



Rep. Edgar Gonzalez, Jr.

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10300HB1604ham001

LRB103 26056 SPS 58985 a

1 AMENDMENT TO HOUSE BILL 1604

2 AMENDMENT NO. _____. Amend House Bill 1604 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, 30, 40, 45, 50, 55,
6 70, 85, 90, and 95 and by adding Sections 11, 42, 67, and 87 as
7 follows:

8 (820 ILCS 175/2)

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

11 Since the passage of this Act, the number of ~~over 300,000~~
12 workers who work as day or temporary laborers in Illinois has
13 risen from approximately 300,000 to more than 650,000
14 according to data collected by the Department of Labor.

15 Since the passage of this Act, the number of ~~Approximately~~
16 150 day labor and temporary labor service agencies registered

1 in Illinois has risen from approximately 150 with 600 branch
2 offices to over 300 with over 800 branch offices ~~with nearly~~
3 ~~600 branch offices are licensed throughout Illinois.~~ In
4 addition, there still exists ~~is~~ a significant ~~large~~, though
5 unknown, number of unregistered ~~unlicensed~~ day labor and
6 temporary labor service agencies that operate outside the
7 radar of law enforcement.

8 Recent studies and a survey of low-wage day or temporary
9 laborers themselves have consistently found ~~finds~~ that as a
10 group, they are particularly vulnerable to abuse of their
11 labor rights, including unpaid wages, failure to pay for all
12 hours worked, minimum wage and overtime violations, and
13 unlawful deduction from pay for meals, transportation,
14 equipment and other items. Recent studies and surveys of the
15 day and temporary staffing industry have also found that day
16 or temporary laborers are more than twice as likely to live in
17 poverty, that more than one in 3 depend on public assistance to
18 survive, that such workers are commonly part of a 2-tier pay
19 structure, and that such workers have an occupational injury
20 rate 2 to 3 times higher than directly hired employees.

21 As a result of the imbalance of negotiating power between
22 a day or temporary laborer and a day and temporary service
23 agency and its client companies due to laborers' precarious
24 and contingent employment relationship, many day or temporary
25 laborers are subjected to abusive contracts that they are
26 required to sign under duress and from which they need to be

1 protected.

2 It is in the interest of the State of Illinois to ensure
3 compliance with this Act, and it is in the interest of Illinois
4 taxpayers to mitigate the cost of enforcement of this Act by
5 assessing civil penalties against day and temporary service
6 agencies and their client companies that have been found to
7 have violated this Act. Illinois employers who comply with
8 this and other Illinois wage and hour laws are also at a
9 competitive disadvantage with employers who do not comply with
10 such laws, and it is in the interest of the State of Illinois,
11 law-abiding Illinois employers, and Illinois taxpayers to
12 disgorge law-breaking employers of any ill-gotten gains as a
13 result of unlawful practices and to ensure payroll taxes are
14 paid on any such unpaid wages. Therefore, the public good
15 justifies the establishment of the mechanism set forth in this
16 Act for the Department, the Attorney General, aggrieved
17 employees, or interested parties to disgorge from an Illinois
18 employer who does not comply with this or other Illinois laws
19 referenced herein the amount of such unpaid wages and other
20 remedies, as well as unpaid payroll taxes.

21 Current law is inadequate to protect the labor and
22 employment rights of these workers.

23 At the same time, in Illinois and in other states,
24 democratically run nonprofit day labor centers, which charge
25 no fee for their services, have been established to provide an
26 alternative for day or temporary laborers to solicit work on

1 street corners. These centers are not subject to this Act.

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

3 (820 ILCS 175/5)

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

5 "Applicant" means a natural person who seeks a work
6 assignment at a day and temporary labor service agency.

7 "Day or temporary laborer" means a natural person who
8 contracts for employment with a day and temporary labor
9 service agency.

10 "Day and temporary labor" means work performed by a day or
11 temporary laborer at a third party client, the duration of
12 which may be specific or undefined, pursuant to a contract or
13 understanding between the day and temporary labor service
14 agency and the third party client. "Day and temporary labor"
15 does not include labor or employment of a professional or
16 clerical nature.

17 "Day and temporary labor service agency" means any person
18 or entity engaged in the business of employing day or
19 temporary laborers to provide services, for a fee, to or for
20 any third party client pursuant to a contract with the day and
21 temporary labor service agency and the third party client.

22 "Department" means the Department of Labor.

23 "Family member" means an employee's child, spouse, or
24 party to a civil union or legal guardianship, parent,
25 grandparent, grandchild, sibling, or any other individual

1 related by blood, marriage, or civil union, or whose close
2 relationship with the employee is the equivalent of a family
3 association as determined by the employee.

4 "Interested party" means a person, organization, or entity
5 with an interest in compliance with this Act. An interested
6 party includes, without limitation, a labor organization, a
7 nonprofit organization whose mission or past practice includes
8 advocating for the workplace rights of day or temporary
9 laborers, a current or former day or temporary laborer
10 employed by the entity subject to allegations of the
11 violations, whether or not still aggrieved by a violation of
12 this Act at the time of taking any action under this Act, a
13 family member of such a day or temporary laborer, or a
14 competitor of a day and temporary labor service agency or an
15 employee of a competitor of day and temporary labor service
16 agency.

