aggrieved by a violation of this Act or any
4 rule adopted under this Act by an employer or prospective
5 employer may file suit in circuit court of Illinois, in the
6 county where the alleged offense occurred, where the employee
7 or prospective employee who is party to the action resides, or
8 where the employer or prospective employer which is party to
9 the action is located, without regard to exhaustion of any
10 alternative administrative remedies provided in this Act.
11 Actions may be brought by one or more affected employees or
12 prospective employees for and on behalf of themselves and
13 employees or prospective employees similarly situated. An
14 employee or prospective employee may recover for a violation
15 of the Act under this Section or under Section 15 or 16 at the
16 employee or prospective employee's option, but not under more
17 than one Section. An employee or prospective employee whose
18 rights have been violated under this Act by an employer or
19 prospective employer is entitled to collect under this
20 Section:

21 (1) in the case of a violation of this Act or any rule
22 adopted under this Act as it relates to the employee or
23 prospective employee, a civil penalty of not less than
24 \$100 and not more than \$1,000 for each violation found by a
25 court;

1 (2) in the event a violation of this Act or any rule
2 adopted under this Act as it relates to denial or loss of
3 employment for the employee or prospective employee, all
4 relief necessary to make the employee whole, including,
5 but not limited to, the following:

6 (i) reinstatement with the same seniority status
7 that the employee would have had but for the
8 violation, as appropriate;

9 (ii) back pay, with interest, as appropriate; and

10 (iii) a civil penalty of \$10,000; and

11 (3) compensation for any damages sustained as a result
12 of the violation, including litigation costs, expert
13 witness fees, and reasonable attorney's fees.

14 (b) The right of an aggrieved person to bring an action
15 under this Section terminates upon the passing of 3 years
16 after the date of the violation. This limitations period is
17 tolled if an employer or prospective employer has failed to
18 provide an employee or prospective employee information
19 required under this Act or has deterred an employee or
20 prospective employee from the exercise of rights under this
21 Act.

22 (820 ILCS 55/18 new)

23 Sec. 18. Penalties.

24 (a) An employer or prospective employer that violates any
25 of the provisions of this Act or any rule adopted under this

1 Act shall be subject to a civil penalty of not less than \$100
2 and not more than \$1,000 for each violation of his Act found by
3 the Department or determined by a court in a civil action
4 brought by the Department or by an interested party, as
5 defined in subsection (a) of Section 16, or determined by a
6 court in a civil action brought by the Attorney General
7 pursuant to its authority under Section 6.3 of the Attorney
8 General Act. An employer or prospective employer that commits
9 a second or subsequent violation of the same provisions or
10 this Act or any rule adopted under this Act within a 3-year
11 period shall be subject to a civil penalty of not less than
12 \$1,000 and not more than \$5,000 for each violation of this Act
13 found by the Department or determined by a court in a civil
14 action brought by the Department or by an interested party, as
15 defined in subsection (a) of Section 16, or determined by a
16 court in a civil action brought by the Attorney General
17 pursuant to its authority under Section 6.3 of the Attorney
18 General Act. For purposes of this subsection, each violation
19 of this Act or any rule adopted under this Act shall constitute
20 a separate and distinct violation.

21 (b) In determining the amount of a penalty, the Director
22 or circuit court shall consider (i) the appropriateness of the
23 penalty to the size of the business of the employer charged and
24 (ii) the gravity of the violation.

25 (c) The Department shall adopt rules for violation
26 hearings and penalties for violations of this Act or the

1 Department's rules in conjunction with the penalties set forth
2 in this Act. Any administrative determination by the
3 Department as to the amount of each penalty shall be final
4 unless reviewed as provided in Section 17.

5 (820 ILCS 55/19 new)

6 Sec. 19. Review under the Administrative Review Law. Any
7 party to a proceeding under this Act may apply for and obtain
8 judicial review of an order of the Department entered under
9 this Act in accordance with the provisions of the
10 Administrative Review Law, and the Department, in proceedings
11 under this Act, may obtain an order from the court for the
12 enforcement of its order.

13 (820 ILCS 55/20)

14 Sec. 20. Dismissal of complaint. The Director or any court
15 of competent jurisdiction shall summarily dismiss any
16 complaint alleging a violation of Section 5 of this Act which
17 states as the sole cause of the complaint that the employer
18 offered a health, disability, or life insurance policy that
19 makes a distinction between employees for the type of coverage
20 or the price of coverage based upon the employees' use of
21 lawful products.

22 (Source: P.A. 87-807.)

23 (820 ILCS 55/25 new)

1 Sec. 25. Voluntary compliance and safe harbor. No
2 penalties shall be imposed under this Act if the employer or
3 prospective employer:

4 (1) acts in good faith reliance on guidance issued by
5 the Illinois Department of Labor or the federal Department
6 of Homeland Security; or

7 (2) makes a bona fide administrative error that does
8 not affect an employee or prospective employee's
9 employment or pay."