



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0690

by Rep. Carol Ammons

SYNOPSIS AS INTRODUCED:

See Index

Amends the Day and Temporary Labor Services Act. Requires a day and temporary labor service agency (agency) to notify a day or temporary laborer (laborer) in writing of the schedule and length of multi-day assignments. Requires an agency to keep records on the ethnicity of each laborer or applicant and the date, time, and location at which an applicant requested employment. Requires an agency to provide a laborer with transportation back to the point of hire at the end of each work day. Requires an agency to indicate on a laborer's payment stub the current maximum amount of any placement fee charged to a third party client. Prohibits an agency or third party client from charging a laborer for the expense of conducting a consumer report, a criminal background check, or a drug test. Requires an agency to submit to the Department of Labor the total number of laborers the agency has placed in a permanent position. Requires laborers to be paid at a rate no less than the same average rate of pay as a permanent employee performing the same or substantially similar work. Requires a third party client to conduct a job hazard analysis for each job to which a laborer might be sent. Requires an agency to obtain a surety bond of no less than \$150,000 and to comply with other specified registration requirements. Makes a third party client liable for any obligation to pay the 4 hours minimum pay or any statutory damages required under the Act. Provides that termination or disciplinary action against a laborer within 90 days of the person's exercise of rights protected under the Act shall raise a rebuttable presumption of retaliation. Makes other changes.

LRB100 00003 KTG 10003 b

FISCAL NOTE ACT
MAY APPLY

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 Day and Temporary Labor Services Act is
5 amended by changing Sections 2, 5, 10, 12, 20, 30, 40, 45, 85,
6 90, and 95 as follows:

7 (820 ILCS 175/2)

8 Sec. 2. Legislative Findings. The General Assembly finds
9 as follows:

10 Over 300,000 workers work as day or temporary laborers in
11 Illinois.

12 Approximately 150 day labor and temporary labor service
13 agencies with nearly 600 branch offices are licensed throughout
14 Illinois. In addition, there is a large, though unknown, number
15 of unlicensed day labor and temporary labor service agencies
16 that operate outside the radar of law enforcement.

17 Recent studies and a survey of low-wage day or temporary
18 laborers themselves finds that as a group, they are
19 particularly vulnerable to abuse of their labor rights,
20 including unpaid wages, failure to pay for all hours worked,
21 minimum wage and overtime violations, ~~and~~ unlawful deduction
22 from pay for meals, transportation, equipment and other items
23 as well as discriminatory practices.

1 Current law is inadequate to protect the labor and
2 employment rights of these workers.

3 At the same time, in Illinois and in other states,
4 democratically run nonprofit day labor centers, which charge no
5 fee for their services, have been established to provide an
6 alternative for day or temporary laborers to solicit work on
7 street corners. These centers are not subject to this Act.

8 (Source: P.A. 94-511, eff. 1-1-06.)

9 (820 ILCS 175/5)

10 Sec. 5. Definitions. As used in this Act:

11 "Day or temporary laborer" means an individual ~~a natural~~
12 ~~person~~ who contracts for employment with a day and temporary
13 labor service agency.

14 "Day or temporary labor applicant" means an individual who
15 requests a job assignment through a day and temporary labor
16 service agency, whether in person, verbally or in writing, or
17 through an online application process.

18 "Day and temporary labor" means work performed by a day or
19 temporary laborer at a third party client, the duration of
20 which may be specific or undefined, pursuant to a contract or
21 understanding between the day and temporary labor service
22 agency and the third party client. "Day and temporary labor"
23 does not include labor or employment of a professional or
24 clerical nature.

25 "Day and temporary labor service agency" means any person

1 or entity engaged in the business of employing day or temporary
2 laborers to provide services, for a fee, to or for any third
3 party client pursuant to a contract with the day and temporary
4 labor service agency and the third party client.

5 "Department" means the Department of Labor.

6 "Third party client" means any person that contracts with a
7 day and temporary labor service agency for obtaining day or
8 temporary laborers.

9 "Person" means every natural person, firm, partnership,
10 co-partnership, limited liability company, corporation,
11 association, business trust, or other legal entity, or its
12 legal representatives, agents, or assigns.

13 (Source: P.A. 94-511, eff. 1-1-06; 95-499, eff. 8-28-07.)

14 (820 ILCS 175/10)

15 Sec. 10. Employment Notice.

16 (a) Whenever a day and temporary labor service agency
17 agrees to send one or more persons to work as day or temporary
18 laborers, the day and temporary labor service agency shall
19 provide to each day or temporary laborer, at the time of
20 dispatch, a statement containing the following items on a form
21 approved by the Department:

22 (1) the name of the day or temporary laborer;

23 (2) the name and nature of the work to be performed;

24 (3) the wages offered;

25 (4) the name and address of the destination of each day

1 or temporary laborer;

2 (5) terms of transportation; ~~and~~

3 (6) whether a meal or equipment, or both, are provided,
4 either by the day and temporary labor service agency or the
5 third party client, and the cost of the meal and equipment,
6 if any;

7 (7) for multi-day assignments, the schedule; and

8 (8) the length of the assignment. In the event of a
9 change in the schedule, shift, or location of an assignment
10 for a multi-day assignment of a day or temporary laborer,
11 the day and temporary labor service agency shall provide
12 written notice of such change not less than 48 hours in
13 advance to the day or temporary laborer, where possible.
14 The day and temporary labor service agency shall bear the
15 burden of showing it was not possible to provide such
16 notice where required.