17 "Third party client" means any person that contracts with
18 a day and temporary labor service agency for obtaining day or
19 temporary laborers.

20 "Person" means every natural person, firm, partnership,
21 co-partnership, limited liability company, corporation,
22 association, business trust, or other legal entity, or its
23 legal representatives, agents, or assigns.

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

1 Sec. 10. Employment Notice and Application Receipt.

2 (a) Employment notice. Whenever a day and temporary labor
3 service agency agrees to send one or more persons to work as
4 day or temporary laborers, the day and temporary labor service
5 agency shall provide to each day or temporary laborer, at the
6 time of dispatch, a statement containing the following items
7 on a form approved by the Department:

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

9 (2) the name and nature of the work to be performed and
10 the types of equipment, protective clothing, and training
11 that are required for the task;

12 (3) the wages offered;

13 (4) the name and address of the destination of each
14 day or temporary laborer;

15 (5) terms of transportation; and

16 (6) whether a meal or equipment, or both, are
17 provided, either by the day and temporary labor service
18 agency or the third party client, and the cost of the meal
19 and equipment, if any.

20 The failure of a day and temporary labor service agency to
21 provide a day or temporary laborer with the equipment,
22 protective clothing, and training identified in an employment
23 notice required by this Section shall be a health and safety
24 violation under Section 95.

25 If a day or temporary laborer is assigned to the same
26 assignment for more than one day, the day and temporary labor

1 service agency is required to provide the employment notice
2 only on the first day of the assignment and on any day that any
3 of the terms listed on the employment notice are changed.

4 (b) Application receipt. If the applicant seeks a work
5 assignment, including in-person, online, or through an
6 application-based system, and ~~day or temporary laborer~~ is not
7 placed with a third party client or otherwise contracted to
8 work for that day by a day and temporary labor service agency,
9 the day and temporary labor service agency shall, ~~upon~~
10 ~~request,~~ provide the applicant ~~day and temporary laborer~~ with
11 a confirmation that the applicant ~~day or temporary laborer~~
12 sought work, signed by an employee of the day and temporary
13 labor service agency, on a form approved by the Department,
14 which shall include:

15 (1) the name and location of the agency and branch
16 office;

17 (2) the name and address of the applicant; ~~day or~~
18 ~~temporary laborer, and~~

19 (3) the date and the time that the the applicant
20 sought the work assignments; ~~day or temporary laborer~~
21 ~~receives the confirmation.~~

22 (4) the manner in which the applicant sought the work
23 assignments; and

24 (5) the specific work sites or type of jobs sought by
25 the applicant, if applicable.

26 (b) (Blank). ~~No day and temporary labor service agency may~~

1 ~~send any day or temporary laborer to any place where a strike,~~
2 ~~a lockout, or other labor trouble exists.~~

3 If the day or temporary laborer seeks a work assignment
4 online or through an application-based system only, and is not
5 placed with a third party client or otherwise contracted to
6 work for that day, the day and temporary labor service agency
7 may provide the required confirmation in an electronic format
8 and electronically signed by an employee of the day and
9 temporary labor service agency, in a form approved by the
10 Department.

11 (c) The Department shall recommend to day and temporary
12 labor service agencies that those agencies employ personnel
13 who can effectively communicate information required in
14 subsection ~~subsections~~ (a) ~~and (b)~~ to day or temporary
15 laborers in Spanish, Polish, or any other language that is
16 generally understood in the locale of the day and temporary
17 labor service agency. Employment notices and application
18 receipts shall be provided to the day or temporary laborer or
19 applicant in a language that the day or temporary laborer or
20 applicant understands.

21 (d) The failure of a day and temporary labor service
22 agency to provide any of the information required by this
23 Section shall constitute a notice violation under Section 95.
24 The failure to provide each piece of information required by
25 this Section at each time it is required by this Section shall
26 constitute a separate and distinct violation. If a day and

1 temporary labor service agency claims that it has
2 electronically provided an employment notice or application
3 receipt as required by this Section, the day and temporary
4 labor service agency shall bear the burden of showing the
5 employment notice or application receipt was provided if there
6 is a dispute.

7 (Source: P.A. 99-78, eff. 7-20-15; 100-517, eff. 6-1-18.)

8 (820 ILCS 175/11 new)

9 Sec. 11. Right to refuse assignment to a labor dispute.

10 (a) No day and temporary labor service agency may send a
11 day or temporary laborer to a place where a strike, a lockout,
12 or other labor trouble exists without providing, at or before
13 the time of dispatch, a statement, in writing and in a language
14 that the day or temporary laborer understands, informing the
15 day or temporary laborer of the labor dispute and the day or
16 temporary laborer's right to refuse the assignment without
17 prejudice to receiving another assignment.

18 (b) The failure by a day and temporary labor service
19 agency to provide any of the information required by this
20 Section shall constitute a notice violation under Section 95.
21 The failure of a day and temporary labor service agency to
22 provide each piece of information required by this Section at
23 each time it is required by this Section shall constitute a
24 separate and distinct notice violation. If a day and temporary
25 labor service agency claims that it has provided notice as

1 required by this Section electronically, the day and temporary
2 labor service agency shall bear the burden of showing that the
3 notice was provided if there is a dispute.

