



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1859

Introduced 2/20/2015, by Sen. Linda Holmes

SYNOPSIS AS INTRODUCED:

225 ILCS 515/1	from Ch. 111, par. 901
225 ILCS 515/1.5 new	
225 ILCS 515/3	from Ch. 111, par. 903
225 ILCS 515/11	from Ch. 111, par. 914
225 ILCS 515/12	from Ch. 111, par. 915
225 ILCS 515/12.2 new	
225 ILCS 515/12.3 new	
225 ILCS 515/12.4 new	
225 ILCS 515/12.5 new	
225 ILCS 515/12.6 new	

Amends the Private Employment Agency Act. Makes changes to provisions concerning applications for original licensure, renewal of licenses, recordkeeping, definitions, investigative authority of the Department of Labor, grounds for discipline, and disciplinary proceedings. Provides that the Department shall provide on its website, accessible to the public, a list of all licensed employment agencies and all employment agencies whose license has been suspended or registration revoked. Provides that it is a violation of the Act for an employment agency to violate certain provisions of the Illinois Minimum Wage Law and the Wage Payment and Collection Act. Provides that it is a violation of the Act for a private employment agency to interfere with the rights granted to an employee by any wage law in the State. Provides that it is a violation of the Act for an employer to accept a referral of an individual for employment from an employment agency not licensed under the Act. Eliminates criminal penalties; provides civil penalties for both employment agencies and employers for violating the Act. Provides that all fees and civil penalties collected under the Act shall be deposited into the Wage Theft Enforcement Fund.

LRB099 06627 HAF 26700 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Private Employment Agency Act is amended by
5 changing Sections 1, 3, 11, and 12 and by adding Sections 1.5,
6 12.2, 12.3, 12.4, 12.5, and 12.6 as follows:

7 (225 ILCS 515/1) (from Ch. 111, par. 901)

8 Sec. 1. Department of Labor; authority to license
9 employment agencies; unlicensed operation; website listing of
10 agencies; rulemaking authority.

11 (a) It shall be the duty of the Department of Labor and it
12 shall have power, jurisdiction and authority to issue licenses
13 to employment agencies or agents, and to refuse to issue
14 licenses whenever, after due investigation, the Department of
15 Labor finds that the character of the applicant makes him unfit
16 to be an employment agent, or when the premises proposed to be
17 used for conducting the business of an employment agency, is
18 found, upon investigation, to be unfit for such use.

19 (b) Any such license granted by the Department of Labor may
20 also be revoked or suspended by it upon due notice to the
21 holder of said license and upon due cause shown and hearing
22 thereon. Failure to comply with the duties, terms, rules,
23 conditions or provisions required by any law of this State

1 governing employment agencies, or with any lawful order of the
2 Department of Labor, shall be deemed cause to revoke or suspend
3 such license.

4 (c) It is a violation of this Act to operate a private
5 employment agency without first registering with the
6 Department of Labor and obtaining a license in accordance with
7 Section 1.5 of this Act. The Department has the authority to
8 assess a penalty against any agency that fails to obtain a
9 license from the Department in accordance with this Act or any
10 rules adopted under this Act of \$500 for each violation. Each
11 day during which an employment agency operates without a
12 license shall be a separate and distinct violation of the Act.

13 (d) The Department shall create and maintain at regular
14 intervals on its website, accessible to the public:

15 (1) a list of all licensed employment agencies in the
16 State;

17 (2) a list of all employment agencies in the State
18 whose license has been suspended, including the reason for
19 the suspension, the date that the suspension was initiated,
20 and the date, if known, the suspension is to be lifted; and

21 (3) a list of employment agencies in the State whose
22 registration has been revoked, including the reason for the
23 revocation and the date the registration was revoked.

24 (e) The Department of Labor shall have power, jurisdiction
25 and authority to fix and order such reasonable rules and
26 regulations for the conduct of the business of employment

1 agencies, as may be necessary to carry out the laws relating to
2 employment agencies.

