



Sen. Miguel del Valle

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09400SB1792sam002

LRB094 08113 WGH 43737 a

1 AMENDMENT TO SENATE BILL 1792

2 AMENDMENT NO. _____. Amend Senate Bill 1792 by replacing
3 everything after the enacting clause with the following:

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

1 effect of reducing the available balance in the fund to an
2 amount less than the amount remaining unexpended and unreserved
3 from the total appropriation from that fund estimated to be
4 expended for that fiscal year. This Section does not apply to
5 any funds that are restricted by federal law to a specific use,
6 to any funds in the Motor Fuel Tax Fund, the Hospital Provider
7 Fund, the Medicaid Provider Relief Fund, or the Reviewing Court
8 Alternative Dispute Resolution Fund, or to any funds to which
9 subsection (f) of Section 20-40 of the Nursing and Advanced
10 Practice Nursing Act applies. Notwithstanding any other
11 provision of this Section, for fiscal year 2004, the total
12 transfer under this Section from the Road Fund or the State
13 Construction Account Fund shall not exceed the lesser of (i) 5%
14 of the revenues to be deposited into the fund during that
15 fiscal year or (ii) 25% of the beginning balance in the fund.
16 For fiscal year 2005 through fiscal year 2007, no amounts may
17 be transferred under this Section from the Road Fund, the State
18 Construction Account Fund, the Criminal Justice Information
19 Systems Trust Fund, the Wireless Service Emergency Fund, or the
20 Mandatory Arbitration Fund.

21 In determining the available balance in a fund, the
22 Governor may include receipts, transfers into the fund, and
23 other resources anticipated to be available in the fund in that
24 fiscal year.

25 The State Treasurer and Comptroller shall transfer the
26 amounts designated under this Section as soon as may be
27 practicable after receiving the direction to transfer from the
28 Governor.

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

34 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674,

1 eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04;
2 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; 93-1067, eff.
3 1-15-05.)

4 Section 10. The Day and Temporary Labor Services Act is
5 amended by changing Sections 5, 10, 15, 20, 30, 35, 40, 45, 50,
6 55, 70, 75, and 85 and adding Sections 2, 12, 90, 95, and 97 as
7 follows:

8 (820 ILCS 175/2 new)

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

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

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

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

24 Current law is inadequate to protect the labor and
25 employment rights of these workers.

26 At the same time, in Illinois and in other states,
27 democratically run nonprofit day labor centers, which charge no
28 fee for their services, have been established to provide an
29 alternative for day or temporary laborers to soliciting work on
30 street corners. These centers are not subject to this Act.

31 (820 ILCS 175/5)

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

2 "Day or temporary laborer" means a natural person who
3 contracts for employment with a day and temporary labor service
4 agency.

5 "Day and temporary labor" means labor or employment that is
6 occasional or irregular at which a person is employed for not
7 longer than the time period required to complete the assignment
8 for which the person was hired and where wage payments are made
9 directly or indirectly by the day and temporary labor service
10 agency or the third party employer for work undertaken by day
11 or temporary laborers pursuant to a contract between the day
12 and temporary labor service agency with the third party
13 employer. "Day and temporary labor" does not include labor or
14 employment of a professional or clerical nature.

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

20 "Department" means the Department of Labor.

21 "Third party employer" means any person that contracts with
22 a day and temporary labor service agency for the employment of
23 day or temporary laborers.

24 "Person" means every natural person, firm, partnership,
25 co-partnership, limited liability company, corporation,
26 association, business trust, or other legal entity, or its
27 legal representatives, agents, or assigns.

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

29 (820 ILCS 175/10)

30 Sec. 10. Employment Notice Statement.

31 (a) Whenever a day and temporary labor service agency
32 agrees to send one or more persons to work as day or temporary
33 laborers, the day and temporary labor service agency shall

1 provide to each, upon request by a day or temporary laborer, at
2 the time of dispatch, provide to the day or temporary laborer a
3 statement containing the following items on a form approved by
4 the Department:

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

6 (2) the name "Name and nature of the work to be
7 performed;"

8 (3) the "wages offered;

9 (4) the name and address of the destination of each day
10 or temporary laborer; ", "destination of the person
11 employed"

12 (5) terms "terms of transportation;" and

13 (6) whether whether a meal or and equipment, or both,
14 is provided, either by the day and temporary labor service
15 agency or the third party employer, and the cost of the
16 meal and equipment, if any.

