

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by changing
5 Section 8h as follows:

6 (30 ILCS 105/8h)

7 Sec. 8h. Transfers to General Revenue Fund.

8 (a) Except as provided in subsection (b), notwithstanding
9 any other State law to the contrary, the Governor may, through
10 June 30, 2007, from time to time direct the State Treasurer and
11 Comptroller to transfer a specified sum from any fund held by
12 the State Treasurer to the General Revenue Fund in order to
13 help defray the State's operating costs for the fiscal year.
14 The total transfer under this Section from any fund in any
15 fiscal year shall not exceed the lesser of (i) 8% of the
16 revenues to be deposited into the fund during that fiscal year
17 or (ii) an amount that leaves a remaining fund balance of 25%
18 of the July 1 fund balance of that fiscal year. In fiscal year
19 2005 only, prior to calculating the July 1, 2004 final
20 balances, the Governor may calculate and direct the State
21 Treasurer with the Comptroller to transfer additional amounts
22 determined by applying the formula authorized in Public Act
23 93-839 to the funds balances on July 1, 2003. No transfer may
24 be made from a fund under this Section that would have the
25 effect of reducing the available balance in the fund to an
26 amount less than the amount remaining unexpended and unreserved
27 from the total appropriation from that fund estimated to be
28 expended for that fiscal year. This Section does not apply to
29 any funds that are restricted by federal law to a specific use,
30 to any funds in the Motor Fuel Tax Fund, the Hospital Provider
31 Fund, the Medicaid Provider Relief Fund, or the Reviewing Court
32 Alternative Dispute Resolution Fund, or to any funds to which

1 subsection (f) of Section 20-40 of the Nursing and Advanced
2 Practice Nursing Act applies. Notwithstanding any other
3 provision of this Section, for fiscal year 2004, the total
4 transfer under this Section from the Road Fund or the State
5 Construction Account Fund shall not exceed the lesser of (i) 5%
6 of the revenues to be deposited into the fund during that
7 fiscal year or (ii) 25% of the beginning balance in the fund.
8 For fiscal year 2005 through fiscal year 2007, no amounts may
9 be transferred under this Section from the Road Fund, the State
10 Construction Account Fund, the Criminal Justice Information
11 Systems Trust Fund, the Wireless Service Emergency Fund, or the
12 Mandatory Arbitration Fund.

13 In determining the available balance in a fund, the
14 Governor may include receipts, transfers into the fund, and
15 other resources anticipated to be available in the fund in that
16 fiscal year.

17 The State Treasurer and Comptroller shall transfer the
18 amounts designated under this Section as soon as may be
19 practicable after receiving the direction to transfer from the
20 Governor.

21 (b) This Section does not apply to: (i) any fund
22 established under the Community Senior Services and Resources
23 Act; or (ii) on or after the effective date of this amendatory
24 Act of the 94th General Assembly, the Child Labor and Day and
25 Temporary Labor Enforcement Fund.

26 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674,
27 eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04;
28 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; 93-1067, eff.
29 1-15-05.)

30 Section 10. The Day and Temporary Labor Services Act is
31 amended by changing Sections 5, 10, 15, 20, 25, 30, 35, 40, 45,
32 50, 55, 70, 75, and 85 and adding Sections 2, 12, 90, 95, and 97
33 as follows:

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

3 Over 300,000 workers work as day or temporary laborers in
4 Illinois.

5 Approximately 150 day labor and temporary labor service
6 agencies with nearly 600 branch offices are licensed throughout
7 Illinois. In addition, there is a large, though unknown, number
8 of unlicensed day labor and temporary labor service agencies
9 that operate outside the radar of law enforcement.

10 Recent studies and a survey of low-wage day or temporary
11 laborers themselves finds that as a group, they are
12 particularly vulnerable to abuse of their labor rights,
13 including unpaid wages, failure to pay for all hours worked,
14 minimum wage and overtime violations, and unlawful deduction
15 from pay for meals, transportation, equipment and other items.

16 Current law is inadequate to protect the labor and
17 employment rights of these workers.

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

23 (820 ILCS 175/5)

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

25 "Day or temporary laborer" means a natural person who
26 contracts for employment with a day and temporary labor service
27 agency.

