



Rep. Carol Ammons

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1 AMENDMENT TO HOUSE BILL 690

2 AMENDMENT NO. _____. Amend House Bill 690 by replacing
3 everything after the enacting clause with the following:

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.

1 Recent studies and a survey of low-wage day or temporary
2 laborers themselves finds that as a group, they are
3 particularly vulnerable to abuse of their labor rights,
4 including unpaid wages, failure to pay for all hours worked,
5 minimum wage and overtime violations, ~~and~~ unlawful deduction
6 from pay for meals, transportation, equipment and other items
7 as well as discriminatory practices.

8 Current law is inadequate to protect the labor and
9 employment rights of these workers.

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

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

16 (820 ILCS 175/5)

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

18 "Day or temporary laborer" means an individual ~~a natural~~
19 ~~person~~ who contracts for employment with a day and temporary
20 labor service agency.

21 "Day and temporary labor" means work performed by a day or
22 temporary laborer at a third party client, the duration of
23 which may be specific or undefined, pursuant to a contract or
24 understanding between the day and temporary labor service
25 agency and the third party client. "Day and temporary labor"

1 does not include labor or employment of a professional or
2 clerical nature.

3 "Day and temporary labor service agency" means any person
4 or entity engaged in the business of employing day or temporary
5 laborers to provide services, for a fee, to or for any third
6 party client pursuant to a contract with the day and temporary
7 labor service agency and the third party client.

8 "Department" means the Department of Labor.

9 "Third party client" means any person that contracts with a
10 day and temporary labor service agency for obtaining day or
11 temporary laborers.

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

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

17 (820 ILCS 175/10)

18 Sec. 10. Employment Notice.

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

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

- 1 (2) the name and nature of the work to be performed;
- 2 (3) the wages offered;
- 3 (4) the name and address of the destination of each day
- 4 or temporary laborer;
- 5 (5) terms of transportation; ~~and~~
- 6 (6) whether a meal or equipment, or both, are provided,
- 7 either by the day and temporary labor service agency or the
- 8 third party client, and the cost of the meal and equipment,
- 9 if any;
- 10 (7) for multi-day assignments, the schedule; and
- 11 (8) the length of the assignment.

12 In the event of a change in the schedule, shift, or

13 location of an assignment for a multi-day assignment of a day

14 or temporary laborer, the day and temporary labor service

15 agency shall provide written notice of such change not less

16 than 48 hours in advance to the day or temporary laborer, where

17 possible. The day and temporary labor service agency shall bear

18 the burden of showing it was not possible to provide such

19 notice where required.

20 If a day or temporary laborer is assigned to the same

21 assignment for more than one day, the day and temporary labor

22 service agency is required to provide the employment notice

23 only on the first day of the assignment and on any day that any

24 of the terms listed on the employment notice are changed.

25 If the day or temporary laborer is not placed with a third

26 party client or otherwise contracted to work for that day, the

1 day and temporary labor service agency shall, upon request,
2 provide the day and temporary laborer with a confirmation that
3 the day or temporary laborer sought work, signed by an employee
4 of the day and temporary labor service agency, which shall
5 include the name of the agency, the name and address of the day
6 or temporary laborer, and the date and the time that the day or
7 temporary laborer receives the confirmation.

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

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

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

19 (820 ILCS 175/12)

20 Sec. 12. Recordkeeping.

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

25 (1) the name, address and telephone number of each

1 third party client, including each worksite, to which day
2 or temporary laborers were sent by the agency and the date
3 of the transaction;

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

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

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

24 (5) copies of all contracts, if any, with the third
25 party client and copies of all invoices for the third party
26 client;

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

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

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

11 (9) the race and gender of each day or temporary
12 laborer sent by the day and temporary labor service agency,
13 as provided by the day or temporary laborer; and

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

16 (b) The day and temporary labor service agency shall
17 maintain all records under this Section for a period of 3 years
18 from their creation. The records shall be open to inspection by
19 the Department during normal business hours. Records described
20 in paragraphs (1), (2), (3), (6), (7), and (8) of subsection
21 (a) shall be available for review or copying by that day or
22 temporary laborer during normal business hours within 5 days
23 following a written request. In addition, a day and temporary
24 labor service agency shall make records related to the number
25 of hours billed to a third party client for that individual day
26 or temporary laborer's hours of work available for review or

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

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

21 (820 ILCS 175/20)

22 Sec. 20. Transportation.

23 (a) A day and temporary labor service agency or a third
24 party client or a contractor or agent of either shall charge no
25 fee to transport a day or temporary laborer to or from the

1 designated work site.