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

22 If the day or temporary laborer is not placed with a third
23 party employer or otherwise contracted to work for that day,
24 the day and temporary labor service agency shall, upon request,
25 provide the day and temporary laborer with a confirmation that
26 the day or temporary laborer sought work, signed by an employee
27 of the day and temporary labor service agency, which shall
28 include the name of the agency, the name and address of the day
29 or temporary laborer, and the date and the time that the day or
30 temporary laborer receives the confirmation.

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

34 (c) The Department shall recommend to day and temporary

1 labor service agencies that those agencies employ personnel who
2 can effectively communicate information required in
3 subsections (a) and (b) to day or temporary laborers in
4 Spanish, Polish, or any other language that is generally
5 understood ~~used~~ in the locale of the day and temporary labor
6 service agency.

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

8 (820 ILCS 175/12 new)

9 Sec. 12. Recordkeeping.

10 (a) Whenever a day and temporary labor service agency sends
11 one or more persons to work as day or temporary laborers, the
12 day and temporary labor service agency shall keep the following
13 records relating to that transaction:

14 (1) the name, address and telephone number of each
15 third party employer, including each worksite, to which day
16 or temporary laborers were sent by the agency and the date
17 of the transaction;

18 (2) for each day or temporary laborer: the name and
19 address, the specific location sent to work, the type of
20 work performed, the number of hours worked, the hourly rate
21 of pay and the date sent;

22 (3) the name and title of the individual or individuals
23 at each third party employer's place of business
24 responsible for the transaction;

25 (4) any specific qualifications or attributes of a day
26 or temporary laborer, requested by each third party
27 employer;

28 (5) copies of all contracts, if any, with the third
29 party employer and copies of all invoices for the third
30 party employer;

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

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

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

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

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

11 (10) any additional information required by rules
12 issued by the Department.

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

32 (820 ILCS 175/15)

33 Sec. 15. Meals. A day and temporary labor service agency or

1 a third party employer shall not charge a day or temporary
2 laborer for any meal not consumed by the day and temporary
3 laborer and, if consumed, no more than the actual cost of a
4 meal. In no case shall the purchase of a meal be a condition of
5 employment for a day or temporary laborer.

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

7 (820 ILCS 175/20)

8 Sec. 20. Transportation.

9 (a) A day and temporary labor service agency or a third
10 party employer or a contractor or agent of either shall charge
11 no fee ~~more than the actual cost~~ to transport a day or
12 temporary laborer to or from the designated work site.

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

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

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

19 (d) ; however, the total cost to each day or temporary
20 laborer shall not exceed 3% of the day or temporary laborer's
21 daily wages. Any motor vehicle that is owned or operated by the
22 day and temporary labor service agency or a third party
23 employer, or a contractor or agent of either, or to which a day
24 and temporary labor service agency refers a day or temporary
25 laborer, which is used for the transportation of day or
26 temporary laborers shall have proof of financial
27 responsibility as provided for in Chapter 8 of the Illinois
28 Vehicle Code or as required by Department rules. The driver of
29 the vehicle shall hold a valid license to operate motor
30 vehicles in the correct classification and shall be required to
31 produce the license immediately upon demand by the Department,
32 its inspectors or deputies, or any other person authorized to
33 enforce this Act. The Department shall forward a violation of
34 this subsection to the appropriate law enforcement authorities

1 or regulatory agencies, whichever is applicable.

2 (e) No motor vehicle that is owned or operated by the day
3 and temporary labor service agency or a third party employer,
4 or a contractor or agent of either, or to which a day and
5 temporary labor service agency refers a day or temporary
6 laborer, which is used for the transportation of day or
7 temporary laborers may be operated if it is occupied by more
8 passengers than recommended by the manufacturer of the vehicle
9 if the vehicle is manufactured as a passenger vehicle. If the
10 vehicle is manufactured for use other than as a passenger
11 vehicle, then it may not accommodate more passengers than
12 provided for by the manufacturer in passenger vehicles of like
13 style or rating. The Department shall forward a violation of
14 this subsection to the appropriate law enforcement authorities
15 or regulatory agencies, whichever is applicable.