28 "Day and temporary labor" means labor or employment that is
29 occasional or irregular at which a person is employed for not
30 longer than the time period required to complete the assignment
31 for which the person was hired and where wage payments are made
32 directly or indirectly by the day and temporary labor service
33 agency or the third party client ~~employer~~ for work undertaken
34 by day or temporary laborers pursuant to a contract between the
35 day and temporary labor service agency with the third party

1 ~~client employer~~. "Day and temporary labor" does not include
2 labor or employment of a professional or 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 employer~~ pursuant to a contract with the day and
7 temporary labor service and the third party ~~client employer~~.

8 "Department" means the Department of Labor.

9 "Third party ~~client employer~~" means any person that
10 contracts with a day and temporary labor service agency for
11 ~~obtaining the employment of~~ day or 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. 91-579, eff. 1-1-00; 92-783, eff. 1-1-03.)

17 (820 ILCS 175/10)

18 Sec. 10. Employment Notice Statement.

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, ~~upon request by a day or temporary laborer, at~~
23 the time of dispatch, ~~provide to the day or temporary laborer a~~
24 statement containing the following items on a form approved by
25 the Department:

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

27 (2) the name ~~"Name~~ and nature of the work to be
28 performed;"

29 (3) the ~~"wages offered;~~

30 (4) the name and address of the destination of each day
31 or temporary laborer; ~~"~~, ~~"destination of the person~~
32 ~~employed"~~,

33 (5) terms ~~"terms~~ of transportation;", and

34 (6) whether ~~whether~~ a meal or ~~and~~ equipment, or both,
35 ~~is~~ provided, either by the day and temporary labor service

1 agency or the third party client ~~employer~~, and the cost of
2 the meal and equipment, if any.

3 If a day or temporary laborer is assigned to the same
4 assignment for more than one day, the day and temporary labor
5 service agency is required to provide the employment notice
6 only on the first day of the assignment and on any day that any
7 of the terms listed on the employment notice are changed.

8 If the day or temporary laborer is not placed with a third
9 party client or otherwise contracted to work for that day, the
10 day and temporary labor service agency shall, upon request,
11 provide the day and temporary laborer with a confirmation that
12 the day or temporary laborer sought work, signed by an employee
13 of the day and temporary labor service agency, which shall
14 include the name of the agency, the name and address of the day
15 or temporary laborer, and the date and the time that the day or
16 temporary laborer receives the confirmation.

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

20 (c) The Department shall recommend to day and temporary
21 labor service agencies that those agencies employ personnel who
22 can effectively communicate information required in
23 subsections (a) and (b) to day or temporary laborers in
24 Spanish, Polish, or any other language that is generally
25 understood ~~used~~ in the locale of the day and temporary labor
26 service agency.

27 (Source: P.A. 92-783, eff. 1-1-03; 93-375, eff. 1-1-04.)

28 (820 ILCS 175/12 new)

29 Sec. 12. Recordkeeping.

30 (a) Whenever a day and temporary labor service agency sends
31 one or more persons to work as day or temporary laborers, the
32 day and temporary labor service agency shall keep the following
33 records relating to that transaction:

34 (1) the name, address and telephone number of each
35 third party client, including each worksite, to which day

1 or temporary laborers were sent by the agency and the date
2 of the transaction;

3 (2) for each day or temporary laborer: the name and
4 address, the specific location sent to work, the type of
5 work performed, the number of hours worked, the hourly rate
6 of pay and the date sent;

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

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

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

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

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

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

25 (9) the race and gender of each day or temporary
26 laborer sent by the day and temporary labor service agency,
27 as provided by the day or temporary laborer; and

28 (10) any additional information required by rules
29 issued by the Department.

30 (b) The day and temporary labor service agency shall
31 maintain all records under this Section for a period of 3 years
32 from their creation. The records shall be open to inspection by
33 the Department during normal business hours. Records described
34 in paragraphs (1), (2), (3), (6), (7), and (8) of subsection
35 (a) shall be available for review or copying by that day or
36 temporary laborer during normal business hours within 5 days

1 following a written request. In addition, a day and temporary
2 labor service agency shall make records related to the number
3 of hours billed to a third party client for that individual day
4 or temporary laborer's hours of work available for review or
5 copying during normal business hours within 5 days following a
6 written request. The day and temporary labor service agency
7 shall make forms, in duplicate, for such requests available to
8 day or temporary laborers at the dispatch office. The day or
9 temporary laborer shall be given a copy of the request form. It
10 is a violation of this Section to make any false, inaccurate or
11 incomplete entry into any record required by this Section, or
12 to delete required information from any such record.