17 If a day or temporary laborer is assigned to the same
18 assignment for more than one day, the day and temporary labor
19 service agency is required to provide the employment notice
20 only on the first day of the assignment and on any day that any
21 of the terms listed on the employment notice are changed.

22 If the day or temporary laborer is not placed with a third
23 party client or otherwise contracted to work for that day, the
24 day and temporary labor service agency shall, upon request,
25 provide the day and temporary laborer with a confirmation that
26 the day or temporary laborer sought work, signed by an employee

1 of the day and temporary labor service agency, which shall
2 include the name of the agency, the name and address of the day
3 or temporary laborer, and the date and the time that the day or
4 temporary laborer receives the confirmation.

5 (b) No day and temporary labor service agency may send any
6 day or temporary laborer to any place where a strike, a
7 lockout, or other labor trouble exists.

8 (c) The Department shall recommend to day and temporary
9 labor service agencies that those agencies employ personnel who
10 can effectively communicate information required in
11 subsections (a) and (b) to day or temporary laborers in
12 Spanish, Polish, or any other language that is generally
13 understood in the locale of the day and temporary labor service
14 agency.

15 (Source: P.A. 99-78, eff. 7-20-15.)

16 (820 ILCS 175/12)

17 Sec. 12. Recordkeeping.

18 (a) Whenever a day and temporary labor service agency sends
19 one or more persons to work as day or temporary laborers, the
20 day and temporary labor service agency shall keep the following
21 records ~~relating to that transaction:~~

22 (1) the name, address and telephone number of each
23 third party client, including each worksite, to which day
24 or temporary laborers were sent by the agency and the date
25 of the transaction;

1 (2) for each day or temporary laborer: the name and
2 address, the specific location sent to work, the type of
3 work performed, the number of hours worked, the hourly rate
4 of pay and the date sent. The term "hours worked" has the
5 meaning ascribed to that term in 56 Ill. Adm. Code 210.110
6 and in accordance with all applicable rules or court
7 interpretations under 56 Ill. Adm. Code 210.110. The third
8 party client shall be required to remit all information
9 required under this subsection to the day and temporary
10 labor service agency no later than 7 days following the
11 last day of the work week worked by the day or temporary
12 laborer. Failure of a third party client to remit such
13 information to a day and temporary labor service agency
14 shall not be a defense to the recordkeeping requirement of
15 this Section;

16 (3) the name and title of the individual or individuals
17 at each third party client's place of business responsible
18 for the transaction;

19 (4) any specific qualifications or attributes of a day
20 or temporary laborer, requested by each third party client;

21 (5) copies of all contracts, if any, with the third
22 party client and copies of all invoices for the third party
23 client;

24 (6) copies of all employment notices provided in
25 accordance with subsection (a) of Section 10;

26 (7) deductions to be made from each day or temporary

1 laborer's compensation made by either the third party
2 client or by the day and temporary labor service agency for
3 the day or temporary laborer's transportation, food,
4 equipment, withheld income tax, withheld social security
5 payments and every other deduction;

6 (8) verification of the actual cost of any equipment or
7 meal charged to a day or temporary laborer;

8 (9) the race, ethnicity, and gender of each day or
9 temporary laborer or applicant, as provided by each such
10 person, who requests employment with or is contracted ~~of~~
11 ~~each day or temporary laborer sent~~ by the day and temporary
12 labor service agency. For each applicant, the day and
13 temporary labor service agency is required to provide the
14 applicant with and retain a copy of a written notice
15 specifying the date, time, and location at which the
16 applicant requested employment, signed by an employee of
17 the day and temporary labor service agency, ~~as provided by~~
18 ~~the day or temporary laborer;~~ and

19 (10) any additional information required by rules
20 issued by the Department.

21 (b) The day and temporary labor service agency shall
22 maintain all records under this Section for a period of 3 years
23 from their creation. The records shall be open to inspection by
24 the Department during normal business hours. Records described
25 in paragraphs (1), (2), (3), (6), (7), and (8) of subsection
26 (a) shall be available for review or copying by that day or

1 temporary laborer during normal business hours within 5 days
2 following a written request. In addition, a day and temporary
3 labor service agency shall make records related to the number
4 of hours billed to a third party client for that individual day
5 or temporary laborer's hours of work available for review or
6 copying during normal business hours within 5 days following a
7 written request. The day and temporary labor service agency
8 shall make forms, in duplicate, for such requests available to
9 day or temporary laborers at the dispatch office. The day or
10 temporary laborer shall be given a copy of the request form. It
11 is a violation of this Section to make any false, inaccurate or
12 incomplete entry into any record required by this Section, or
13 to delete required information from any such record. Failure by
14 the third party client to maintain and remit accurate time
15 records to the day and temporary labor service agency as
16 provided in paragraph (a)(2) shall constitute a notice
17 violation by a third party client under Section 95 of this Act
18 unless the third party client has been precluded from
19 submitting such time records for reasons beyond its control. A
20 failure by the third party client to provide time records in
21 accordance with this subsection (b) shall not be a notice
22 violation and shall not be the basis for a suit or other action
23 under Section 95 of this Act against the day and temporary
24 labor service agency.