4 (820 ILCS 175/12)

5 Sec. 12. Recordkeeping.

6 (a) Whenever a day and temporary labor service agency
7 sends one or more persons to work as day or temporary laborers,
8 the day and temporary labor service agency shall keep the
9 following records relating to that transaction:

10 (1) the name, address and telephone number of each
11 third party client, including each worksite, to which day
12 or temporary laborers were sent by the agency and the date
13 of the transaction;

14 (2) for each day or temporary laborer: the name and
15 address, the specific location sent to work, the type of
16 work performed, the number of hours worked, the hourly
17 rate of pay and the date sent. The term "hours worked" has
18 the meaning ascribed to that term in 56 Ill. Adm. Code
19 210.110 and in accordance with all applicable rules or
20 court interpretations under 56 Ill. Adm. Code 210.110. The
21 third party client shall be required to remit all
22 information required under this subsection to the day and
23 temporary labor service agency no later than 7 days
24 following the last day of the work week worked by the day
25 or temporary laborer. Failure of a third party client to

1 remit such information to a day and temporary labor
2 service agency shall not be a defense to the recordkeeping
3 requirement of this Section;

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

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

10 (5) copies of all contracts, if any, with the third
11 party client and copies of all invoices for the third
12 party client;

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

15 (7) deductions to be made from each day or temporary
16 laborer's compensation made by either the third party
17 client or by the day and temporary labor service agency
18 for the day or temporary laborer's transportation, food,
19 equipment, withheld income tax, withheld social security
20 payments and every other deduction;

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

23 (9) the race and gender of each day or temporary
24 laborer or applicant who seeks work at, whether in person,
25 online, or through an application-based system, or is
26 assigned ~~sent~~ by the day and temporary labor service

1 agency, as such information is provided by the day or
2 temporary laborer or applicant; ~~and~~

3 (9.5) whether a day or temporary laborer has been
4 placed in a permanent position with a third party client
5 and the date of such placement; and

6 (10) any additional information required by rules
7 issued by the Department.

8 (b) The day and temporary labor service agency shall
9 maintain all records under this Section for a period of 3 years
10 from their creation. The records shall be open to inspection
11 by the Department during normal business hours. Records
12 described in paragraphs (1), (2), (3), (6), (7), and (8) of
13 subsection (a) shall be available for review or copying by
14 that day or temporary laborer during normal business hours
15 within 5 days following a written request. In addition, a day
16 and temporary labor service agency shall make records related
17 to the number of hours billed to a third party client for that
18 individual day or temporary laborer's hours of work available
19 for review or copying during normal business hours within 5
20 days following a written request. The day and temporary labor
21 service agency shall make forms, in duplicate, for such
22 requests available to day or temporary laborers at the
23 dispatch office. The day or temporary laborer shall be given a
24 copy of the request form. It is a violation of this Section to
25 make any false, inaccurate or incomplete entry into any record
26 required by this Section, or to delete required information

1 from any such record. Failure by the third party client to
2 remit time records to the day and temporary labor service
3 agency as provided in paragraph (a)(2) shall constitute a
4 notice violation by a third party client under Section 95 of
5 this Act unless the third party client has been precluded from
6 submitting such time records for reasons beyond its control. A
7 failure by the third party client to provide time records in
8 accordance with this subsection (b) shall not be a notice
9 violation and shall not be the basis for a suit or other action
10 under Section 95 of this Act against the day and temporary
11 labor service agency.

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

13 (820 ILCS 175/30)

14 Sec. 30. Wage Payment and Notice.

15 (a) At the time of payment of wages, a day and temporary
16 labor service agency shall provide each day or temporary
17 laborer with a detailed itemized statement, on the day or
18 temporary laborer's paycheck stub or on a form approved by the
19 Department, listing the following:

20 (1) the name, address, and telephone number of each
21 third party client at which the day or temporary laborer
22 worked. If this information is provided on the day or
23 temporary laborer's paycheck stub, a code for each third
24 party client may be used so long as the required
25 information for each coded third party client is made

1 available to the day or temporary laborer;

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

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

16 (3.5) the rate billed to the client company for each
17 hour worked, including any premium rate or bonus;

18 (4) the total pay period earnings;

19 (5) all deductions made from the day or temporary
20 laborer's compensation made either by the third party
21 client or by the day and temporary labor service agency,
22 and the purpose for which deductions were made, including
23 for the day or temporary laborer's transportation, food,
24 equipment, withheld income tax, withheld social security
25 payments, and every other deduction; ~~and~~

26 (5.5) the then-current maximum placement fee as

1 defined and calculated in Section 40; and

2 (6) any additional information required by rules
3 issued by the Department.