3 ~~The applicant shall furnish to the Department an affidavit~~
4 ~~stating that he has never been a party to any fraud, has no~~
5 ~~jail or prison record, belongs to no subversive societies, is~~
6 ~~of good moral character, has business integrity and is~~
7 ~~financially responsible.~~

8 ~~In determining moral character and qualification for~~
9 ~~licensing, the Department may take into consideration any~~
10 ~~criminal conviction of the applicant, but such a conviction~~
11 ~~shall not operate as a bar to licensing.~~

12 ~~No person shall open, keep or carry on any employment~~
13 ~~agency in the State of Illinois, unless such person shall~~
14 ~~procure a license therefor from the Department of Labor. Any~~
15 ~~person who shall open up, or conduct any such agency without~~
16 ~~first procuring such license or without paying any fees~~
17 ~~required by this Act, shall be guilty of a Class B misdemeanor.~~

18 ~~The application fee for such license shall be \$250 annually~~
19 ~~for persons operating an agency with less than 3 employment~~
20 ~~counsellors; \$350 annually for persons operating an agency with~~
21 ~~from 3 to 5 employment counsellors; \$400 annually for persons~~
22 ~~operating an agency employing from 6 to 10 employment~~
23 ~~counsellors and \$500 annually for persons operating an agency~~
24 ~~employing in excess of 10 employment counsellors. The~~
25 ~~application fee is nonrefundable.~~

26 ~~Every license shall contain the name of the person~~

1 ~~licensed, or if a corporation, the name of the chief officer, a~~
2 ~~designation of the city, street number of the building in which~~
3 ~~the licensee is authorized to carry on the employment agency,~~
4 ~~and the style or trade name under which such licensee is to~~
5 ~~conduct the employment agency. Such license shall not be valid~~
6 ~~to protect any person who operates any employment agency under~~
7 ~~any other name than is mentioned in the license. No license~~
8 ~~shall be valid to protect any place other than that designated~~
9 ~~in the license, unless notice in writing was given by a~~
10 ~~licensee to the Department of Labor that the licensee intends~~
11 ~~to commence conduct of an employment agency at another or at an~~
12 ~~additional location, which notice is accompanied by the~~
13 ~~requisite fee and bond, or unless any employment agency~~
14 ~~interviews on the premises of an employer client for employees~~
15 ~~for the employer client and notifies the Department thereof at~~
16 ~~least 48 hours prior thereto and the Department fails to raise~~
17 ~~an objection to the interviewing. No such agency shall be~~
18 ~~located in connection with any place where intoxicating liquors~~
19 ~~are sold.~~

20 ~~The application for such license shall be filed with the~~
21 ~~Department of Labor and the Department of Labor shall act upon~~
22 ~~such application before 60 days from the time of filing such~~
23 ~~application. The license shall run for one year from date of~~
24 ~~issue, and no longer, unless sooner revoked by the Department~~
25 ~~of Labor. Such application shall be posted in the office of the~~
26 ~~Department of Labor from date of filing thereof and until such~~

1 ~~time as such application is acted upon. Such application shall~~
2 ~~contain the name, address and telephone number of the person~~
3 ~~who desires to secure a license, and shall be signed by him. If~~
4 ~~the application is filed on behalf of a partnership, the~~
5 ~~application shall contain the date when the partnership was~~
6 ~~formed, and the names and addresses of all partners, and shall~~
7 ~~be signed by one of the partners. If the application is filed~~
8 ~~on behalf of a corporation, the application shall contain the~~
9 ~~date when the corporation was formed, the state of~~
10 ~~incorporation, and the names and addresses of all officers of~~
11 ~~the corporation, and shall be signed by the president and~~
12 ~~secretary of the corporation. The application shall state~~
13 ~~whether or not any person mentioned in the application was ever~~
14 ~~engaged in the business of conducting an employment agency, or~~
15 ~~was employed by an employment agency in this State or elsewhere~~
16 ~~and shall set forth the facts if any concerning such previous~~
17 ~~connection with the employment agency business. The~~
18 ~~application shall contain the name and address of the person~~
19 ~~who is to have the general management of the agency.~~