25 (Source: P.A. 94-511, eff. 1-1-06; 95-499, eff. 8-28-07.)

1 (820 ILCS 175/20)

2 Sec. 20. Transportation.

3 (a) A day and temporary labor service agency or a third
4 party client or a contractor or agent of either shall charge no
5 fee to transport a day or temporary laborer to or from the
6 designated work site.

7 (b) A day and temporary labor service agency is responsible
8 for the conduct and performance of any person who transports a
9 day or temporary laborer from the agency to a work site, unless
10 the transporter is: (1) a public mass transportation system as
11 defined in Section 2 of the Local Mass Transit District Act;
12 (2) a common carrier; (3) the day or temporary laborer
13 providing his or her own transportation; or (4) selected
14 exclusively by and at the sole choice of the day or temporary
15 laborer for transportation in a vehicle not owned or operated
16 by the day and temporary labor service agency. If any day and
17 temporary labor service agency provides transportation to a day
18 or temporary laborer or refers a day or temporary laborer as
19 provided in subsection (c), the day and temporary labor service
20 agency may not allow a motor vehicle to be used for the
21 transporting of day or temporary laborers if the agency knows
22 or should know that the motor vehicle used for the
23 transportation of day or temporary laborers is unsafe or not
24 equipped as required by this Act or by any rule adopted under
25 this Act, unless the vehicle is: (1) the property of a public
26 mass transportation system as defined in Section 2 of the Local

1 Mass Transit District Act; (2) the property of a common
2 carrier; (3) the day or temporary laborer's personal vehicle;
3 or (4) a vehicle of a day or temporary laborer used to carpool
4 other day or temporary laborers and which is selected
5 exclusively by and at the sole choice of the day or temporary
6 laborer for transportation.

7 (c) A day and temporary labor service agency may not refer
8 a day or temporary laborer to any person for transportation to
9 a work site unless that person is (1) a public mass
10 transportation system as defined in Section 2 of the Local Mass
11 Transit District Act or (2) providing the transportation at no
12 fee. Directing the day or temporary laborer to accept a
13 specific car pool as a condition of work shall be considered a
14 referral by the day and temporary labor service agency. Any
15 mention or discussion of the cost of a car pool shall be
16 considered a referral by the agency. Informing a day or
17 temporary laborer of the availability of a car pool driven by
18 another day or temporary laborer shall not be considered a
19 referral by the agency.

20 (d) Any motor vehicle that is owned or operated by the day
21 and temporary labor service agency or a third party client, or
22 a contractor or agent of either, or to which a day and
23 temporary labor service agency refers a day or temporary
24 laborer, which is used for the transportation of day or
25 temporary laborers shall have proof of financial
26 responsibility as provided for in Chapter 8 of the Illinois

1 Vehicle Code or as required by Department rules. The driver of
2 the vehicle shall hold a valid license to operate motor
3 vehicles in the correct classification and shall be required to
4 produce the license immediately upon demand by the Department,
5 its inspectors or deputies, or any other person authorized to
6 enforce this Act. The Department shall forward a violation of
7 this subsection to the appropriate law enforcement authorities
8 or regulatory agencies, whichever is applicable.

9 (e) No motor vehicle that is owned or operated by the day
10 and temporary labor service agency or a third party client, or
11 a contractor or agent of either, or to which a day and
12 temporary labor service agency refers a day or temporary
13 laborer, which is used for the transportation of day or
14 temporary laborers may be operated if it does not have a seat
15 and a safety belt for each passenger. The Department shall
16 forward a violation of this subsection to the appropriate law
17 enforcement authorities or regulatory agencies, whichever is
18 applicable.

19 (f) Unless the day laborer requests otherwise, when a day
20 laborer has been transported to a work site, the day labor
21 employer shall provide transportation back to the point of hire
22 at the end of each work day.

23 (Source: P.A. 94-511, eff. 1-1-06.)