4 (a-1) For each day or temporary laborer who is contracted
5 to work a single day, the third party client shall, at the end
6 of the work day, provide such day or temporary laborer with a
7 Work Verification Form, approved by the Department, which
8 shall contain the date, the day or temporary laborer's name,
9 the work location, and the hours worked on that day. Any third
10 party client who violates this subsection (a-1) may be subject
11 to a civil penalty of not less than \$100 and not more than ~~to~~
12 ~~exceed~~ \$500 for each violation found by the Department. Such
13 civil penalty shall ~~may~~ increase to not less than \$500 and not
14 more than \$2,500 for a second or subsequent violation. For
15 purposes of this subsection (a-1), each violation of this
16 subsection (a-1) for each day or temporary laborer and for
17 each day the violation continues shall constitute a separate
18 and distinct violation.

19 (b) A day and temporary labor service agency shall provide
20 each worker an annual earnings summary within a reasonable
21 time after the preceding calendar year, but in no case later
22 than February 1. A day and temporary labor service agency
23 shall, at the time of each wage payment, give notice to day or
24 temporary laborers of the availability of the annual earnings
25 summary or post such a notice in a conspicuous place in the
26 public reception area.

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

19 (d) No day and temporary labor service agency shall charge
20 any day or temporary laborer for cashing a check issued by the
21 agency for wages earned by a day or temporary laborer who
22 performed work through that agency. No day and temporary labor
23 service agency or third party client shall charge any day or
24 temporary laborer for the expense of conducting any consumer
25 report, as that term is defined in the Fair Credit Reporting
26 Act, 15 U.S.C. 1681a(d), any criminal background check of any

1 kind, or any drug test of any kind.

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

7 (f) The total amount deducted for meals, equipment, and
8 transportation may not cause a day or temporary laborer's
9 hourly wage to fall below the State or federal minimum wage.
10 However, a day and temporary labor service agency may deduct
11 the actual market value of reusable equipment provided to the
12 day or temporary laborer by the day and temporary labor
13 service agency which the day or temporary laborer fails to
14 return, if the day or temporary laborer provides a written
15 authorization for such deduction at the time the deduction is
16 made.

17 (g) A day or temporary laborer who is contracted by a day
18 and temporary labor service agency to work at a third party
19 client's worksite but is not utilized by the third party
20 client shall be paid by the day and temporary labor service
21 agency for a minimum of 4 hours of pay at the agreed upon rate
22 of pay. However, in the event the day and temporary labor
23 service agency contracts the day or temporary laborer to work
24 at another location during the same shift, the day or
25 temporary laborer shall be paid by the day and temporary labor
26 service agency for a minimum of 2 hours of pay at the agreed

1 upon rate of pay.

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

18 (i) The failure of a day and temporary labor service
19 agency or client company to provide any of the information
20 required by this Section shall constitute a notice violation
21 under Section 95. The failure to provide each piece of
22 information required by this Section at each time it is
23 required by this Section shall constitute a separate and
24 distinct notice violation.

25 (Source: P.A. 100-517, eff. 6-1-18.)

1 (820 ILCS 175/40)

2 Sec. 40. Work Restriction. No day and temporary labor
3 service agency shall restrict the right of a day or temporary
4 laborer to accept a permanent position with a third party
5 client to whom the day or temporary laborer has been referred
6 for work or restrict the right of such third party client to
7 offer such employment to a day or temporary laborer. A day and
8 temporary labor service agency may charge a placement fee to a
9 third party client for employing a day or temporary laborer
10 for whom a contract for work was effected by the day and
11 temporary labor service agency not to exceed the equivalent of
12 the total daily commission rate the day and temporary labor
13 service agency would have received over a 60-day period,
14 reduced by the equivalent of the daily commission rate the day
15 and temporary labor service agency would have received for
16 each day the day or temporary laborer has performed work for
17 the day and temporary labor service agency in the preceding 12
18 months. Days worked at a day and temporary labor service
19 agency in the 12 months preceding the effective date of this
20 amendatory Act of the 94th General Assembly shall be included
21 for purposes of calculating the maximum placement fee
22 described in this Section. ~~However, placement of a day or~~
23 ~~temporary laborer who is contracted by a day and temporary~~
24 ~~labor service agency to provide skilled labor shall not be~~
25 ~~subject to any placement fee cap. For purposes of this~~
26 ~~Section, a day or temporary laborer who performs "skilled~~

1 ~~labor" shall apply only where the day and temporary labor~~
2 ~~service agency performs an advanced application process, a~~
3 ~~screening process, which may include processes such as~~
4 ~~advanced testing, and a job interview.~~ No fee provided for
5 under this Section may be assessed or collected by the day and
6 temporary labor service agency when the day or temporary
7 laborer is offered permanent work following the suspension or
8 revocation of the day and temporary labor service agency's
9 registration by the Department.

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

11 (820 ILCS 175/42 new)

12 Sec. 42. Equal pay for equal work. A day or temporary
13 laborer who is assigned to work at a third party client for
14 more than one week shall be paid not less than the average rate
15 of pay and equivalent benefits as directly hired employees of
16 the third party client performing the same or substantially
17 similar work on jobs the performance of which requires
18 substantially similar skill, effort, and responsibility, and
19 that are performed under similar working conditions. A day and
20 temporary labor service agency may pay the hourly cash
21 equivalent of benefits in lieu of providing the benefits
22 required by this Section. Upon request, a third party client
23 to which a day or temporary laborer has been assigned for more
24 than one week shall be obligated to timely provide the day and
25 temporary labor service agency with all necessary information

1 related to job duties, pay, and benefits of directly hired
2 employees necessary for the day and temporary labor service
3 agency to comply with this Section. The failure by a third
4 party client to provide any of the information required by
5 this Section shall constitute a notice violation by the third
6 party client under Section 95.