20 ~~Such application shall state whether or not any person~~
21 ~~mentioned in the application is pecuniarily interested in any~~
22 ~~other business and if so, the nature of such business and where~~
23 ~~it is carried on. Such applicant shall also state whether the~~
24 ~~person or persons mentioned in the application are the only~~
25 ~~persons pecuniarily interested in the business to be carried on~~
26 ~~under the license. Such application shall also contain such~~

1 ~~other information as the Department shall by regulation~~
2 ~~require. Such application shall be accompanied by such evidence~~
3 ~~of the applicant's business reputation for integrity and such~~
4 ~~evidence of the applicant's financial responsibility as the~~
5 ~~Department may by regulation require. Such application shall be~~
6 ~~accompanied by the affidavits of two persons of business or~~
7 ~~professional integrity, residing within the city or town~~
8 ~~wherein such applicant resides or intends to conduct his~~
9 ~~business, and such affiants shall state that they have known~~
10 ~~the applicant for a period of two years, that the applicant is~~
11 ~~a person of good moral character.~~

12 ~~Upon the filing of such application, the Department shall~~
13 ~~cause an investigation to be made as to the character and the~~
14 ~~business integrity and financial responsibility of the~~
15 ~~applicant and those mentioned in the application, and as to the~~
16 ~~fitness of the premises to be used. The application shall be~~
17 ~~rejected if the Department shall find that any of the persons~~
18 ~~named in the application is not of good moral character,~~
19 ~~business integrity and financial responsibility, if the~~
20 ~~premises are unfit or if there is any good and sufficient~~
21 ~~reason within the meaning and purpose of this Act for rejecting~~
22 ~~such application. Unless the application shall be rejected for~~
23 ~~one or more of the causes specified above, it shall be granted.~~
24 ~~A detailed report of such investigation and the action taken~~
25 ~~thereon shall be made in writing, signed by the investigator~~
26 ~~and become a part of the official records of the Department's~~

1 ~~office.~~

2 ~~When at the time of filing the application, the applicant~~
3 ~~or any person mentioned in the application is employed as an~~
4 ~~employment counsellor by a licensed employment agency in this~~
5 ~~State, the department shall notify the agency of this fact.~~

6 ~~Such license shall be renewed upon licensee furnishing the~~
7 ~~Department accompanied by the required application fee, a~~
8 ~~letter from a surety stating that a sufficient bond is in force~~
9 ~~and other documents necessary to complete the renewal. Failure~~
10 ~~to renew a license at its expiration date shall cause the~~
11 ~~license to lapse and may only be reinstated by a new~~
12 ~~application.~~

13 ~~No license shall be transferrable, but a licensee may at~~
14 ~~any time with the approval of the Department, make changes in~~
15 ~~the structure of the business entity operating the agency, but~~
16 ~~no licensee shall permit any person not mentioned in the~~
17 ~~original application for a license to become a partner if such~~
18 ~~agency is a partnership, or an officer of the corporation if~~
19 ~~such agency is a corporation, unless the written consent of the~~
20 ~~Department of Labor shall first be obtained. Such consent may~~
21 ~~be withheld for any reason for which an original application~~
22 ~~might have been rejected, if the person in question had been~~
23 ~~mentioned therein. No such change shall be permitted until the~~
24 ~~written consent of the surety or sureties on the bond required~~
25 ~~to be filed by Section 2 of this Act, to such change, be filed~~
26 ~~with the original bond. The Department shall be notified~~

1 ~~immediately of any change in the management of the agency so~~
2 ~~that at all times the identity of the person charged with the~~
3 ~~general management of the agency shall be known by the~~
4 ~~Department. Licensee may promote persons within its agency or~~
5 ~~change the titles and duties of existing agency personnel other~~
6 ~~than the General Manager without notice to the Department.~~