24 (820 ILCS 175/30)

25 Sec. 30. Wage Payment and Notice.

1 (a) At the time of payment of wages, a day and temporary
2 labor service agency shall provide each day or temporary
3 laborer with a detailed itemized statement, on the day or
4 temporary laborer's paycheck stub or on a form approved by the
5 Department, listing the following:

6 (1) the name, address, and telephone number of each
7 third party client at which the day or temporary laborer
8 worked. If this information is provided on the day or
9 temporary laborer's paycheck stub, a code for each third
10 party client may be used so long as the required
11 information for each coded third party client is made
12 available to the day or temporary laborer;

13 (2) the number of hours worked by the day or temporary
14 laborer at each third party client each day during the pay
15 period. If the day or temporary laborer is assigned to work
16 at the same work site of the same third party client for
17 multiple days in the same work week, the day and temporary
18 labor service agency may record a summary of hours worked
19 at that third party client's worksite so long as the first
20 and last day of that work week are identified as well. The
21 term "hours worked" has the meaning ascribed to that term
22 in 56 Ill. Adm. Code 210.110 and in accordance with all
23 applicable rules or court interpretations under 56 Ill.
24 Adm. Code 210.110;

25 (3) the rate of payment for each hour worked, including
26 any premium rate or bonus;

1 (4) the total pay period earnings;

2 (5) all deductions made from the day or temporary
3 laborer's compensation made either by the third party
4 client or by the day and temporary labor service agency,
5 and the purpose for which deductions were made, including
6 for the day or temporary laborer's transportation, food,
7 equipment, withheld income tax, withheld social security
8 payments, and every other deduction; ~~and~~

9 (5.5) the current maximum amount of a placement fee
10 which the day and temporary labor service agency may charge
11 to a third party client to directly hire the day or
12 temporary laborer pursuant to subsection (a) of Section 40;
13 and

14 (6) any additional information required by rules
15 issued by the Department.

16 (a-1) For each day or temporary laborer who is contracted
17 to work a single day, the third party client shall, at the end
18 of the work day, provide such day or temporary laborer with a
19 Work Verification Form, approved by the Department, which shall
20 contain the date, the day or temporary laborer's name, the work
21 location, and the hours worked on that day. Any third party
22 client who violates this subsection (a-1) may be subject to a
23 civil penalty not to exceed \$500 for each violation found by
24 the Department. Such civil penalty may increase to \$2,500 for a
25 second or subsequent violation. For purposes of this subsection
26 (a-1), each violation of this subsection (a-1) for each day or

1 temporary laborer and for each day the violation continues
2 shall constitute a separate and distinct violation.

3 (b) A day and temporary labor service agency shall provide
4 each worker an annual earnings summary within a reasonable time
5 after the preceding calendar year, but in no case later than
6 February 1. A day and temporary labor service agency shall, at
7 the time of each wage payment, give notice to day or temporary
8 laborers of the availability of the annual earnings summary or
9 post such a notice in a conspicuous place in the public
10 reception area.

11 (c) At the request of a day or temporary laborer, a day and
12 temporary labor service agency shall hold the daily wages of
13 the day or temporary laborer and make either weekly, bi-weekly,
14 or semi-monthly payments. The wages shall be paid in a single
15 check, or, at the day or temporary laborer's sole option, by
16 direct deposit or other manner approved by the Department,
17 representing the wages earned during the period, either weekly,
18 bi-weekly, or semi-monthly, designated by the day or temporary
19 laborer in accordance with the Illinois Wage Payment and
20 Collection Act. Vouchers or any other method of payment which
21 is not generally negotiable shall be prohibited as a method of
22 payment of wages. Day and temporary labor service agencies that
23 make daily wage payments shall provide written notification to
24 all day or temporary laborers of the right to request weekly,
25 bi-weekly, or semi-monthly checks. The day and temporary labor
26 service agency may provide this notice by conspicuously posting

1 the notice at the location where the wages are received by the
2 day or temporary laborers.

3 (d) No day and temporary labor service agency shall charge
4 any day or temporary laborer for cashing a check issued by the
5 agency for wages earned by a day or temporary laborer who
6 performed work through that agency. No day and temporary labor
7 service agency or third party client shall charge any day or
8 temporary laborer for the expense of conducting any consumer
9 report, as that term is defined in the Fair Credit Reporting
10 Act, 15 U.S.C. 1681a(d), any criminal background check of any
11 kind, or any drug test of any kind.

12 (e) Day or temporary laborers shall be paid no less than
13 the wage rate stated in the notice as provided in Section 10 of
14 this Act for all the work performed on behalf of the third
15 party client in addition to the work listed in the written
16 description.

17 (f) The total amount deducted for meals, equipment, and
18 transportation may not cause a day or temporary laborer's
19 hourly wage to fall below the State or federal minimum wage.
20 However, a day and temporary labor service agency may deduct
21 the actual market value of reusable equipment provided to the
22 day or temporary laborer by the day and temporary labor service
23 agency which the day or temporary laborer fails to return, if
24 the day or temporary laborer provides a written authorization
25 for such deduction at the time the deduction is made.

26 (g) A day or temporary laborer who is contracted by a day

1 and temporary labor service agency to work at a third party
2 client's worksite but is not utilized by the third party client
3 shall be paid by the day and temporary labor service agency for
4 a minimum of 4 hours of pay at the agreed upon rate of pay.
5 However, in the event the day and temporary labor service
6 agency contracts the day or temporary laborer to work at
7 another location during the same shift, the day or temporary
8 laborer shall be paid by the day and temporary labor service
9 agency for a minimum of 2 hours of pay at the agreed upon rate
10 of pay.