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

1 laborer for transportation.

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

15 (d) Any motor vehicle that is owned or operated by the day
16 and temporary labor service agency or a third party client, or
17 a contractor or agent of either, or to which a day and
18 temporary labor service agency refers a day or temporary
19 laborer, which is used for the transportation of day or
20 temporary laborers shall have proof of financial
21 responsibility as provided for in Chapter 8 of the Illinois
22 Vehicle Code or as required by Department rules. The driver of
23 the vehicle shall hold a valid license to operate motor
24 vehicles in the correct classification and shall be required to
25 produce the license immediately upon demand by the Department,
26 its inspectors or deputies, or any other person authorized to

1 enforce this Act. The Department shall forward a violation of
2 this subsection to the appropriate law enforcement authorities
3 or regulatory agencies, whichever is applicable.

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

14 (f) If the day or temporary laborer is provided
15 transportation from the point of application to the worksite by
16 the hiring labor service agency operating pursuant to this Act,
17 the day or temporary laborer shall also be provided
18 transportation back to the point of application, unless the day
19 or temporary laborer advises or agrees prior to leaving for the
20 place of employment to obtain alternative transportation after
21 the work shift is completed.

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

23 (820 ILCS 175/30)

24 Sec. 30. Wage Payment and Notice.

25 (a) At the time of payment of wages, a day and temporary

1 labor service agency shall provide each day or temporary
2 laborer with a detailed itemized statement, on the day or
3 temporary laborer's paycheck stub or on a form approved by the
4 Department, listing the following:

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

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

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

26 (4) the total pay period earnings;

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

8 (5.5) the current maximum amount of a placement fee
9 which the day and temporary labor service agency may charge
10 to a third party client to directly hire the day or
11 temporary laborer pursuant to subsection (a) of Section 40;
12 and

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

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

1 shall constitute a separate and distinct violation.

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

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

1 day or temporary laborers.

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

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

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

25 (g) A day or temporary laborer who is contracted by a day
26 and temporary labor service agency to work at a third party

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

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

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

1 (820 ILCS 175/40)

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

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

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

21 (b) Each year, at the time of registration with the
22 Department as required by Section 45, each day and temporary
23 labor service agency shall submit to the Department, on a form
24 created by the Department, the number of day or temporary
25 laborers such agency has placed in a permanent position with a
26 third party client in the preceding 12 months as well as the

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

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

15 (d) Any day and temporary labor service agency and third
16 party client must comply with all applicable Occupational
17 Safety and Health Administration (OSHA) standards for all day
18 or temporary laborers including, but not limited to,
19 recordkeeping, safety and health training, powered industrial
20 trucks, bloodborne pathogens, hazard communications, personal
21 protective equipment, whistleblower rights, and recordkeeping.
22 Under OSHA, both third party clients and day and temporary
23 service agencies are joint employers of day or temporary
24 laborers, and are both responsible for providing and
25 maintaining a safe work environment for these laborers. To
26 ensure that OSHA standards are met for day or temporary

1 laborers, third party clients and temporary and day labor
2 service agencies must implement the following actions laid out
3 by OSHA in its Temporary Worker Initiative:

4 (1) The day and temporary labor service agency and the
5 third party client must set out their respective
6 responsibilities for compliance with all relevant OSHA
7 standards in their contract.

8 (2) The tasks the day or temporary laborer is expected
9 to perform, and the safety and health responsibilities of
10 each employer as stated in the day and temporary labor
11 service agency-third party client contract should be
12 communicated to the laborer before the laborer begins work
13 at the job site.

14 (3) Day and temporary labor service agencies have a
15 duty to inquire into the conditions of their laborers'
16 assigned workplaces at third party clients. They must
17 ensure that they are sending laborers to a safe workplaces.

18 (4) Ignorance of hazards is not an excuse.

19 (5) Day and temporary labor service agencies must
20 determine what conditions exist at their third party
21 clients, what hazards may be encountered, and how best to
22 ensure protection for the day or temporary laborers.