7 ~~Each applicant for a license shall file with the~~
8 ~~application a schedule of fees, charges and commissions,~~
9 ~~which he intends to charge and collect for his services,~~
10 ~~together with a copy of all forms and contracts to be used~~
11 ~~in the operation of the agency. Such schedule of fees,~~
12 ~~charges and commissions may thereafter be changed by filing~~
13 ~~with the Department of Labor an amended or supplemental~~
14 ~~schedule, showing such changes, at least 15 days before~~
15 ~~such change is to become effective. Any change in forms or~~
16 ~~contracts must be filed with the Department of Labor at~~
17 ~~least 15 days before such change is to become effective.~~
18 ~~Such schedule of fees to be charged shall be posted in a~~
19 ~~conspicuous place in each room of such agency where~~
20 ~~applicants are interviewed and such schedule of fees shall~~
21 ~~be printed in not less than 30 point bold faced type.~~
22 ~~Agencies which deal exclusively with employer paid fees~~
23 ~~shall not be required to post said schedule of fees. The~~
24 ~~Department may by regulation require contracts to contain~~
25 ~~definitions of terms used in such contracts to eliminate~~
26 ~~ambiguity.~~

1 ~~It shall be unlawful for any employment agency to charge,~~
2 ~~collect or receive a greater compensation for any service~~
3 ~~performed by it than is specified in such schedule filed with~~
4 ~~the Department of Labor. It shall be unlawful for any~~
5 ~~employment agency to collect or attempt to collect any~~
6 ~~compensation for any service not specified in the schedule of~~
7 ~~fees filed with the department.~~

8 (Source: P.A. 85-1408; 86-1043.)

9 (225 ILCS 515/1.5 new)

10 Sec. 1.5. Application for license; application fees;
11 disclosure of fees, charges, and commissions; investigation of
12 applicants; renewal of license; changes in structure and
13 management of licensees.

14 (a) The applicant for a license shall furnish to the
15 Department the following:

16 (1) An affidavit stating that he has never been a party
17 to any fraud, has no jail or prison record, belongs to no
18 subversive societies, is of good moral character, has
19 business integrity and is financially responsible. In
20 determining moral character and qualification for
21 licensing, the Department may take into consideration any
22 criminal conviction of the applicant, but such a conviction
23 shall not operate as a bar to licensing.

24 (2) A completed application, on a form provided by the
25 Department, that includes the name of the person,

1 corporation, or other entity applying for the license; the
2 location at which the person intends to conduct business;
3 the type of employment services provided; and a disclosure
4 of any other pecuniary interests held by the entity
5 applying for the license.

6 (3) An application fee. The application fee for such
7 license shall be \$250 annually for persons operating an
8 agency with less than 3 employment counsellors; \$350
9 annually for persons operating an agency with from 3 to 5
10 employment counsellors; \$400 annually for persons
11 operating an agency employing from 6 to 10 employment
12 counsellors; and \$599 annually for persons operating an
13 agency employing in excess of 10 employment counsellors.
14 The application fee is nonrefundable.

15 (4) A schedule of fees, charges, and commissions, which
16 the employment agency intends to charge and collect for its
17 services, together with a copy of all forms and contracts
18 that the agency intends to be used in the operation of the
19 agency. Such schedule of fees, charges, and commissions may
20 thereafter be changed by filing with the Department an
21 amended or supplemental schedule showing such changes at
22 least 15 days before such change is to become effective.
23 Any change in forms or contracts must be filed with the
24 Department of Labor at least 15 days before such change is
25 going to become effective. Such schedule of fees to be
26 charged shall be posted in a conspicuous place in each room

1 of such an agency where applicants are interviewed, in not
2 less than 30 point bold-faced type. Agencies which deal
3 exclusively with employer paid fees shall not be required
4 to post said schedule of fees. The Department may by rule
5 require contracts to contain definitions of terms used in
6 such contracts to eliminate ambiguity.