11 (h) A third party client is required to pay wages and
12 related payroll taxes to a licensed day and temporary labor
13 service agency for services performed by the day or temporary
14 laborer for the third party client according to payment terms
15 outlined on invoices, service agreements, or stated terms
16 provided by the day and temporary labor service agency. A third
17 party client who fails to comply with this subsection (h) is
18 subject to the penalties provided in Section 70 of this Act.
19 The Department shall review a complaint filed by a licensed day
20 and temporary labor agency. The Department shall review the
21 payroll and accounting records of the day and temporary labor
22 service agency and the third party client for the period in
23 which the violation of this Act is alleged to have occurred to
24 determine if wages and payroll taxes have been paid to the
25 agency and that the day or temporary laborer has been paid the
26 wages owed him or her.

1 (Source: P.A. 95-499, eff. 8-28-07; 96-1185, eff. 7-22-10.)

2 (820 ILCS 175/40)

3 Sec. 40. Work Restriction, Placement Reporting, Health and
4 Safety Training, and Equivalent Pay and Benefits.

5 (a) No day and temporary labor service agency shall
6 restrict the right of a day or temporary laborer to accept a
7 permanent position with a third party client to whom the day or
8 temporary laborer has been referred for work or restrict the
9 right of such third party client to offer such employment to a
10 day or temporary laborer. A day and temporary labor service
11 agency may charge a placement fee to a third party client for
12 employing a day or temporary laborer for whom a contract for
13 work was effected by the day and temporary labor service agency
14 not to exceed the equivalent of the total daily commission rate
15 the day and temporary labor service agency would have received
16 over a 60-day period, reduced by the equivalent of the daily
17 commission rate the day and temporary labor service agency
18 would have received for each day the day or temporary laborer
19 has performed work for the day and temporary labor service
20 agency in the preceding 12 months. Days worked at a day and
21 temporary labor service agency in the 12 months preceding the
22 effective date of this amendatory Act of the 94th General
23 Assembly shall be included for purposes of calculating the
24 maximum placement fee described in this Section. However,
25 placement of a day or temporary laborer who is contracted by a

1 day and temporary labor service agency to provide skilled labor
2 shall not be subject to any placement fee cap. For purposes of
3 this Section, a day or temporary laborer who performs "skilled
4 labor" shall apply only where the day and temporary labor
5 service agency performs an advanced application process, a
6 screening process, which may include processes such as advanced
7 testing, and a job interview. Any day and temporary labor
8 service agency which charges a placement fee to a third party
9 client for employing a day or temporary laborer must include on
10 the Wage Payment and Notice form of each affected day or
11 temporary laborer the maximum amount of a fee that may be
12 charged to a third party client by the day and temporary labor
13 service agency. Failure to provide such information shall
14 constitute a separate notice violation for each day the day and
15 temporary labor service agency fails to provide the required
16 information. No fee provided for under this Section may be
17 assessed or collected by the day and temporary labor service
18 agency when the day or temporary laborer is offered permanent
19 work following the suspension or revocation of the day and
20 temporary labor service agency's registration by the
21 Department.

22 (b) Each year, at the time of registration with the
23 Department as required by Section 45, each day and temporary
24 labor service agency shall submit to the Department, on a form
25 created by the Department, the number of day or temporary
26 laborers such agency has placed in a permanent position with a

1 third party client in the preceding 12 months as well as the
2 percentage such permanent placements represent of the total
3 number of day or temporary laborers contracted by the agency
4 during the same period. Each day a day and temporary labor
5 service agency fails to fully comply with the requirements of
6 this subsection shall constitute a separate notice violation.

7 (c) Any day or temporary laborer assigned to work at a
8 third party client shall not be paid less than the same average
9 rate of pay and equivalent benefits as a permanent employee of
10 the third party client performing the same or substantially
11 similar work on jobs the performance of which requires equal
12 skill, effort, and responsibility, and which are performed
13 under similar working conditions. Each violation of this
14 subsection for each affected day or temporary laborer shall
15 constitute a separate wage and hour violation.

16 (d) Any day and temporary labor service agency and third
17 party client that has assigned workers to work in a warehouse,
18 general industry, construction, or recycling job must
19 implement the following prior to assigning any worker:

20 (1) The third party client must conduct a job hazard
21 analysis for each job to which a day or temporary worker
22 might be sent. This analysis must include a review of all
23 possible hazards, all safety equipment and processes
24 required to prevent injuries and illnesses, and specify the
25 training required to ensure a worker is not injured on the
26 job. The third party client must retain this hazard

1 analysis in its records under this Section and provide a
2 copy to the day and temporary labor service agency.

3 (2) Jointly review the task assignments and job hazard
4 analysis for each worker in order to identify and eliminate
5 all possible workplace safety and health hazards and
6 specify the necessary training and protective equipment
7 necessary for each worker. The third party client must
8 document each worker's specific training and health and
9 hazard abatement competencies related to this job. This
10 written analysis must be retained by the third party client
11 and its staff for the duration of the job, plus an
12 additional 3 years.