23 (6) The day and temporary labor service agency has the
24 duty to inquire and verify that the third party client has
25 fulfilled its responsibilities for a safe workplace.

26 (7) Third party clients must provide day or temporary

1 laborers with the identical OSHA required safety training,
2 protective equipment and other safeguards that are
3 provided to the third party client's directly hired
4 employees performing similar or the same work.

5 (8) The key is communication between the day and
6 temporary labor service agency and the third party client
7 to ensure that the necessary protections are provided.

8 (9) The day and temporary labor service agencies need
9 not become experts on specific workplace hazards, but must
10 determine what conditions exist at their third party
11 clients, what hazards may be encountered, and how best to
12 ensure protection for the day or temporary laborers.

13 (10) The day and temporary labor service agency has the
14 duty to inquire and verify that the host has fulfilled its
15 responsibilities for a safe workplace.

16 (11) Just as important, third party clients must treat
17 laborers like third party client's directly hired workers
18 in terms of training and safety and health protections.

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

20 (820 ILCS 175/45)

21 Sec. 45. Registration; Department of Labor.

22 (a) A day and temporary labor service agency which is
23 located, operates or transacts business within this State shall
24 register with the Department of Labor in accordance with rules
25 adopted by the Department for day and temporary labor service

1 agencies and shall be subject to this Act and any rules adopted
2 under this Act. Each day and temporary labor service agency
3 shall provide proof of an employer account number issued by the
4 Department of Employment Security for the payment of
5 unemployment insurance contributions as required under the
6 Unemployment Insurance Act, and proof of valid workers'
7 compensation insurance in effect at the time of registration
8 covering all of its employees. If, at any time, a day and
9 temporary labor service agency's workers' compensation
10 insurance coverage lapses, the agency shall have an affirmative
11 duty to report the lapse of such coverage to the Department and
12 the agency's registration shall be suspended until the agency's
13 workers' compensation insurance is reinstated. The Department
14 may assess each day and temporary labor service agency a
15 non-refundable registration fee not exceeding \$2,000 ~~\$1,000~~
16 per year per agency and a non-refundable fee not to exceed \$750
17 ~~\$250~~ for each branch office or other location where the agency
18 regularly contracts with day or temporary laborers for
19 services. The fee may be paid by check or money order and the
20 Department may not refuse to accept a check on the basis that
21 it is not a certified check or a cashier's check. The
22 Department may charge an additional fee to be paid by a day and
23 temporary labor service agency if the agency, or any person on
24 the agency's behalf, issues or delivers a check to the
25 Department that is not honored by the financial institution
26 upon which it is drawn. The Department shall also adopt rules

1 for violation hearings and penalties for violations of this Act
2 or the Department's rules in conjunction with the penalties set
3 forth in this Act.

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

11 (b) It is a violation of this Act to operate a day and
12 temporary labor service agency without first registering with
13 the Department in accordance with subsection (a) of this
14 Section. The Department shall create and maintain at regular
15 intervals on its website, accessible to the public: (1) a list
16 of all registered day and temporary labor service agencies in
17 the State whose registration is in good standing; (2) a list of
18 day and temporary labor service agencies in the State whose
19 registration has been suspended, including the reason for the
20 suspension, the date the suspension was initiated, and the
21 date, if known, the suspension is to be lifted; and (3) a list
22 of day and temporary labor service agencies in the State whose
23 registration has been revoked, including the reason for the
24 revocation and the date the registration was revoked. The
25 Department has the authority to assess a penalty against any
26 day and temporary labor service agency that fails to register

1 with the Department of Labor in accordance with this Act or any
2 rules adopted under this Act of \$500 for each violation. Each
3 day during which a day and temporary labor service agency
4 operates without registering with the Department shall be a
5 separate and distinct violation of this Act.

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

11 The bond required by this Section shall be in favor of, and
12 payable to, the people of the State of Illinois, and shall be
13 for the benefit of any employee damaged by his or her
14 employer's failure to pay wages, interest on wages, or fringe
15 benefits, or damaged by violation of this Section.

16 Thirty days prior to the cancellation or termination of any
17 surety bond required by this Section, the surety shall send
18 written notice to both the employer and the Department
19 identifying the bond and the date of the cancellation or
20 termination.

21 An employer shall not conduct any business until the
22 employer obtains a new surety bond and files a copy of it with
23 the Department.