13 (820 ILCS 175/15)

14 Sec. 15. Meals. A day and temporary labor service agency or
15 a third party client ~~employer~~ shall not charge a day or
16 temporary laborer for any meal not consumed by the day and
17 temporary laborer and, if consumed, no more than the actual
18 cost of a meal. In no case shall the purchase of a meal be a
19 condition of employment for a day or temporary laborer.

20 (Source: P.A. 91-579, eff. 1-1-00; 92-783, eff. 1-1-03.)

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 ~~employer~~ shall
25 charge no fee ~~more than the actual cost~~ to transport a day or
26 temporary laborer to or from the designated work site.

27 (b) A day and temporary labor service agency is responsible
28 for the conduct and performance of any person who transports a
29 day or temporary laborer from the agency to a work site, unless
30 the transporter is: (1) a public mass transportation system as
31 defined in Section 2 of the Local Mass Transit District Act;
32 (2) a common carrier; (3) the day or temporary laborer
33 providing his or her own transportation; or (4) selected
34 exclusively by and at the sole choice of the day or temporary

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

19 (c) A day and temporary labor service agency may not refer
20 a day or temporary laborer to any person for transportation to
21 a work site unless that person is (1) a public mass
22 transportation system as defined in Section 2 of the Local Mass
23 Transit District Act or (2) providing the transportation at no
24 fee. Directing the day or temporary laborer to accept a
25 specific car pool as a condition of work shall be considered a
26 referral by the day and temporary labor service agency. Any
27 mention or discussion of the cost of a car pool shall be
28 considered a referral by the agency. Informing a day or
29 temporary laborer of the availability of a car pool driven by
30 another day or temporary laborer shall not be considered a
31 referral by the agency.

32 (d) ; however, the total cost to each day or temporary
33 laborer shall not exceed 3% of the day or temporary laborer's
34 daily wages. Any motor vehicle that is owned or operated by the
35 day and temporary labor service agency or a third party client
36 employer, or a contractor or agent of either, or to which a day

1 and temporary labor service agency refers a day or temporary
2 laborer, which is used for the transportation of day or
3 temporary laborers shall have proof of financial
4 responsibility as provided for in Chapter 8 of the Illinois
5 Vehicle Code or as required by Department rules. The driver of
6 the vehicle shall hold a valid license to operate motor
7 vehicles in the correct classification and shall be required to
8 produce the license immediately upon demand by the Department,
9 its inspectors or deputies, or any other person authorized to
10 enforce this Act. The Department shall forward a violation of
11 this subsection to the appropriate law enforcement authorities
12 or regulatory agencies, whichever is applicable.

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

23 (Source: P.A. 91-579, eff. 1-1-00; 92-783, eff. 1-1-03.)

24 (820 ILCS 175/25)

25 Sec. 25. Day or temporary laborer equipment. For any safety
26 equipment, clothing, accessories, or any other items required
27 by the nature of the work, either by law, custom, or as a
28 requirement of the third party client ~~employer~~, the day and
29 temporary labor service agency or the third party client
30 ~~employer~~ may charge the day or temporary laborer the market
31 value of the item temporarily provided to the day or temporary
32 laborer by the third party client ~~employer~~ if the day or
33 temporary laborer fails to return such items to the third party
34 client ~~employer~~ or the day and temporary labor service agency.
35 For any other equipment, clothing, accessories, or any other

1 items the day and temporary labor service agency makes
2 available for purchase, the day or temporary laborer shall not
3 be charged more than the actual market value for the item.

4 (Source: P.A. 91-579, eff. 1-1-00; 92-783, eff. 1-1-03.)

5 (820 ILCS 175/30)

6 Sec. 30. Wage Payment and Notice.

7 (a) At the time of ~~the~~ payment of wages, a day and
8 temporary labor service agency shall provide each day or
9 temporary laborer with a detailed an itemized statement, on the
10 day or temporary laborer's paycheck stub or on a form approved
11 by the Department, listing the following:

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

19 (2) the number of hours worked by the day or temporary
20 laborer at each third party client each day during the pay
21 period;

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

24 (4) the total pay period earnings;

25 (5) all deductions made from the day or temporary
26 laborer's compensation made either by the third party
27 client or by the day and temporary labor service agency,
28 and the purpose for which deductions were made, including
29 for the day or temporary laborer's transportation, food,
30 equipment, withheld income tax, withheld social security
31 payments, and every other deduction; and

32 (6) any additional information required by rules
33 issued by the Department showing in detail each deduction
34 made from the wages.