13 (3) Provide specific hands-on, in-person training by
14 the third party client prior to starting any new
15 assignment. This training must include information and
16 instruction on specific job health and safety hazards of
17 the job and worksite, the modifications implemented to
18 prevent the hazard, how to do the job safely and what
19 protective equipment is required, and how to report
20 concerns.

21 (4) All third party clients that use day or temporary
22 service workers must implement an injury and illness
23 prevention program that includes an attestation that
24 management of the company is committed to health and
25 safety, identify procedures for hazard identification and
26 control, job hazard analysis, hazards training for all

1 workers, and any procedures or protective equipment
2 required to do the job safely; a written statement by the
3 third party client to ensure that any worker injured will
4 not be retaliated against nor discriminated against for
5 reporting the injury, and evaluation.

6 (Source: P.A. 94-511, eff. 1-1-06.)

7 (820 ILCS 175/45)

8 Sec. 45. Registration; Department of Labor.

9 (a) A day and temporary labor service agency which is
10 located, operates or transacts business within this State shall
11 register with the Department of Labor in accordance with rules
12 adopted by the Department for day and temporary labor service
13 agencies and shall be subject to this Act and any rules adopted
14 under this Act. Each day and temporary labor service agency
15 shall provide proof of an employer account number issued by the
16 Department of Employment Security for the payment of
17 unemployment insurance contributions as required under the
18 Unemployment Insurance Act, and proof of valid workers'
19 compensation insurance in effect at the time of registration
20 covering all of its employees. If, at any time, a day and
21 temporary labor service agency's workers' compensation
22 insurance coverage lapses, the agency shall have an affirmative
23 duty to report the lapse of such coverage to the Department and
24 the agency's registration shall be suspended until the agency's
25 workers' compensation insurance is reinstated. The Department

1 may assess each day and temporary labor service agency a
2 non-refundable registration fee not exceeding \$2,000 ~~\$1,000~~
3 per year per agency and a non-refundable fee not to exceed \$750
4 ~~\$250~~ for each branch office or other location where the agency
5 regularly contracts with day or temporary laborers for
6 services. The fee may be paid by check or money order and the
7 Department may not refuse to accept a check on the basis that
8 it is not a certified check or a cashier's check. The
9 Department may charge an additional fee to be paid by a day and
10 temporary labor service agency if the agency, or any person on
11 the agency's behalf, issues or delivers a check to the
12 Department that is not honored by the financial institution
13 upon which it is drawn. The Department shall also adopt rules
14 for violation hearings and penalties for violations of this Act
15 or the Department's rules in conjunction with the penalties set
16 forth in this Act.

17 (a-5) At the time of registration with the Department each
18 year, a day and temporary labor service agency shall provide
19 the Department with a report containing the information
20 identified in paragraph (9) of subsection (a) of Section 12,
21 broken down by branch office, in the aggregate for all day or
22 temporary laborers assigned within Illinois in the prior year
23 to be submitted on a form created by the Department.

24 (b) It is a violation of this Act to operate a day and
25 temporary labor service agency without first registering with
26 the Department in accordance with subsection (a) of this

1 Section. The Department shall create and maintain at regular
2 intervals on its website, accessible to the public: (1) a list
3 of all registered day and temporary labor service agencies in
4 the State whose registration is in good standing; (2) a list of
5 day and temporary labor service agencies in the State whose
6 registration has been suspended, including the reason for the
7 suspension, the date the suspension was initiated, and the
8 date, if known, the suspension is to be lifted; and (3) a list
9 of day and temporary labor service agencies in the State whose
10 registration has been revoked, including the reason for the
11 revocation and the date the registration was revoked. The
12 Department has the authority to assess a penalty against any
13 day and temporary labor service agency that fails to register
14 with the Department of Labor in accordance with this Act or any
15 rules adopted under this Act of \$500 for each violation. Each
16 day during which a day and temporary labor service agency
17 operates without registering with the Department shall be a
18 separate and distinct violation of this Act.

19 (b-5) No day and temporary labor service agency may
20 register without obtaining a surety bond issued by a surety
21 company admitted to do business in this State. The principal
22 sum of the bond shall not be less than \$150,000. A copy of the
23 bond shall be filed with the Department.

24 The bond required by this Section shall be in favor of, and
25 payable to, the people of the State of Illinois, and shall be
26 for the benefit of any employee damaged by his or her

1 employer's failure to pay wages, interest on wages, or fringe
2 benefits, or damaged by violation of this Section.

3 Thirty days prior to the cancellation or termination of any
4 surety bond required by this Section, the surety shall send
5 written notice to both the employer and the Department
6 identifying the bond and the date of the cancellation or
7 termination.

8 An employer shall not conduct any business until the
9 employer obtains a new surety bond and files a copy of it with
10 the Department.