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

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

19 (a-1) At the time of registration with the Department of
20 Labor each year, the day and temporary labor service agency
21 shall submit to the Department of Labor a report containing
22 the information identified in paragraphs ~~paragraph~~ (9) and
23 (9.5) of subsection (a) of Section 12, broken down by branch
24 office, in the aggregate for all day or temporary laborers
25 assigned within Illinois and subject to this Act during the
26 preceding year. This information shall be submitted on a form

1 created by the Department of Labor. The Department of Labor
2 shall aggregate the information submitted by all registering
3 day and temporary labor service agencies by removing
4 identifying data and shall have the information available to
5 the public only on a municipal and county basis. As used in
6 this subsection and subsection (a-2) ~~this paragraph~~,
7 "identifying data" means any and all information that: (i)
8 provides specific information on individual worker identity;
9 (ii) identifies the service agency in any manner; and (iii)
10 identifies clients utilizing the day and temporary labor
11 service agency or any other information that can be traced
12 back to any specific registering day and temporary labor
13 service agency or its client. The information and reports
14 submitted to the Department of Labor under this subsection by
15 the registering day and temporary labor service agencies are
16 exempt from inspection and copying under Section 7.5 of the
17 Freedom of Information Act. Any summary reports created by the
18 Department shall be made available for public inspection on
19 the Department's website and shall not be exempt from
20 inspection and copying under the Freedom of Information Act.

21 (a-2) When a day and temporary labor service agency
22 registers with the Department, it shall submit to the
23 Department a report containing (i) the total number of W-2
24 forms issued to day or temporary laborers in Illinois during
25 the prior year broken down by branch office and (ii) the total
26 number of hours billed by the day and temporary labor service

1 agency from a branch office in Illinois broken down by branch
2 office. This information shall be submitted on a form created
3 by the Department. The Department shall aggregate the
4 information submitted by all registering day and temporary
5 labor service agencies by removing identifying data and shall
6 make the information available to the public on a municipal
7 and county basis. The information and reports submitted to the
8 Department under this subsection by the registering day and
9 temporary labor service agencies are exempt from inspection
10 and copying under the Freedom of Information Act. Any summary
11 reports created by the Department shall be made available for
12 public inspection on the Department's website and shall not be
13 exempt from inspection and copying under the Freedom of
14 Information Act.

15 (a-3) The Department shall deny a day and temporary labor
16 service agency's registration until all of the information
17 required in subsections (a-1) and (a-2) has been provided.

18 (b) It is a violation of this Act to operate a day and
19 temporary labor service agency without first registering with
20 the Department in accordance with subsection (a) of this
21 Section. The Department shall create and maintain at regular
22 intervals on its website, accessible to the public: (1) a list
23 of all registered day and temporary labor service agencies in
24 the State whose registration is in good standing; (2) a list of
25 day and temporary labor service agencies in the State whose
26 registration has been suspended, including the reason for the

1 suspension, the date the suspension was initiated, and the
2 date, if known, the suspension is to be lifted; and (3) a list
3 of day and temporary labor service agencies in the State whose
4 registration has been revoked, including the reason for the
5 revocation and the date the registration was revoked. The
6 Department has the authority to assess a penalty against any
7 day and temporary labor service agency that fails to register
8 with the Department of Labor in accordance with this Act or any
9 rules adopted under this Act of \$500 for each violation. Each
10 day during which a day and temporary labor service agency
11 operates without registering with the Department shall be a
12 separate and distinct violation of this Act.

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

17 (1) has been involved, as owner, officer, director,
18 partner, or manager, of any day and temporary labor
19 service agency whose registration has been revoked or has
20 been suspended without being reinstated within the 5 years
21 immediately preceding the filing of the application; or

22 (2) is under the age of 18.

23 (d) Every agency shall post and keep posted at each
24 location, in a position easily accessible to all employees,
25 notices as supplied and required by the Department containing
26 a copy or summary of the provisions of the Act and a notice

1 which informs the public of a toll-free telephone number for
2 day or temporary laborers and the public to file wage dispute
3 complaints and other alleged violations by day and temporary
4 labor service agencies. Such notices shall be in English or
5 any other language generally understood in the locale of the
6 day and temporary labor service agency.

7 (Source: P.A. 100-517, eff. 6-1-18.)

8 (820 ILCS 175/50)

9 Sec. 50. Violations. The Department shall have the
10 authority to deny, suspend, or revoke the registration of a
11 day and temporary labor service agency if warranted by public
12 health and safety concerns or violations of this Act. The
13 Attorney General, pursuant to its authority under Section 6.3
14 of the Attorney General Act, may request that a circuit court
15 suspend or revoke the registration of a day and temporary
16 labor service agency when warranted by public health concern
17 or violations of this Act. The Attorney General shall provide
18 notice to the Director prior to requesting the suspension or
19 revocation of the registration of a day and temporary labor
20 service agency.

