



Sen. Miguel del Valle

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09400SB1792sam003

LRB094 08113 WGH 44514 a

1 AMENDMENT TO SENATE BILL 1792

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

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

7 (30 ILCS 105/8h)

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

9 (a) Except as provided in subsection (b), notwithstanding
10 any other State law to the contrary, the Governor may, through
11 June 30, 2007, from time to time direct the State Treasurer and
12 Comptroller to transfer a specified sum from any fund held by
13 the State Treasurer to the General Revenue Fund in order to
14 help defray the State's operating costs for the fiscal year.
15 The total transfer under this Section from any fund in any
16 fiscal year shall not exceed the lesser of (i) 8% of the
17 revenues to be deposited into the fund during that fiscal year
18 or (ii) an amount that leaves a remaining fund balance of 25%
19 of the July 1 fund balance of that fiscal year. In fiscal year
20 2005 only, prior to calculating the July 1, 2004 final
21 balances, the Governor may calculate and direct the State
22 Treasurer with the Comptroller to transfer additional amounts
23 determined by applying the formula authorized in Public Act
24 93-839 to the funds balances on July 1, 2003. No transfer may

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

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

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

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

1 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674,
2 eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04;
3 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; 93-1067, eff.
4 1-15-05.)

5 Section 10. The Day and Temporary Labor Services Act is
6 amended by changing Sections 5, 10, 15, 20, 25, 30, 35, 40, 45,
7 50, 55, 70, 75, and 85 and adding Sections 2, 12, 90, 95, and 97
8 as follows:

9 (820 ILCS 175/2 new)

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

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

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

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

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

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

1 (820 ILCS 175/5)

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

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

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

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

21 "Department" means the Department of Labor.

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

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

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

30 (820 ILCS 175/10)

31 Sec. 10. Employment Notice Statement.

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

1 laborers, the day and temporary labor service agency shall
2 provide to each, ~~upon request by a~~ day or temporary laborer, at
3 the time of dispatch, ~~provide to the day or temporary laborer~~ a
4 statement containing the following items on a form approved by
5 the Department:

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

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

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

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

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

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

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

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

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

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

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

9 (820 ILCS 175/12 new)

10 Sec. 12. Recordkeeping.

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

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

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

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

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

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

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

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

8 (9) the race 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 client for that individual day
23 or temporary laborer's hours of work available for review or
24 copying during normal business hours within 5 days following a
25 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 client ~~employer~~ shall not charge a day or
2 temporary laborer for any meal not consumed by the day and
3 temporary laborer and, if consumed, no more than the actual
4 cost of a meal. In no case shall the purchase of a meal be a
5 condition of 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 client or a contractor or agent of either ~~employer~~ shall
11 charge 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 client
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 client, or
4 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 does not have a seat
8 and a safety belt for each passenger. The Department shall
9 forward a violation of this subsection to the appropriate law
10 enforcement authorities or regulatory agencies, whichever is
11 applicable.

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

13 (820 ILCS 175/25)

14 Sec. 25. Day or temporary laborer equipment. For any safety
15 equipment, clothing, accessories, or any other items required
16 by the nature of the work, either by law, custom, or as a
17 requirement of the third party client ~~employer~~, the day and
18 temporary labor service agency or the third party client
19 ~~employer~~ may charge the day or temporary laborer the market
20 value of the item temporarily provided to the day or temporary
21 laborer by the third party client ~~employer~~ if the day or
22 temporary laborer fails to return such items to the third party
23 client ~~employer~~ or the day and temporary labor service agency.
24 For any other equipment, clothing, accessories, or any other
25 items the day and temporary labor service agency makes
26 available for purchase, the day or temporary laborer shall not
27 be charged more than the actual market value for the item.

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

29 (820 ILCS 175/30)

30 Sec. 30. Wage Payment and Notice.

31 (a) At the time of ~~the~~ payment of wages, a day and
32 temporary labor service agency shall provide each day or

1 temporary laborer with a detailed ~~an~~ itemized statement, on the
2 day or temporary laborer's paycheck stub or on a form approved
3 by the Department, listing the following:

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

11 (2) the number of hours worked by the day or temporary
12 laborer at each third party client each day during the pay
13 period;

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

16 (4) the total pay period earnings;

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

24 (6) any additional information required by rules
25 issued by the Department ~~showing in detail each deduction~~
26 ~~made from the wages.~~

27 (a-1) For each day or temporary laborer who is contracted
28 to work a single day, the third party client shall, at the end
29 of the work day, provide such day or temporary laborer with a
30 Work Verification Form, approved by the Department, which shall
31 contain the date, the day or temporary laborer's name, the work
32 location, and the hours worked on that day. Any third party
33 client who violates this subsection (a-1) may be subject to a
34 civil penalty not to exceed \$500 for each violation found by

1 the Department. Such civil penalty may increase to \$2,500 for a
2 second or subsequent violation. For purposes of this subsection
3 (a-1), each violation of this subsection (a-1) for each day or
4 temporary laborer and for each day the violation continues
5 shall constitute a separate and distinct violation.