11 This subsection shall not apply to an employer covered by a
12 valid collective bargaining agreement, if the agreement
13 expressly provides for all of the following:

14 (i) Wages.

15 (ii) Hours of work.

16 (iii) Working conditions.

17 (iv) An expeditious process to resolve disputes
18 concerning nonpayment of wages.

19 (v) The employer has documented that a current workers'
20 compensation insurance policy is in effect for the
21 employees.

22 (vi) The employer is otherwise in compliance with all
23 provisions of this Section.

24 (b-6) The principal executive officer of a day and
25 temporary labor service agency shall certify under oath at the
26 time of registration of the day and temporary labor service

1 agency each year on a form created by the Department that:

2 (1) the signing officer has reviewed the registration
3 form of the day or temporary labor service agency and
4 confirmed the information is true and accurate to the best
5 of his or her knowledge;

6 (2) the signing officer has reviewed the recordkeeping
7 practices of the day and temporary labor service agency and
8 confirmed that the recordkeeping practices comply with the
9 requirements of Section 12 to the best of his or her
10 knowledge;

11 (3) the signing officer has reviewed the day and
12 temporary labor service agency's filing as required by
13 subsection (b) of Section 40 related to the placement of
14 day or temporary laborers in permanent positions with third
15 party clients and has confirmed that such practices comply
16 with the requirements of Section 20 to the best of his or
17 her knowledge;

18 (4) the signing officer has reviewed the day and
19 temporary labor service agency's practices related to the
20 transportation of day or temporary laborers and has
21 confirmed that such practices comply with the requirements
22 of Section 20 to the best of his or her knowledge;

23 (5) the signing officer has reviewed and is responsible
24 for the surety bond posted by the agency and its renewals;
25 and

26 (6) the signing officer:

1 (A) is responsible for establishing and
2 maintaining internal controls to comply with the
3 recordkeeping requirements; and

4 (B) has evaluated the effectiveness of the
5 internal controls.

6 (c) An applicant is not eligible to register to operate a
7 day and temporary labor service agency under this Act if the
8 applicant or any of its officers, directors, partners, or
9 managers or any owner of 25% or greater beneficial interest:

10 (1) has been involved, as owner, officer, director,
11 partner, or manager, of any day and temporary labor service
12 agency whose registration has been revoked or has been
13 suspended without being reinstated within the 5 years
14 immediately preceding the filing of the application; or

15 (2) is under the age of 18.

16 (d) Every agency shall post and keep posted at each
17 location, in a position easily accessible to all employees,
18 notices as supplied and required by the Department containing a
19 copy or summary of the provisions of the Act and a notice which
20 informs the public of a toll-free telephone number for day or
21 temporary laborers and the public to file wage dispute
22 complaints and other alleged violations by day and temporary
23 labor service agencies. Such notices shall be in English or any
24 other language generally understood in the locale of the day
25 and temporary labor service agency.

26 (e) No day and temporary labor service agency shall be

1 permitted to register to operate in Illinois until it has
2 complied with the requirements of this Section.

3 (Source: P.A. 94-511, eff. 1-1-06.)

4 (820 ILCS 175/85)

5 Sec. 85. Third party clients.

6 (a) It is a violation of this Act for a third party client
7 to enter into a contract for the employment of day or temporary
8 laborers with any day and temporary labor service agency not
9 registered under Section 45 of this Act. A third party client
10 has a duty to verify a day and temporary labor service agency's
11 status with the Department before entering into a contract with
12 such an agency, and on March 1 and September 1 of each year. A
13 day and temporary labor service agency shall be required to
14 provide each of its third party clients with proof of valid
15 registration issued by the Department at the time of entering
16 into a contract. A day and temporary labor service agency shall
17 be required to notify, both by telephone and in writing, each
18 day or temporary laborer it employs and each third party client
19 with whom it has a contract within 24 hours of any denial,
20 suspension, or revocation of its registration by the
21 Department. All contracts between any day and temporary labor
22 service agency and any third party client shall be considered
23 null and void from the date any such denial, suspension, or
24 revocation of registration becomes effective and until such
25 time as the day and temporary labor service agency becomes

1 registered and considered in good standing by the Department as
2 provided in Section 50 and Section 55. Upon request, the
3 Department shall provide to a third party client a list of
4 entities registered as day and temporary labor service
5 agencies. The Department shall provide on the Internet a list
6 of entities registered as day and temporary labor service
7 agencies. A third party client may rely on information provided
8 by the Department or maintained on the Department's website
9 pursuant to Section 45 of this Act and shall be held harmless
10 if such information maintained or provided by the Department
11 was inaccurate. Any third party client that violates this
12 provision of the Act is subject to a civil penalty not to
13 exceed \$500. Each day during which a third party client
14 contracts with a day and temporary labor service agency not
15 registered under Section 45 of this Act shall constitute a
16 separate and distinct offense.