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

17 (820 ILCS 175/30)

18 Sec. 30. Wage Payment and Notice.

19 (a) At the time of ~~the~~ payment of wages, a day and
20 temporary labor service agency shall provide each day or
21 temporary laborer with a detailed ~~an~~ itemized statement, on the
22 day or temporary laborer's paycheck stub or on a form approved
23 by the Department, listing the following:

24 (1) the name, address, and telephone number of each
25 third party employer at which the day or temporary laborer
26 worked. If this information is provided on the day or
27 temporary laborer's paycheck stub, a code for each third
28 party employer may be used so long as the required
29 information for each coded third party employer is made
30 available to the day or temporary laborer;

31 (2) the number of hours worked by the day or temporary
32 laborer at each third party employer each day during the
33 pay period;

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

3 (4) the total pay period earnings;

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

11 (6) any additional information required by rules
12 issued by the Department ~~showing in detail each deduction~~
13 ~~made from the wages.~~

14 (a-1) The day and temporary labor service agency shall make
15 available, at the location of dispatch or with the day or
16 temporary laborer's paycheck, a Weekly Work Verification Form,
17 approved by the Department, which shall contain, for each day
18 of the week, a space for the date of work, the day or temporary
19 laborer's name, the work location, the hours worked on that
20 day, and a space for a verification signature of the third
21 party employer. An authorized representative of the third party
22 employer shall be required to verify and sign such form for
23 each day of work by the day or temporary laborer, if presented
24 by the day or temporary laborer for signature. Any third party
25 employer who violates this subsection (a-1) shall be subject to
26 a civil penalty not to exceed \$2,500 for each violation found
27 by the Department. For purposes of this subsection (a-1), each
28 violation of this subsection (a-1) for each day or temporary
29 laborer and for each day the violation continues shall
30 constitute a separate and distinct violation.

31 (b) A day and temporary labor service agency shall provide
32 each worker an annual earnings summary within a reasonable time
33 after the preceding calendar year, but in no case later than
34 February 1. A day and temporary labor service agency shall, at

1 the time of each wage payment, give notice to day or temporary
2 laborers of the availability of the annual earnings summary or
3 post such a notice in a conspicuous place in the public
4 reception area.

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

23 (d) No day and temporary labor service agency shall charge
24 any day or temporary laborer for cashing a check issued by the
25 agency for wages earned by a day or temporary laborer who
26 performed work through that agency.

27 (e) Day or temporary laborers shall be paid no less than
28 the wage rate stated in the notice as provided in Section 10 of
29 this Act for all the work performed on behalf of the third
30 party employer in addition to the work listed in the written
31 description.

32 (f) The total amount deducted for meals, equipment, and
33 transportation may not cause a day or temporary laborer's
34 hourly wage to fall below the State or federal minimum wage.

1 However, a day and temporary labor service agency may deduct
2 the actual market value of reusable equipment provided to the
3 day or temporary laborer by the day and temporary labor service
4 agency which the day or temporary laborer fails to return, if
5 the day or temporary labor provides a written authorization for
6 such deduction at the time the deduction is made.

7 (g) A day or temporary laborer who is contracted by a day
8 and temporary labor service agency to work at a third party
9 employer's worksite but is not utilized by the third party
10 employer shall be paid for a minimum of 4 hours of pay at the
11 agreed upon rate of pay. However, in the event the day and
12 temporary labor service agency contracts the day or temporary
13 laborer to work at another location during the same shift, the
14 day or temporary laborer shall be paid for a minimum of 2 hours
15 of pay at the agreed upon rate of pay.

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

17 (820 ILCS 175/35)

18 Sec. 35. Public Access Area. Each day and temporary labor
19 service agency shall provide adequate seating in the public
20 access area of the offices of the agency. The public access
21 area shall be the location for the ~~employment and wage~~ notices
22 required by Section 45 10 of this Act and any other State or
23 federally mandated posting. The public access area shall allow
24 for access to restrooms and water.

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

26 (820 ILCS 175/40)

27 Sec. 40. Work Restriction. No day and temporary labor
28 service agency shall restrict the right of a day or temporary
29 laborer to accept a permanent position with a third party
30 employer to whom the day or temporary laborer has been referred
31 for work or restrict the right of such third party employer to
32 offer such employment to a day or temporary laborer. A day and

1 temporary labor service agency may charge a placement fee to a
2 third party employer for employing a day or temporary laborer
3 for whom a contract for work was effected by the day and
4 temporary labor service agency not to exceed the equivalent of
5 the total daily commission rate the day and temporary labor
6 service agency would have received over a 60-day period,
7 reduced by the equivalent of the daily commission rate the day
8 and temporary labor service agency would have received for each
9 day the day or temporary laborer has performed work for the day
10 and temporary labor service agency in the preceding 12 months.
11 Days worked at a day and temporary labor agency in the 12
12 months preceding the effective date of this amendatory Act of
13 the 94th General Assembly shall be included for purposes of
14 calculating the maximum placement fee described in this
15 Section. However, placement of a day or temporary laborer who
16 is contracted by a day and temporary labor service agency to
17 provide skilled labor shall not be subject to any placement fee
18 cap. For purposes of this Section, a day or temporary laborer
19 who performs "skilled labor" shall apply only where the day and
20 temporary labor service agency performs an advanced
21 application process, a screening process, which may include
22 processes such as advanced testing, and a job interview.
23 ~~Nothing in this Section shall restrict a day and temporary~~
24 ~~labor service agency from receiving a placement fee from the~~
25 ~~third party employer for employing a day or temporary laborer~~
26 ~~for whom a contract for work was effected by the day and~~
27 ~~temporary labor service agency.~~