35 (a-1) For each day or temporary laborer who is contracted

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

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

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

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

3 (d) No day and temporary labor service agency shall charge
4 any day or temporary laborer for cashing a check issued by the
5 agency for wages earned by a day or temporary laborer who
6 performed work through that agency.

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

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

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

32 (Source: P.A. 91-579, eff. 1-1-00; 92-783, eff. 1-1-03.)

33 (820 ILCS 175/35)

34 Sec. 35. Public Access Area. Each day and temporary labor
35 service agency shall provide adequate seating in the public

1 access area of the offices of the agency. The public access
2 area shall be the location for the ~~employment and wage~~ notices
3 required by Section 45 40 of this Act and any other State or
4 federally mandated posting. The public access area shall allow
5 for access to restrooms and water.

6 (Source: P.A. 91-579, eff. 1-1-00; 92-783, eff. 1-1-03.)

7 (820 ILCS 175/40)

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

1 testing, and a job interview. No fee provided for under this
2 Section may be assessed or collected by the day and temporary
3 labor service agency when the day or temporary laborer is
4 offered permanent work following the suspension or revocation
5 of the day and temporary labor service agency's registration by
6 the Department. Nothing in this Section shall restrict a day
7 and temporary labor service agency from receiving a placement
8 fee from the third party employer for employing a day or
9 temporary laborer for whom a contract for work was effected by
10 the day and temporary labor service agency.

11 (Source: P.A. 91-579, eff. 1-1-00; 92-783, eff. 1-1-03.)

12 (820 ILCS 175/45)

13 Sec. 45. Registration; Department of Labor.

14 (a) A day and temporary labor service agency which is
15 located, operates or transacts business within this State shall
16 register with the Department of Labor in accordance with rules
17 adopted by the Department for day and temporary labor service
18 agencies and shall be subject to this Act and any rules adopted
19 under this Act that operate within the State. Each day and
20 temporary labor service agency shall provide proof of an
21 employer account number issued by the Department of Employment
22 Security for the payment of unemployment insurance
23 contributions as required under the Unemployment Insurance
24 Act, and proof of valid workers' compensation insurance in
25 effect at the time of registration covering all of its
26 employees. If, at any time, a day and temporary labor service
27 agency's workers' compensation insurance coverage lapses, the
28 agency shall have an affirmative duty to report the lapse of
29 such coverage to the Department and the agency's registration
30 shall be suspended until the agency's workers' compensation
31 insurance is reinstated. The Department may assess each day and
32 temporary labor service agency a non-refundable registration
33 fee not exceeding \$1,000 ~~\$250~~ per year per agency and a
34 non-refundable fee not to exceed \$250 for each branch office or
35 other location where the agency regularly contracts with day or

1 temporary laborers for services. The fee may be paid by check
2 or money order and the Department may not refuse to accept a
3 check on the basis that it is not a certified check or a
4 cashier's check. The Department may charge an additional fee to
5 be paid by a day and temporary labor service ~~an~~ agency if the
6 agency, or any person on the agency's behalf, issues or
7 delivers a check to the Department that is not honored by the
8 financial institution upon which it is drawn. The Department
9 shall also adopt rules for violation hearings and penalties for
10 violations of this Act or the Department's rules in conjunction
11 with the ~~finer and~~ penalties set forth in this Act.

12 (b) It is a violation of this Act to operate a day and
13 temporary labor service agency without first registering with
14 the Department in accordance with subsection (a) of this
15 Section. The Department shall create and maintain at regular
16 intervals on its website, accessible to the public: (1) a list
17 of all registered day and temporary labor service agencies in
18 the State whose registration is in good standing; (2) a list of
19 day and temporary labor service agencies in the State whose
20 registration has been suspended, including the reason for the
21 suspension, the date the suspension was initiated, and the
22 date, if known, the suspension is to be lifted; and (3) a list
23 of day and temporary labor service agencies in the State whose
24 registration has been revoked, including the reason for the
25 revocation and the date the registration was revoked. The
26 Department has the authority to assess a penalty against any
27 day and temporary labor service agency that fails to register
28 with the Department of Labor in accordance with this Act or any
29 rules adopted under this Act of \$500 for each violation. Each
30 day during which a day and temporary labor service agency
31 operates without registering with the Department shall be a
32 separate and distinct violation of this Act.

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

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

6 (2) is under the age of 18.

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

18 (Source: P.A. 91-579, eff. 1-1-00; 92-783, eff. 1-1-03.)