24 This subsection does not apply to an employer covered by a
25 valid collective bargaining agreement, if the agreement
26 expressly provides for all of the following:

1 (i) Wages.

2 (ii) Hours of work.

3 (iii) Working conditions.

4 (iv) An expeditious process to resolve disputes
5 concerning nonpayment of wages.

6 (v) The employer has documented that a current workers'
7 compensation insurance policy is in effect for the
8 employees.

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

11 (b-6) The principal executive officer of a day and
12 temporary labor service agency shall certify under oath at the
13 time of registration of the day and temporary labor service
14 agency each year on a form created by the Department that:

15 (1) the signing officer has reviewed the registration
16 form of the day and temporary labor service agency and
17 confirmed the information is true and accurate to the best
18 of his or her knowledge;

19 (2) the signing officer has reviewed the recordkeeping
20 practices of the day and temporary labor service agency and
21 confirmed that the recordkeeping practices comply with the
22 requirements of Section 12 to the best of his or her
23 knowledge;

24 (3) the signing officer has reviewed the day and
25 temporary labor service agency's filing as required by
26 subsection (b) of Section 40 related to the placement of

1 day or temporary laborers in permanent positions with third
2 party clients and has confirmed that such practices comply
3 with the requirements of Section 20 to the best of his or
4 her knowledge;

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

10 (5) the signing officer has reviewed and is responsible
11 for the surety bond posted by the agency and its renewals;
12 and

13 (6) the signing officer:

14 (A) is responsible for establishing and
15 maintaining internal controls to comply with the
16 recordkeeping requirements; and

17 (B) has evaluated the effectiveness of the
18 internal controls.

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

23 (1) has been involved, as owner, officer, director,
24 partner, or manager, of any day and temporary labor service
25 agency whose registration has been revoked or has been
26 suspended without being reinstated within the 5 years

1 immediately preceding the filing of the application; or

2 (2) is under the age of 18.

3 (d) Every agency shall post and keep posted at each
4 location, in a position easily accessible to all employees,
5 notices as supplied and required by the Department containing a
6 copy or summary of the provisions of the Act and a notice which
7 informs the public of a toll-free telephone number for day or
8 temporary laborers and the public to file wage dispute
9 complaints and other alleged violations by day and temporary
10 labor service agencies. Such notices shall be in English or any
11 other language generally understood in the locale of the day
12 and temporary labor service agency.

13 (e) No day and temporary labor service agency shall be
14 permitted to register to operate in Illinois until it has
15 complied with the requirements of this Section.

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

17 (820 ILCS 175/85)

18 Sec. 85. Third party clients.

19 (a) It is a violation of this Act for a third party client
20 to enter into a contract for the employment of day or temporary
21 laborers with any day and temporary labor service agency not
22 registered under Section 45 of this Act. A third party client
23 has a duty to verify a day and temporary labor service agency's
24 status with the Department before entering into a contract with
25 such an agency, and on March 1 and September 1 of each year. A

1 day and temporary labor service agency shall be required to
2 provide each of its third party clients with proof of valid
3 registration issued by the Department at the time of entering
4 into a contract. A day and temporary labor service agency shall
5 be required to notify, both by telephone and in writing, each
6 day or temporary laborer it employs and each third party client
7 with whom it has a contract within 24 hours of any denial,
8 suspension, or revocation of its registration by the
9 Department. All contracts between any day and temporary labor
10 service agency and any third party client shall be considered
11 null and void from the date any such denial, suspension, or
12 revocation of registration becomes effective and until such
13 time as the day and temporary labor service agency becomes
14 registered and considered in good standing by the Department as
15 provided in Section 50 and Section 55. Upon request, the
16 Department shall provide to a third party client a list of
17 entities registered as day and temporary labor service
18 agencies. The Department shall provide on the Internet a list
19 of entities registered as day and temporary labor service
20 agencies. A third party client may rely on information provided
21 by the Department or maintained on the Department's website
22 pursuant to Section 45 of this Act and shall be held harmless
23 if such information maintained or provided by the Department
24 was inaccurate. Any third party client that violates this
25 provision of the Act is subject to a civil penalty not to
26 exceed \$500. Each day during which a third party client

1 contracts with a day and temporary labor service agency not
2 registered under Section 45 of this Act shall constitute a
3 separate and distinct offense.