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

22 (820 ILCS 175/55)

23 Sec. 55. Enforcement by the Department.

24 (a) It shall be the duty of the Department to enforce the

1 provisions of this Act. The Department shall have the power to
2 conduct investigations in connection with the administration
3 and enforcement of this Act and any investigator with the
4 Department shall be authorized to visit and inspect, at all
5 reasonable times, any places covered by this Act and shall be
6 authorized to inspect, at all reasonable times, contracts for
7 the employment of all day or temporary laborers entered into
8 by a third party client if the Department has received a
9 complaint indicating that the third party client may have
10 contracted with a day and temporary labor service agency that
11 is not registered under this Act. The Department shall conduct
12 hearings in accordance with the Illinois Administrative
13 Procedure Act upon written complaint by an investigator of the
14 Department or any interested person of a violation of the Act.
15 After the hearing, if supported by the evidence, the
16 Department may (i) issue and cause to be served on any party an
17 order to cease and desist from further violation of the Act,
18 (ii) take affirmative or other action as deemed reasonable to
19 eliminate the effect of the violation, (iii) deny, suspend, or
20 revoke any registration under this Act, and (iv) determine the
21 amount of any civil penalty allowed by the Act. The Director of
22 Labor or his or her representative may compel, by subpoena,
23 the attendance and testimony of witnesses and the production
24 of books, payrolls, records, papers, and other evidence in any
25 investigation or hearing and may administer oaths to
26 witnesses. Nothing in this Act applies to labor or employment

1 of a clerical or professional nature.

2 (b) If action has been initiated by an interested party as
3 to any violations pursuant to this Section, the Department
4 shall defer launching any investigation of the same such
5 violations until the conclusion of the civil matter. The
6 Department may intervene in the civil matter as a party in
7 interest at any time. Intervention by the Department shall not
8 alter the rights of the interested party under Section 67.

9 (c) Nothing in this Section shall in any way prevent or
10 delay a day or temporary laborer or his or her representatives
11 or an interested party from bringing an action to enforce
12 rights pursuant to Section 95.

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

14 (820 ILCS 175/67 new)

15 Sec. 67. Action for civil penalties brought by an
16 interested party.

17 (a) Upon a reasonable belief that a day and temporary
18 labor service agency or a third party client covered by this
19 Act is in violation of any part of this Act, an interested
20 party may file suit against the covered entity in a circuit
21 court, in any county where some or all the alleged offenses
22 occurred, without regard to exhaustion of any alternative
23 administrative remedies provided in this Act. The interested
24 party shall provide notice to the Director at the time of the
25 filing of an action.

1 (b) In an action brought pursuant to this Section, an
2 interested party may recover against the covered entity any
3 statutory penalties set forth in Section 70 and injunctive
4 relief. An interested party who prevails shall receive 10% of
5 any statutory penalties assessed, plus any attorney's fees and
6 expenses in bringing the action. The remaining 90% of any
7 statutory penalties assessed shall be deposited into the Child
8 Labor and Day and Temporary Labor Services Enforcement Fund
9 and shall be used exclusively for enforcement of this Act by
10 the Department.

11 (c) If the Department has already initiated an
12 investigation of any alleged violation of the Act and that
13 investigation is ongoing at the time a civil action is filed,
14 the civil action shall be stayed as to those violations until
15 the Department has completed its investigation and any related
16 enforcement or has granted a waiver in writing to the
17 interested party to proceed with a civil action. Recovery by
18 the Department of civil penalties under Section 70 for any
19 violation of the Act shall be an absolute defense to the civil
20 action by an interested party as to those violations only.

21 (d) The right of an interested party to bring an action
22 under this Section terminates upon the passing of 3 years from
23 the latest date of the violation. This period is tolled for the
24 period a civil action under this Section is stayed pending the
25 outcome of an investigation by the Department.

26 (e) Nothing in this Section shall in any way prevent or

1 delay a day or temporary laborer or his or her representatives
2 or an interested party from bringing an action to enforce
3 rights pursuant to Section 95.

4 (820 ILCS 175/70)

5 Sec. 70. Penalties.

6 (a) A day and temporary labor service agency or third
7 party client that violates any of the provisions of this Act or
8 any rule adopted under this Act shall be subject to a civil
9 penalty of not less than \$100 and not more than ~~to exceed~~
10 \$1,000 ~~\$6,000~~ for each violation ~~violations~~ found in the first
11 audit by the Department or determined by a court in a civil
12 action brought by an interested party, or determined by a
13 court in a civil action brought by the Attorney General
14 pursuant to its authority under Section 6.3 of the Attorney
15 General Act. Following a first audit or civil action, a day and
16 temporary labor service agency or third party client shall be
17 subject to a civil penalty of not less than \$500 and not more
18 than ~~to exceed~~ \$2,500 for each repeat violation found by the
19 Department or circuit court within 3 years. For purposes of
20 this subsection, each violation of this Act for each day or
21 temporary laborer and for each day the violation continues
22 shall constitute a separate and distinct violation. In
23 determining the amount of a penalty, the Director or circuit
24 court shall consider the appropriateness of the penalty to the
25 day and temporary labor service agency or third party client

1 charged, upon the determination of the gravity of the
2 violations. For any violation determined by the Department or
3 circuit court to be willful which is within 3 years of an
4 earlier violation, the Department may revoke the registration
5 of the violator, if the violator is a day and temporary labor
6 service agency. The amount of the penalty, when finally
7 determined, may be:

8 (1) Recovered in a civil action brought by the
9 Director of Labor in any circuit court. In this
10 litigation, the Director of Labor shall be represented by
11 the Attorney General.