7 It shall be unlawful for any employment agency to charge,
8 collect, or receive a greater compensation for any service
9 performed by it than is specified in the schedule filed with
10 the Department. It shall be unlawful for any employment agency
11 to collect or attempt to collect any compensation for any
12 service not specified in the schedule of fees filed with the
13 Department.

14 (b) Upon the filing of such application and supporting
15 documentation, the Department shall cause an investigation to
16 be made as to the character and the business integrity and
17 financial responsibility of the applicant and those mentioned
18 in the application, and as to the fitness of the premises to be
19 used. The application shall be rejected if the Department finds
20 that any of the persons named in the application fail to
21 demonstrate good moral character, business integrity and
22 financial responsibility, if the premises are unfit, or if
23 there is any good and sufficient reason within the meaning and
24 purpose of this Act for rejecting such application. Unless the
25 application shall be rejected for one or more of the causes
26 specified above, it shall be granted. A detailed report of such

1 investigation and the action taken thereon shall be made in
2 writing, signed by the investigator, and become a part of the
3 official records of the Department. When at the time of filing
4 the application, the applicant or any person mentioned in the
5 application is employed as an employment counsellor by a
6 licensed employment agency in this State, the Department shall
7 notify the agency of this fact.

8 (c) Once issued, a license may be renewed annually by
9 furnishing the Department the required application fee, a
10 letter from a surety stating that a sufficient bond is in
11 force, and other documents necessary to complete the renewal.
12 Failure to renew a license at its expiration date shall cause
13 the license to lapse and it may only be reinstated by a new
14 application.

15 (d) No license shall be transferrable, but a licensee may,
16 with the approval of the Department, make changes in the
17 structure of the business entity operating the agency, but no
18 licensee shall permit any person not mentioned in the original
19 application for a license to become a partner if such agency is
20 a partnership, or an officer of the corporation if such agency
21 is a corporation, unless the written consent of the Department
22 of Labor shall first be obtained. Such consent may be withheld
23 for any reason for which an original application might have
24 been rejected, if the person in question had been mentioned
25 therein. No such change shall be permitted until the written
26 consent of the surety or sureties on the bond required to be

1 filed by Section 2 of this Act, to such change, is filed with
2 the original bond. The Department shall be notified immediately
3 of any change in the management of the agency so that at all
4 times the identity of the person charged with the general
5 management of the agency shall be known by the Department. A
6 licensee may promote persons within its agency or change the
7 titles and duties of existing agency personnel, other than the
8 general manager, without notice to the Department.

9 (225 ILCS 515/3) (from Ch. 111, par. 903)

10 Sec. 3. Records. It shall be the duty of every such
11 licensed person to keep a complete record in the English
12 language of all orders for employees which are received from
13 prospective employers. Upon request of the Department, a
14 licensee shall verify the date when the order was received, the
15 name of the person recording the job order, the name and
16 address of the employer seeking the services of an employee,
17 the name of the person placing the order, the kind of employee
18 requested, the qualifications required in the employee, the
19 salary or wages to be paid if known, and the possible duration
20 of the job. Prior to the placement of any job advertisement, an
21 employment agency must have a current, bona fide job order, and
22 must maintain a copy of both the advertisement and the job
23 order in a register established specially for that purpose. The
24 term "current, bona fide job order" shall be defined as a job
25 order obtained by the employment agency within 30 days prior to

1 the placement of the advertisement. A job order must be renewed
2 after 45 days and must be annotated with the name of the
3 representative of the prospective employer who authorized the
4 renewal and the date on which the renewal was authorized.

5 Such employment agency shall also keep a complete record in
6 the English language of each applicant to whom employment is
7 offered or promised and who is sent out by the agency to secure
8 a job or interview. This record, which shall be called the
9 Applicant's Record, shall contain the date when the applicant
10 was sent out for the job or interview, the name of the
11 applicant, the name and address of the person or firm to whom
12 sent, the type of job offered and the wages or salary proposed
13 to be paid if known.