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

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

32 (d) No day and temporary labor service agency shall charge
33 any day or temporary laborer for cashing a check issued by the
34 agency for wages earned by a day or temporary laborer who

1 performed work through that agency.

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 ~~employer~~ in addition to the work listed in the
6 written 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 service
13 agency which the day or temporary laborer fails to return, if
14 the day or temporary laborer provides a written authorization
15 for such deduction at the time the deduction is made.

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

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

28 (820 ILCS 175/35)

29 Sec. 35. Public Access Area. Each day and temporary labor
30 service agency shall provide adequate seating in the public
31 access area of the offices of the agency. The public access
32 area shall be the location for the ~~employment and wage~~ notices
33 required by Section 45 ~~40~~ of this Act and any other State or

1 federally mandated posting. The public access area shall allow
2 for access to restrooms and water.

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

4 (820 ILCS 175/40)

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

1 Section may be assessed or collected by the day and temporary
2 labor service agency when the day or temporary laborer is
3 offered permanent work following the suspension or revocation
4 of the day and temporary labor service agency's registration by
5 the Department. ~~Nothing in this Section shall restrict a day~~
6 ~~and temporary labor service agency from receiving a placement~~
7 ~~fee from the third party employer for employing a day or~~
8 ~~temporary laborer for whom a contract for work was effected by~~
9 ~~the day and temporary labor service agency.~~

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

11 (820 ILCS 175/45)

12 Sec. 45. Registration; Department of Labor.

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

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

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

34 (c) An applicant is not eligible to register to operate a

1 day and temporary labor service agency under this Act if the
2 applicant or any of its officers, directors, partners, or
3 managers or any owner of 25% or greater beneficial interest:

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

9 (2) is under the age of 18.

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

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

22 (820 ILCS 175/50)

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

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

28 (820 ILCS 175/55)

29 Sec. 55. Enforcement. It shall be the duty of the
30 Department to enforce the provisions of this Act. The
31 Department shall have the power to conduct investigations in
32 connection with the administration and enforcement of this Act

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

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

28 (820 ILCS 175/70)

29 Sec. 70. Penalties.

30 (a) A day and temporary labor service agency that violates
31 any of the provisions of this Act or any rule adopted under
32 this Act ~~concerning registration, transportation, equipment,~~
33 ~~meals, wages, or waiting rooms~~ shall be subject to a civil

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

20 (1) Recovered in a civil action brought by the Director
21 of Labor in any circuit court. In this litigation, the
22 Director of Labor shall be represented by the Attorney
23 General.

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

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

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

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

1 (820 ILCS 175/75)

2 Sec. 75. Willful violations.

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

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

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

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

1 (820 ILCS 175/85)

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

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

1 provided by the Department was inaccurate. Any third party
2 client that violates this provision of the Act is subject to a
3 civil penalty not to exceed \$500. Each day during which a third
4 party client contracts with a day and temporary labor service
5 agency not registered under Section 45 of this Act shall
6 constitute a separate and distinct offense.

7 (b) If a third party client leases or contracts with a day
8 and temporary service agency for the services of a day or
9 temporary laborer, the third party client shall share all legal
10 responsibility and liability for the payment of wages under the
11 Illinois Wage Payment and Collection Act and the Minimum Wage
12 Law.

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

14 (820 ILCS 175/90 new)

15 Sec. 90. Retaliation.

16 (a) Prohibition. It is a violation of this Act for a day
17 and temporary labor service agency or third party client, or
18 any agent of a day and temporary labor service agency or third
19 party client, to retaliate through discharge or in any other
20 manner against any day or temporary laborer for exercising any
21 rights granted under this Act. Such retaliation shall subject a
22 day and temporary labor service agency or third party client,
23 or both, to civil penalties pursuant to this Act or a private
24 cause of action.

25 (b) Protected Acts from Retaliation. It is a violation of
26 this Act for a day and temporary labor service agency or third
27 party client to retaliate against a day or temporary laborer
28 for:

29 (1) making a complaint to a day and temporary labor
30 service agency, to a third party client, to a co-worker, to
31 a community organization, before a public hearing, or to a
32 State or federal agency that rights guaranteed under this
33 Act have been violated;

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

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

5 (820 ILCS 175/95 new)

6 Sec. 95. Private Right of Action.

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

20 (1) in the case of a wage and hour violation, the
21 amount of any wages, salary, employment benefits, or other
22 compensation denied or lost to the day or temporary laborer
23 by reason of the violation, plus an equal amount in
24 liquidated damages;

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

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

30 (4) attorney's fees and costs.

31 (b) The right of an aggrieved person to bring an action
32 under this Section terminates upon the passing of 3 years from
33 the final date of employment by the day and temporary labor

1 agency or the third party client. This limitations period is
2 tolled if a day labor employer has deterred a day or temporary
3 laborer's exercise of rights under this Act by contacting or
4 threatening to contact law enforcement agencies.

5 (820 ILCS 175/97 new)

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