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

29 (820 ILCS 175/45)

30 Sec. 45. Registration; Department of Labor.

31 (a) A day and temporary labor service agency which is
32 located, operates or transacts business within this State shall
33 register with the Department of Labor in accordance with rules

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

28 (b) It is a violation of this Act to operate a day and
29 temporary labor service agency without first registering with
30 the Department in accordance with subsection (a) of this
31 Section. The Department has the authority to assess a penalty
32 against any day and temporary labor service agency that fails
33 to register with the Department of Labor in accordance with
34 this Act or any rules adopted under this Act of \$500 for each

1 violation. Each day during which a day and temporary labor
2 service agency operates without registering with the
3 Department shall be a separate and distinct violation of this
4 Act.

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

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

14 (2) is under the age of 18.

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

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

27 (820 ILCS 175/50)

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

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

1 (820 ILCS 175/55)

2 Sec. 55. Enforcement. It shall be the duty of the
3 Department to enforce the provisions of this Act. The
4 Department shall have the power to conduct investigations in
5 connection with the administration and enforcement of this Act
6 and any investigator with the Department shall be authorized to
7 visit and inspect, at all reasonable times, any places covered
8 by this Act and shall be authorized to inspect, at all
9 reasonable times, contracts for the employment of all day or
10 temporary laborers entered into by a third party employer if
11 the Department has received a complaint indicating that the
12 third party employer may have contracted with a day and
13 temporary labor service agency that is not registered under
14 this Act. The Department shall conduct hearings in accordance
15 with the Illinois Administrative Procedure Act upon written
16 complaint by an investigator of the Department or any
17 interested person of a violation of the Act. After the hearing,
18 if supported by the evidence, the Department may (i) issue and
19 cause to be served on any party an order to cease and desist
20 from further violation of the Act, (ii) take affirmative or
21 other action as deemed reasonable to eliminate the effect of
22 the violation, (iii) deny, suspend, or revoke any registration
23 under this Act, and (iv) determine the amount of any civil
24 penalty allowed by the Act. The Director of Labor or his or her
25 representative may compel, by subpoena, the attendance and
26 testimony of witnesses and the production of books, payrolls,
27 records, papers, and other evidence in any investigation or
28 hearing and may administer oaths to witnesses, ~~however,~~
29 ~~proprietary lists of a day and temporary labor service agency~~
30 ~~are not subject to subpoena.~~ Nothing in this Act applies to
31 labor or employment of a clerical or professional nature.

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

33 (820 ILCS 175/70)

1 Sec. 70. Penalties.

2 (a) A day and temporary labor service agency that violates
3 any of the provisions of this Act or any rule adopted under
4 this Act ~~concerning registration, transportation, equipment,~~
5 ~~meals, wages, or waiting rooms~~ shall be subject to a civil
6 penalty not to exceed \$6,000 ~~\$500~~ for ~~any~~ violations found in
7 the first audit by the Department. Following a first audit, a
8 day and temporary labor service agency shall be subject to a
9 civil penalty ~~and~~ not to exceed \$2,500 ~~\$5,000~~ for each repeat
10 violation ~~any violations~~ found ~~in the second audit~~ by the
11 Department within 3 years. For purposes of this subsection,
12 each violation of this Act for each day or temporary laborer
13 and for each day the violation continues shall constitute a
14 separate and distinct violation. ~~For any violations that are~~
15 ~~found in a third audit by the Department that are within 7~~
16 ~~years of the earlier violations, the Department may revoke the~~
17 ~~registration of the violator~~. In determining the amount of a
18 penalty, the Director shall consider the appropriateness of the
19 penalty to the day and temporary labor service agency charged,
20 upon the determination of the gravity of the violations. For
21 any violation determined by the Department to be willful which
22 is within 3 years of an earlier violation, the Department may
23 revoke the registration of the violator. The amount of the
24 penalty, when finally determined, may be:

25 (1) Recovered in a civil action brought by the Director
26 of Labor in any circuit court. In this litigation, the
27 Director of Labor shall be represented by the Attorney
28 General.