14 The agency shall also keep a record of all payments to it
15 of any and all placement fees received and refunded. This
16 record shall be called a Fee Transaction record. It shall
17 contain the date of each transaction, the name of the person
18 making the remittance, the amount paid, a designation
19 indicating whether the amount paid is in full or on account,
20 the receipt number and the date and the amount of any refund.

21 Notwithstanding the provisions of this Act concerning the
22 records required to be kept by employment agencies, the
23 Director of Labor may by regulation permit teachers' agencies,
24 medical agencies, nurses' registries, theatrical agencies,
25 contract labor agencies, baby sitter agencies and such other
26 agencies of a like nature who serve the needs of a specialized

1 class of workers, to keep such records concerning job orders,
2 listing of placed applicants, listing of available applicants
3 and payments of fees by either the employer or the employee as
4 the Department by regulation may approve.

5 The aforesaid records shall be kept in the agency for 3
6 years ~~one year~~ and shall be open during office hours to
7 inspection by the Department and its duly qualified agents, or
8 produced in response to a subpoena issued by the Attorney
9 General in accordance with Section 10-104 of the Illinois Human
10 Rights Act. No such licensee, or his employee, shall knowingly
11 make any false entry in such records. It is a violation of this
12 Act to falsify or fail to keep any of the aforesaid records.

13 (Source: P.A. 91-357, eff. 7-29-99.)

14 (225 ILCS 515/11) (from Ch. 111, par. 914)

15 Sec. 11. Definitions. When used in this Act, unless the
16 context indicates otherwise:

17 The term "employment agency" means any person engaged for
18 gain or profit in the business of placing, referring, securing,
19 or attempting to secure employment for persons seeking
20 employment, or in finding employees for employers. However, the
21 term "employment agency" shall not include any person engaged
22 in the business of consulting or recruiting, and who in the
23 course of such business is compensated solely by any employer
24 to identify, appraise, or recommend an individual or
25 individuals who are at least 18 years of age or who hold a high

1 school diploma for consideration for a position, provided that
2 in no instance is the individual who is identified, appraised,
3 or recommended for consideration for such position charged a
4 fee directly or indirectly in connection with such
5 identification, appraisal, or recommendation, or for
6 preparation of any resume, or on account of any other personal
7 service performed by the person engaged in the business of
8 consulting or recruiting; but this exclusion is not applicable
9 to theatrical employment agencies or domestic service
10 employment agencies.

11 The term "employer" means any person employing or seeking
12 to employ any person for hire.

13 The term "employee" means any person performing or seeking
14 to perform work or services of any kind or character whatsoever
15 for hire.

16 The term "person" means any person, firm, association,
17 partnership, limited liability company, association, or
18 corporation, or other legal entity or its legal
19 representatives, agents, or assigns.

20 The term "employment counsellor" means employees of any
21 employment agency who interview, counsel, or advise applicants
22 or employers or both on employment or allied problems, or who
23 make or arrange contracts or contacts between employers and
24 employees. The term "employment counsellor" includes employees
25 who solicit orders for employees from prospective employers.

26 The term "acceptance" means a mutual agreement, verbal or

1 written, between employee and employer as to starting salary,
2 position, time and place of employment.

3 The term "applicant" means any person who uses the services
4 of an employment agency to secure employment for himself.

5 The term "department" means the Department of Labor.

6 The term "Director" means the Director of the Department of
7 Labor.

8 The term "fee" means money or a promise to pay money. The
9 term "fee" also means and includes the excess of money received
10 by any such licensee over what he has paid for transportation,
11 transfer of baggage, or lodging, for any applicant for
12 employment. The term "fee" also means and includes the
13 difference between the amount of money received by any person,
14 who furnishes employees or performers for any entertainment,
15 exhibition or performance, and the amount paid by the person
16 receiving the amount of money to the employees or performers
17 whom he hires to give such entertainment, exhibition or
18 performance.

19 The term "privilege" means and includes the furnishing of
20 food, supplies, tools or shelter to contract laborers, commonly
21 known as commissary privileges.