4 (b) If a third party client leases or contracts with a day
5 and temporary service agency for the services of a day or
6 temporary laborer, the third party client shall share all legal
7 responsibility and liability for: (i) the payment of wages
8 under the Illinois Wage Payment and Collection Act and the
9 Minimum Wage Law and (ii) any obligation to pay the 4 hours'
10 minimum pay as required in subsection (g) of Section 30 or
11 obligation to pay statutory damages as provided in Section 95.

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

13 (820 ILCS 175/90)

14 Sec. 90. Retaliation.

15 (a) Prohibition. It is a violation of this Act for a day
16 and temporary labor service agency or third party client, or
17 any agent of a day and temporary labor service agency or third
18 party client, to retaliate through discharge or in any other
19 manner against any day or temporary laborer for exercising any
20 rights granted under this Act. The termination or disciplinary
21 action by a day and temporary labor service agency against a
22 day or temporary laborer within 90 days of the person's
23 exercise of rights protected under this Act shall raise a
24 rebuttable presumption of having done so in retaliation for the
25 exercise of those rights. Such retaliation shall subject a day

1 and temporary labor service agency or third party client, or
2 both, to civil penalties pursuant to this Act or a private
3 cause of action.

4 (b) Protected Acts from Retaliation. It is a violation of
5 this Act for a day and temporary labor service agency or third
6 party client to retaliate against a day or temporary laborer
7 for:

8 (1) making a complaint to a day and temporary labor
9 service agency, to a third party client, to a co-worker, to
10 a community organization, before a public hearing, or to a
11 State or federal agency that rights guaranteed under this
12 Act have been violated;

13 (2) causing to be instituted any proceeding under or
14 related to this Act; or

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

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

18 (820 ILCS 175/95)

19 Sec. 95. Private Right of Action.

20 (a) A person aggrieved by a violation of this Act or any
21 rule adopted under this Act by a day and temporary labor
22 service agency or a third party client may file suit in circuit
23 court of Illinois, in the county where the alleged offense
24 occurred or where any day or temporary laborer who is party to
25 the action resides, without regard to exhaustion of any

1 alternative administrative remedies provided in this Act. A day
2 and temporary labor service agency aggrieved by a violation of
3 this Act or any rule adopted under this Act by a third party
4 client may file suit in circuit court of Illinois, in the
5 county where the alleged offense occurred or where the day and
6 temporary labor service agency which is party to the action is
7 located. Actions may be brought by one or more day or temporary
8 laborers for and on behalf of themselves and other day or
9 temporary laborers similarly situated. A day or temporary
10 laborer whose rights have been violated under this Act by a day
11 and temporary labor service agency or a third party client or a
12 day and temporary labor service agency whose rights have been
13 violated under this Act by a third party client is entitled to
14 collect:

15 (1) in the case of a wage and hour violation, the
16 amount of any wages, salary, employment benefits, or other
17 compensation denied or lost to the day or temporary laborer
18 or day and temporary labor service agency by reason of the
19 violation, plus an equal amount in liquidated damages;

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

24 (3) in the case of any violation of subsection (a) of
25 Section 40 relating to any unlawful restrictions by a day
26 and temporary labor service agency on the right of a day or

1 temporary laborer to accept a permanent position with a
2 third party client or the right of a third party client to
3 offer such employment to a day or temporary laborer, \$50
4 for each day or temporary laborer affected by the day and
5 temporary labor service agency's policy, practice, or
6 agreement and for each day such policy, practice, or
7 agreement is in effect, plus actual damages;

8 (4) ~~(3)~~ in the case of unlawful retaliation, the
9 greater of all legal or equitable relief as may be
10 appropriate or \$10,000, at the selection of the aggrieved
11 day or temporary laborer; and

12 (5) ~~(4)~~ attorney's fees and costs.

13 (b) The right of an aggrieved person to bring an action
14 under this Section terminates upon the passing of 3 years from
15 the final date of employment by the day and temporary labor
16 agency or the third party client or upon the passing of 3 years
17 from the date of termination of the contract between the day
18 and temporary labor service agency and the third party client.
19 This limitations period is tolled if a day labor employer has
20 deterred a day and temporary labor service agency or day or
21 temporary laborer's exercise of rights under this Act by
22 contacting or threatening to contact law enforcement agencies.
23 (Source: P.A. 96-1185, eff. 7-22-10.)".