12 (2) Ordered by the court, in an action brought by any
13 party, including the Attorney General pursuant to its
14 authority under Section 6.3 of the Attorney General Act,
15 for a violation under this Act, to be paid to the Director
16 of Labor.

17 (b) The Department shall adopt rules for violation
18 hearings and penalties for violations of this Act or the
19 Department's rules in conjunction with the penalties set forth
20 in this Act.

21 Any administrative determination by the Department as to
22 the amount of each penalty shall be final unless reviewed as
23 provided in Section 60 of this Act.

24 (Source: P.A. 96-1185, eff. 7-22-10.)

1 Sec. 85. Third party clients.

2 (a) It is a violation of this Act for a third party client
3 to enter into a contract for the employment of day or temporary
4 laborers with any day and temporary labor service agency not
5 registered under Section 45 of this Act. A third party client
6 has a duty to verify a day and temporary labor service agency's
7 status with the Department before entering into a contract
8 with such an agency, and on March 1 and September 1 of each
9 year. A day and temporary labor service agency shall be
10 required to provide each of its third party clients with proof
11 of valid registration issued by the Department at the time of
12 entering into a contract. A day and temporary labor service
13 agency shall be required to notify, both by telephone and in
14 writing, each day or temporary laborer it employs and each
15 third party client with whom it has a contract within 24 hours
16 of any denial, suspension, or revocation of its registration
17 by the Department. All contracts between any day and temporary
18 labor service agency and any third party client shall be
19 considered null and void from the date any such denial,
20 suspension, or revocation of registration becomes effective
21 and until such time as the day and temporary labor service
22 agency becomes registered and considered in good standing by
23 the Department as provided in Section 50 and Section 55. Upon
24 request, the Department shall provide to a third party client
25 a list of entities registered as day and temporary labor
26 service agencies. The Department shall provide on the Internet

1 a list of entities registered as day and temporary labor
2 service agencies. A third party client may rely on information
3 provided by the Department or maintained on the Department's
4 website pursuant to Section 45 of this Act and shall be held
5 harmless if such information maintained or provided by the
6 Department was inaccurate. Any third party client that
7 violates this provision of the Act is subject to a civil
8 penalty of not less than \$100 and not to exceed \$1,000 ~~\$500~~.
9 Each day during which a third party client contracts with a day
10 and temporary labor service agency not registered under
11 Section 45 of this Act shall constitute a separate and
12 distinct offense.

13 (b) If a third party client leases or contracts with a day
14 and temporary service agency for the services of a day or
15 temporary laborer, the third party client shall share all
16 legal responsibility and liability for the payment of wages
17 under the Illinois Wage Payment and Collection Act and the
18 Minimum Wage Law.

19 (c) Whenever a day or temporary laborer is assigned to
20 work at a third party client, the day or temporary laborer
21 shall receive training on all machinery that the day or
22 temporary laborer is required to operate or work on in the
23 vicinity of where reasonable precautions would be expected to
24 be taken equivalent to any training provided to directly hired
25 employees of the third party client who operate the same or
26 substantially similar machinery in advance of the day or

1 temporary laborer operating or working in the vicinity of such
2 machinery. The third party client and day and temporary labor
3 service agency shall jointly have a duty to ensure that such
4 training is provided in advance of any work performed by a day
5 or temporary laborer. Failure to provide the training
6 prescribed in this Section constitutes a health and safety
7 violation by the third party client and the day and temporary
8 labor service agency under Section 95 in addition to any other
9 relief available to the day or temporary laborer under law.

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

11 (820 ILCS 175/87 new)

12 Sec. 87. Prohibition against abusive contracts.

13 (a) Any contract entered into between a day or temporary
14 laborer and a day and temporary labor service agency or third
15 party client that in any way limits or affects the day or
16 temporary laborer's ability to enforce rights under this Act,
17 including the venue for enforcement, or other workplace-based
18 rights under Illinois law must meet the following criteria to
19 be valid and enforceable:

20 (1) the contract must be in writing and executed by
21 original, ink signatures with a hard copy given to the day
22 or temporary laborer;

23 (2) the contract must be signed by any party that
24 seeks to bind the day or temporary laborer to the
25 agreement;

1 (3) the contract must be valid only for the term of the
2 day or temporary laborer's current assignment to a client
3 company and expires after the assignment concludes;

4 (4) the original contract must be maintained and
5 produced in any proceeding to enforce the terms of the
6 contract; and

7 (5) if any provision of such a contract is deemed
8 unenforceable under Illinois law, the entire agreement
9 must be unenforceable.

10 (b) Any contract entered into between a temporary labor
11 service agency and any third party client that may impact a day
12 or temporary laborer's wages, ability to work at another day
13 and temporary labor service agency or third party client
14 company must be disclosed and a copy provided to each day or
15 temporary laborer in a language that the day or temporary
16 laborer understands within 7 days after the contract goes into
17 effect or impacts the day or temporary laborer.