17 (b) If a third party client leases or contracts with a day
18 and temporary service agency for the services of a day or
19 temporary laborer, the third party client shall share all legal
20 responsibility and liability for: (i) the payment of wages
21 under the Illinois Wage Payment and Collection Act and the
22 Minimum Wage Law and (ii) any obligation to pay the 4 hours
23 minimum pay as required in subsection (g) of Section 30 or
24 obligation to pay statutory damages as provided in Section 95.

25 (Source: P.A. 93-441, eff. 1-1-04; 94-511, eff. 1-1-06.)

1 (820 ILCS 175/90)

2 Sec. 90. Retaliation.

3 (a) Prohibition. It is a violation of this Act for a day
4 and temporary labor service agency or third party client, or
5 any agent of a day and temporary labor service agency or third
6 party client, to retaliate through discharge or in any other
7 manner against any day or temporary laborer for exercising any
8 rights granted under this Act. The termination or disciplinary
9 action by a day and temporary labor service agency against a
10 day or temporary laborer within 90 days of the person's
11 exercise of rights protected under this Act shall raise a
12 rebuttable presumption of having done so in retaliation for the
13 exercise of those rights. Such retaliation shall subject a day
14 and temporary labor service agency or third party client, or
15 both, to civil penalties pursuant to this Act or a private
16 cause of action.

17 (b) Protected Acts from Retaliation. It is a violation of
18 this Act for a day and temporary labor service agency or third
19 party client to retaliate against a day or temporary laborer
20 for:

21 (1) making a complaint to a day and temporary labor
22 service agency, to a third party client, to a co-worker, to
23 a community organization, before a public hearing, or to a
24 State or federal agency that rights guaranteed under this
25 Act have been violated;

26 (2) causing to be instituted any proceeding under or

1 related to this Act; or

2 (3) testifying or preparing to testify in an
3 investigation or proceeding under this Act.

4 (Source: P.A. 94-511, eff. 1-1-06.)

5 (820 ILCS 175/95)

6 Sec. 95. Private Right of Action.

7 (a) A person aggrieved by a violation of this Act or any
8 rule adopted under this Act by a day and temporary labor
9 service agency or a third party client may file suit in circuit
10 court of Illinois, in the county where the alleged offense
11 occurred or where any day or temporary laborer who is party to
12 the action resides, without regard to exhaustion of any
13 alternative administrative remedies provided in this Act. A day
14 and temporary labor service agency aggrieved by a violation of
15 this Act or any rule adopted under this Act by a third party
16 client may file suit in circuit court of Illinois, in the
17 county where the alleged offense occurred or where the day and
18 temporary labor service agency which is party to the action is
19 located. Actions may be brought by one or more day or temporary
20 laborers for and on behalf of themselves and other day or
21 temporary laborers similarly situated. A day or temporary
22 laborer whose rights have been violated under this Act by a day
23 and temporary labor service agency or a third party client or a
24 day and temporary labor service agency whose rights have been
25 violated under this Act by a third party client is entitled to

1 collect:

2 (1) in the case of a wage and hour violation, the
3 amount of any wages, salary, employment benefits, or other
4 compensation denied or lost to the day or temporary laborer
5 or day and temporary labor service agency by reason of the
6 violation, plus an equal amount in liquidated damages;

7 (2) in the case of a health and safety or notice
8 violation, compensatory damages and an amount between \$50
9 and up to \$500 for each ~~the~~ violation of each subpart of
10 each Section;

11 (3) in the case of any violation of subsection (a) of
12 Section 40, relating to any unlawful restrictions by a day
13 and temporary labor service agency on the right of a day or
14 temporary laborer to accept a permanent position with a
15 third party client or the right of a third party client to
16 offer such employment to a day or temporary laborer, \$50
17 for each day or temporary laborer affected by the day and
18 temporary labor service agency's policy, practice, or
19 agreement and for each day such policy, practice, or
20 agreement is in effect, plus actual damages;

21 (4) ~~(3)~~ in the case of unlawful retaliation, the
22 greater of all legal or equitable relief as may be
23 appropriate or \$10,000, at the selection of the aggrieved
24 day or temporary laborer; and

25 (5) ~~(4)~~ attorney's fees and costs.

26 (b) The right of an aggrieved person to bring an action

1 under this Section terminates upon the passing of 3 years from
2 the final date of employment by the day and temporary labor
3 agency or the third party client or upon the passing of 3 years
4 from the date of termination of the contract between the day
5 and temporary labor service agency and the third party client.
6 This limitations period is tolled if a day labor employer has
7 deterred a day and temporary labor service agency or day or
8 temporary laborer's exercise of rights under this Act by
9 contacting or threatening to contact law enforcement agencies.
10 (Source: P.A. 96-1185, eff. 7-22-10.)

1 INDEX

2 Statutes amended in order of appearance

3 820 ILCS 175/2

4 820 ILCS 175/5

5 820 ILCS 175/10

6 820 ILCS 175/12

7 820 ILCS 175/20

8 820 ILCS 175/30

9 820 ILCS 175/40

10 820 ILCS 175/45

11 820 ILCS 175/85

12 820 ILCS 175/90

13 820 ILCS 175/95