19 (820 ILCS 175/50)

20 Sec. 50. Violations. The Department shall have the
21 authority to deny, suspend, or revoke the registration of a day
22 and temporary labor service agency if warranted by public
23 health and safety concerns or violations of this Act.

24 (Source: P.A. 91-579, eff. 1-1-00; 92-783, eff. 1-1-03.)

25 (820 ILCS 175/55)

26 Sec. 55. Enforcement. It shall be the duty of the
27 Department to enforce the provisions of this Act. The
28 Department shall have the power to conduct investigations in
29 connection with the administration and enforcement of this Act
30 and any investigator with the Department shall be authorized to
31 visit and inspect, at all reasonable times, any places covered
32 by this Act and shall be authorized to inspect, at all
33 reasonable times, contracts for the employment of all day or
34 temporary laborers entered into by a third party client

1 ~~employer~~ if the Department has received a complaint indicating
2 that the third party client ~~employer~~ may have contracted with a
3 day and temporary labor service agency that is not registered
4 under this Act. The Department shall conduct hearings in
5 accordance with the Illinois Administrative Procedure Act upon
6 written complaint by an investigator of the Department or any
7 interested person of a violation of the Act. After the hearing,
8 if supported by the evidence, the Department may (i) issue and
9 cause to be served on any party an order to cease and desist
10 from further violation of the Act, (ii) take affirmative or
11 other action as deemed reasonable to eliminate the effect of
12 the violation, (iii) deny, suspend, or revoke any registration
13 under this Act, and (iv) determine the amount of any civil
14 penalty allowed by the Act. The Director of Labor or his or her
15 representative may compel, by subpoena, the attendance and
16 testimony of witnesses and the production of books, payrolls,
17 records, papers, and other evidence in any investigation or
18 hearing and may administer oaths to witnesses, ~~however,~~
19 ~~proprietary lists of a day and temporary labor service agency~~
20 ~~are not subject to subpoena.~~ Nothing in this Act applies to
21 labor or employment of a clerical or professional nature.

22 (Source: P.A. 92-783, eff. 1-1-03; 93-441, eff. 1-1-04.)

23 (820 ILCS 175/70)

24 Sec. 70. Penalties.

25 (a) A day and temporary labor service agency that violates
26 any of the provisions of this Act or any rule adopted under
27 this Act concerning registration, transportation, equipment,
28 meals, wages, or waiting rooms shall be subject to a civil
29 penalty not to exceed \$6,000 ~~\$500~~ for ~~any~~ violations found in
30 the first audit by the Department. Following a first audit, a
31 day and temporary labor service agency shall be subject to a
32 civil penalty and not to exceed \$2,500 ~~\$5,000~~ for each repeat
33 violation ~~any violations~~ found in ~~the second audit~~ by the
34 Department within 3 years. For purposes of this subsection,
35 each violation of this Act for each day or temporary laborer

1 and for each day the violation continues shall constitute a
2 separate and distinct violation. ~~For any violations that are~~
3 ~~found in a third audit by the Department that are within 7~~
4 ~~years of the earlier violations, the Department may revoke the~~
5 ~~registration of the violator.~~ In determining the amount of a
6 penalty, the Director shall consider the appropriateness of the
7 penalty to the day and temporary labor service agency charged,
8 upon the determination of the gravity of the violations. For
9 any violation determined by the Department to be willful which
10 is within 3 years of an earlier violation, the Department may
11 revoke the registration of the violator. The amount of the
12 penalty, when finally determined, may be:

13 (1) Recovered in a civil action brought by the Director
14 of Labor in any circuit court. In this litigation, the
15 Director of Labor shall be represented by the Attorney
16 General.

17 (2) Ordered by the court, in an action brought by any
18 party for a violation under this Act, to be paid to the
19 Director of Labor.

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

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

26 (Source: P.A. 92-783, eff. 1-1-03.)

27 (820 ILCS 175/75)

28 Sec. 75. Willful violations.

29 (a) Whoever willfully violates any of the provisions of
30 this Act or any rule adopted under this Act, or whoever
31 obstructs the Department of Labor, its inspectors or deputies,
32 or any other person authorized to inspect places of employment
33 under this Act shall be liable for penalties up to double the
34 statutory amount.

35 (b) Whoever willfully violates any of the provisions of

1 this Act or any rule adopted under this Act which results in an
2 underpayment to a day or temporary laborer shall be liable to
3 the Department for up to 20% of the day and temporary labor
4 service agency's or the third party client's total underpayment
5 and shall also be liable to the employee for punitive damages
6 in the amount of 2% of the amount of any such underpayments for
7 each month following the date of payment during which the
8 underpayments remain unpaid.