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

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

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

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

5 (820 ILCS 175/75)

6 Sec. 75. Willful violations.

7 (a) Whoever willfully violates any of the provisions of
8 this Act or any rule adopted under this Act, or whoever
9 obstructs the Department of Labor, its inspectors or deputies,
10 or any other person authorized to inspect places of employment
11 under this Act shall be liable for penalties up to double the
12 statutory amount.

13 (b) Whoever willfully violates any of the provisions of
14 this Act or any rule adopted under this Act which results in an
15 underpayment to a day or temporary laborer shall be liable to
16 the Department for up to 20% of the employer's total
17 underpayment and shall also be liable to the employee for
18 punitive damages in the amount of 2% of the amount of any such
19 underpayments for each month following the date of payment
20 during which the underpayments remain unpaid.

21 (c) The Director may promulgate rules for the collection of
22 these penalties. The penalty shall be imposed in cases in which
23 an employer's conduct is proven by a preponderance of the
24 evidence to be willful. The penalty may be recovered in a civil
25 action brought by the Director of Labor in any circuit court.
26 In any such action, the Director of Labor shall be represented
27 by the Attorney General. ~~guilty of a Class A misdemeanor. Each~~
28 day during which a violation of this Act continues shall
29 constitute a separate and distinct offense, and the employment
30 of any person in violation of the Act shall, with respect to
31 each person so employed, constitute a separate and distinct
32 offense. Whenever, in the opinion of the Department, a
33 violation of the Act has occurred, the Department shall report

1 ~~the violation to the Attorney General of this State who shall~~
2 ~~have authority to prosecute all reported violations.~~

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

4 (820 ILCS 175/85)

5 Sec. 85. Third party employers.

6 (a) It is a violation of this Act for a third party
7 employer to enter into a contract ~~Third party employers are~~
8 ~~prohibited from entering into contracts~~ for the employment of
9 day or temporary laborers with any day and temporary labor
10 service agency not registered under Section 45 of this Act. A
11 third party employer has a duty to verify a day and temporary
12 labor service agency's status with the Department before
13 entering into a contract with such an agency. Upon request, the
14 Department shall provide to a third party employer a list of
15 entities registered as day and temporary labor service
16 agencies. The Department shall provide on the Internet a list
17 of entities registered as day and temporary labor service
18 agencies. Any third party employer that violates this provision
19 of the Act is subject to a civil penalty not to exceed \$500.
20 Each day during which a third party employer contracts with a
21 day and temporary labor service agency not registered under
22 Section 45 of this Act shall constitute a separate and distinct
23 offense.

24 (b) If a third party employer leases or contracts with a
25 day and temporary service agency for the services of day or
26 temporary laborer, the third party employer shall share all
27 legal responsibility and liability for the payment of wages
28 under the Illinois Wage Payment and Collection Act and the
29 Minimum Wage Law.

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

31 (820 ILCS 175/90 new)

32 Sec. 90. Retaliation.

1 (a) Prohibition. It is a violation of this Act for a day
2 and temporary labor service agency or third party employer, or
3 any agent of a day and temporary labor service agency or third
4 party employer, to retaliate through discharge or in any other
5 manner against any day or temporary laborer for exercising any
6 rights granted under this Act. Such retaliation shall subject a
7 day and temporary labor service agency or third party employer,
8 or both, to civil penalties pursuant to this Act or a private
9 cause of action.

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

14 (1) making a complaint to the day or temporary
15 laborer's employer, to a co-worker, to a community
16 organization, before a public hearing, or to a State or
17 federal agency that rights guaranteed under this Act have
18 been violated;

19 (2) causing to be instituted any proceeding under or
20 related to this Act; or

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

23 (820 ILCS 175/95 new)

24 Sec. 95. Private Right of Action.

25 (a) A person aggrieved by a violation of this Act or any
26 rule adopted under this Act by a day and temporary labor
27 service agency or a third party employer may file suit in
28 circuit court of Illinois without regard to exhaustion of any
29 alternative administrative remedies provided in this Act.
30 Actions may be brought by one or more day or temporary laborers
31 for and on behalf of themselves and other day or temporary
32 laborers similarly situated. A day or temporary laborer whose
33 rights have been violated under this Act by a day and temporary

1 labor service agency or a third party employer is entitled to
2 collect:

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

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

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

13 (4) attorney's fees and costs.

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

20 (820 ILCS 175/97 new)

21 Sec. 97. Severability. Should one or more of the provisions
22 of this Act be held invalid, such invalidity shall not affect
23 any of the valid provisions hereof."