



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5722

by Rep. Carol Ammons

SYNOPSIS AS INTRODUCED:

820 ILCS 175/5
820 ILCS 175/12
820 ILCS 175/95

Amends the Day and Temporary Labor Services Act. Defines "day or temporary labor applicant". Provides that a day and temporary labor service agency shall keep a record of the race, ethnicity, and gender of each day or temporary laborer or day or temporary labor applicant, as provided by the person who requests employment with or is contracted by the day and temporary labor service agency (instead of "the race and gender of each day or temporary laborer sent by the day and temporary labor service agency"). Provides that records shall be open to inspection by the Department of Human Rights. Provides that in the case of a health and safety or notice violation, a private right of action exists for compensatory damages and an amount between \$50 and \$500 for each violation (instead of "up to \$500 for the violation"). Makes corresponding changes.

LRB099 18662 JLS 43044 b

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 Day and Temporary Labor Services Act is
5 amended by changing Sections 5, 12, and 95 as follows:

6 (820 ILCS 175/5)

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

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

11 "Day or temporary labor applicant" means a natural person
12 who requests a job assignment through a day and temporary labor
13 service agency, whether in person, verbally, in writing, or
14 through an online application process.

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

22 "Day and temporary labor service agency" means any person
23 or entity engaged in the business of employing day or temporary

1 laborers to provide services, for a fee, to or for any third
2 party client pursuant to a contract with the day and temporary
3 labor service agency and the third party client.

4 "Department" means the Department of Labor.

5 "Third party client" means any person that contracts with a
6 day and temporary labor service agency for obtaining day or
7 temporary laborers.

8 "Person" means every natural person, firm, partnership,
9 co-partnership, limited liability company, corporation,
10 association, business trust, or other legal entity, or its
11 legal representatives, agents, or assigns.

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

13 (820 ILCS 175/12)

14 Sec. 12. Recordkeeping.

15 (a) ~~The~~ ~~Whenever a day and temporary labor service agency~~
16 ~~sends one or more persons to work as day or temporary laborers,~~
17 ~~the~~ day and temporary labor service agency shall keep the
18 following records ~~relating to that transaction:~~

19 (1) the name, address and telephone number of each
20 third party client, including each worksite, to which day
21 or temporary laborers were sent by the agency and the date
22 of the transaction;

23 (2) for each person that applies to become a day or
24 temporary laborer: the name and address, the race,
25 ethnicity, and gender, as provided by the person who

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

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

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

20 (5) copies of all contracts, if any, with the third
21 party client and copies of all invoices for the third party
22 client;

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

25 (7) deductions to be made from each day or temporary
26 laborer's compensation made by either the third party

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

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

7 ~~(9) the race and gender of each day or temporary~~
8 ~~laborer sent by the day and temporary labor service agency~~
9 a copy of the written notice, signed and stamped by an
10 employee of the day and temporary labor agency specifying
11 the date, time, and location the applicant requested
12 employment, provided to each day or temporary labor
13 applicant by the day and temporary labor service agency, ~~as~~
14 ~~provided by the day or temporary laborer;~~ and

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

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

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

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

22 (820 ILCS 175/95)

23 Sec. 95. Private Right of Action.

24 (a) A person aggrieved by a violation of this Act or any
25 rule adopted under this Act by a day and temporary labor

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

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

24 (2) in the case of a health and safety or notice
25 violation, compensatory damages and an amount between \$50
26 and up to \$500 for each ~~the~~ violation of each subpart of

1 each Section;

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

4 (4) attorney's fees and costs.

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