18 (c) The failure by a day and temporary labor service
19 agency or client company to provide any of the information
20 required by this Section shall constitute a notice violation
21 under Section 95. The failure to provide each piece of
22 information required by this Section at each time it is
23 required by this Section shall constitute a separate and
24 distinct notice violation.

1 Sec. 90. Retaliation.

2 (a) Prohibition. It is a violation of this Act for a day
3 and temporary labor service agency or third party client, or
4 any agent of a day and temporary labor service agency or third
5 party client, to retaliate through removal from an assignment,
6 a failure to assign, discharge, or ~~in~~ any other manner of
7 negative job actions against any day or temporary laborer for
8 exercising any rights granted under this Act. Such retaliation
9 shall subject a day and temporary labor service agency or
10 third party client, or both, to civil penalties pursuant to
11 this Act or a private cause of action.

12 (b) Protected Acts from Retaliation. It is a violation of
13 this Act for a day and temporary labor service agency or third
14 party client to retaliate against a day or temporary laborer
15 for:

16 (1) making a complaint to a day and temporary labor
17 service agency, to a third party client, to a co-worker,
18 to a community organization, before a public hearing, or
19 to a State or federal agency that rights guaranteed under
20 this Act have been violated;

21 (2) causing to be instituted any proceeding under or
22 related to this Act; ~~or~~

23 (3) testifying or preparing to testify in an
24 investigation or proceeding under this Act; or

25 (4) refusing an assignment to any place where a
26 strike, a lockout, or other labor trouble exists.

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

2 (820 ILCS 175/95)

3 Sec. 95. Private Right of Action.

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

24 (1) in the case of a wage and hour violation, the
25 amount of any wages, salary, employment benefits, or other

1 compensation denied or lost to the day or temporary
2 laborer or day and temporary labor service agency by
3 reason of the violation, plus an equal amount in
4 liquidated damages;

5 (2) in the case of a health and safety or notice
6 violation, compensatory damages and an amount of not less
7 than \$100 but not more than \$1,000 for each ~~up to \$500 for~~
8 ~~the~~ violation of each subpart of each Section;

9 (3) in the case of unlawful retaliation, the greater
10 of all legal or equitable relief as may be appropriate or
11 liquidated damages equal to \$25,000 per incident of
12 retaliation, at the selection of the aggrieved person, and
13 reinstatement, if appropriate; and

14 (4) attorney's fees and costs.

15 (a-5) Upon a reasonable belief that a day and temporary
16 labor service agency has violated any provision of this Act,
17 an interested party shall have the right to bring an action for
18 any such violation on the same basis as an aggrieved day or
19 temporary laborer provided in subsection (a), except that the
20 interested party need not be aggrieved in order to:

21 (1) disgorge, in the case of a wage and hour
22 violation, any financial benefit to the employer from
23 unpaid wages in the amount of all unpaid wages, plus
24 statutory interest and statutory damages and attorneys'
25 fees and costs as provided herein and in the Minimum Wage
26 Law and Wage Payment and Collection Act; and

1 (2) pursue, in the case of a health and safety or
2 notice violation, an amount of not less than \$100 but not
3 more than \$1,000 for each violation of each subpart of
4 each Section.

5 An interested party may bring an action to disgorge the
6 amounts provided in paragraphs (1) and (2) for similarly
7 situated employees of the day and temporary labor service
8 agency who do not request to exclude themselves from the
9 proceeding. In adjudicating an action involving a class of
10 similarly situated employees brought under this subsection,
11 the circuit court shall apply the procedures set forth in Part
12 8 of Article II of the Code of Civil Procedure, except that
13 there shall be no requirement that the interested party have a
14 claim or claims that are common to or are typical of the
15 members of the class. Any funds for unpaid wages, statutory
16 interest or statutory damages disgorged from an employer and
17 awarded in an action brought under this subsection shall be
18 distributed to all employees, other than those who exclude
19 themselves from the action pursuant to the procedure set forth
20 in subsection (b) of Section 2-804 of the Code of Civil
21 Procedure, in proportion to the amount of each employee's
22 unpaid wages.

23 (b) The right of an aggrieved person to bring an action
24 under this Section terminates upon the passing of 3 years from
25 the final date of employment by the day and temporary labor
26 agency or the third party client or upon the passing of 3 years

1 from the date of termination of the contract between the day
2 and temporary labor service agency and the third party client.
3 This limitations period is tolled if a day labor employer has
4 deterred a day and temporary labor service agency or day or
5 temporary laborer's exercise of rights under this Act by
6 contacting or threatening to contact law enforcement agencies.
7 The right of an interested party to bring an action under this
8 Section on behalf of a day or temporary laborer, a group of day
9 or temporary laborers, or a class of day or temporary laborers
10 terminates 3 years after the date of termination of the
11 contract between the day and temporary labor service agency
12 and the third party client.

13 (Source: P.A. 96-1185, eff. 7-22-10.)

14 Section 99. Effective date. This Act takes effect July 1,
15 2023."