9 (c) The Director may promulgate rules for the collection of
10 these penalties. The penalty shall be imposed in cases in which
11 a day and temporary labor service agency's or a third party
12 client's conduct is proven by a preponderance of the evidence
13 to be willful. The penalty may be recovered in a civil action
14 brought by the Director of Labor in any circuit court. In any
15 such action, the Director of Labor shall be represented by the
16 Attorney General. ~~guilty of a Class A misdemeanor. Each day~~
17 ~~during which a violation of this Act continues shall constitute~~
18 ~~a separate and distinct offense, and the employment of any~~
19 ~~person in violation of the Act shall, with respect to each~~
20 ~~person so employed, constitute a separate and distinct offense.~~
21 ~~Whenever, in the opinion of the Department, a violation of the~~
22 ~~Act has occurred, the Department shall report the violation to~~
23 ~~the Attorney General of this State who shall have authority to~~
24 ~~prosecute all reported violations.~~

25 (Source: P.A. 92-783, eff. 1-1-03.)

26 (820 ILCS 175/85)

27 Sec. 85. Third party clients ~~employers~~.

28 (a) It is a violation of this Act for a third party client
29 to enter into a contract ~~Third party employers are prohibited~~
30 ~~from entering into contracts~~ for the employment of day or
31 temporary laborers with any day and temporary labor service
32 agency not registered under Section 45 of this Act. A third
33 party client has a duty to verify a day and temporary labor
34 service agency's status with the Department before entering
35 into a contract with such an agency, and on March 1 and

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

30 (b) If a third party client leases or contracts with a day
31 and temporary service agency for the services of a day or
32 temporary laborer, the third party client shall share all legal
33 responsibility and liability for the payment of wages under the
34 Illinois Wage Payment and Collection Act and the Minimum Wage
35 Law.

36 (Source: P.A. 93-441, eff. 1-1-04.)

1 (820 ILCS 175/90 new)

2 Sec. 90. Retaliation.

3 (a) Prohibition. It is a violation of this Act for a day
4 and temporary labor service agency or third party client, or
5 any agent of a day and temporary labor service agency or third
6 party client, to retaliate through discharge or in any other
7 manner against any day or temporary laborer for exercising any
8 rights granted under this Act. Such retaliation shall subject a
9 day and temporary labor service agency or third party client,
10 or both, to civil penalties pursuant to this Act or a private
11 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, to
18 a community organization, before a public hearing, or to a
19 State or federal agency that rights guaranteed under this
20 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.

25 (820 ILCS 175/95 new)

26 Sec. 95. Private Right of Action.

27 (a) A person aggrieved by a violation of this Act or any
28 rule adopted under this Act by a day and temporary labor
29 service agency or a third party client may file suit in circuit
30 court of Illinois, in the county where the alleged offense
31 occurred or where any day or temporary laborer who is party to
32 the action resides, without regard to exhaustion of any
33 alternative administrative remedies provided in this Act.
34 Actions may be brought by one or more day or temporary laborers

1 for and on behalf of themselves and other day or temporary
2 laborers similarly situated. A day or temporary laborer whose
3 rights have been violated under this Act by a day and temporary
4 labor service agency or a third party client is entitled to
5 collect:

6 (1) in the case of a wage and hour violation, the
7 amount of any wages, salary, employment benefits, or other
8 compensation denied or lost to the day or temporary laborer
9 by reason of the violation, plus an equal amount in
10 liquidated damages;

11 (2) in the case of a health and safety or notice
12 violation, compensatory damages and an amount up to \$500
13 for the violation of each subpart of each Section;

14 (3) in the case of unlawful retaliation, all legal or
15 equitable relief as may be appropriate; and

16 (4) attorney's fees and costs.

17 (b) The right of an aggrieved person to bring an action
18 under this Section terminates upon the passing of 3 years from
19 the final date of employment by the day and temporary labor
20 agency or the third party client. This limitations period is
21 tolled if a day labor employer has deterred a day or temporary
22 laborer's exercise of rights under this Act by contacting or
23 threatening to contact law enforcement agencies.

24 (820 ILCS 175/97 new)

25 Sec. 97. Severability. Should one or more of the provisions
26 of this Act be held invalid, such invalidity shall not affect
27 any of the valid provisions hereof.