22 The term "theatrical employment agency" means and includes
23 the business of conducting an agency, bureau, office or any
24 other place for the purpose of procuring or offering, promising
25 or attempting to provide engagements for persons who want
26 employment in the following occupations: circus, vaudeville,

1 theatrical and other entertainment, or exhibitions, or
2 performances, or of giving information as to where such
3 engagements may be procured or provided, whether such business
4 is conducted in a building, on the street, or elsewhere.

5 The term "theatrical engagement" means and includes any
6 engagement or employment of a person as an actor, performer, or
7 entertainer, in a circus, vaudeville, theatrical or any other
8 entertainment, exhibition or performance.

9 The term "emergency engagement" means and includes any
10 engagement that is to be performed within 24 hours of the time
11 such application was made by an employer.

12 The term "domestic service" means household work in the
13 home of the employer and includes, but is not limited to, work
14 as a maid, cook, butler, gardener, chauffeur, housekeeper or
15 babysitter.

16 (Source: P.A. 89-295, eff. 8-11-95.)

17 (225 ILCS 515/12) (from Ch. 111, par. 915)

18 Sec. 12. Enforcement of Act; hearing procedure;
19 disciplinary actions; certification of records and costs;
20 action to force compliance with a valid order.

21 (a) The enforcement of this Act shall be entrusted to the
22 Department of Labor, which shall appoint such inspectors and
23 officers as it may deem necessary to carry out the provisions
24 of this Act. The Director of Labor or his authorized
25 representative shall have the power to conduct investigations

1 in connection with the administration and enforcement of this
2 Act, and any investigator with the Department shall be
3 authorized to visit and inspect such places and records as the
4 Director of Labor may deem necessary or appropriate to
5 determine if there has been a violation of this Act.

6 (b) The Director of Labor or his designated representative
7 shall have the power and authority to conduct hearings in
8 accordance with "The Illinois Administrative Procedure Act",
9 as now or hereafter amended, upon complaint by an authorized
10 officer of the Department of Labor or any interested person of
11 a violation of the Act or the rules and regulations of the
12 Department of Labor. The Director of Labor or his duly
13 qualified assistants shall have the power to issue subpoenas
14 requiring the attendance of witnesses and the production of
15 books and papers pertinent to such hearing, and to administer
16 oaths to such witnesses. If any witness refuses to obey a
17 subpoena issued hereunder, the Director of Labor may petition
18 the circuit court of the county in which the hearing is held
19 for an order requiring the witness to attend and testify or
20 produce documentary evidence. The circuit court shall hear the
21 petition and if it appears that the witness should testify or
22 should produce documentary evidence, it may enter an order
23 requiring the witness to obey the subpoena. The court may
24 compel obedience by attachment proceedings as for contempt of
25 court. A calendar of all such hearings shall be kept by the
26 Department of Labor, and shall be posted in a conspicuous place

1 in its public office for at least one day before the date of
2 such hearing. The result of such hearing shall be rendered
3 within 30 days from the time the matter is finally submitted.

4 (c) After the hearing, if supported by the evidence, the
5 ~~The~~ Director of Labor may:

6 (1) issue and cause to be served on any party to a
7 formal hearing ~~if supported by the evidence~~ an order to
8 cease and desist from violation of the Act;~~7~~

9 (2) take such further affirmative or other action as
10 deemed reasonable to eliminate the effect of the
11 violation;~~7~~

12 (3) refuse to issue and may revoke or suspend any
13 license; and ~~for any good cause shown within the meaning~~
14 ~~and purpose of this Act.~~

15 (4) determine the amount of any civil penalty permitted
16 by this Act. ~~When it is shown to the satisfaction of the~~
17 ~~Director of Labor that any person is guilty of any immoral,~~
18 ~~fraudulent or illegal conduct in connection with the~~
19 ~~conduct of the business, it shall be the duty of the~~
20 ~~Director of Labor to revoke or suspend the license of such~~
21 ~~person, but notice of such charges shall be presented and~~
22 ~~reasonable opportunity shall be given the licensee to~~
23 ~~defend himself in the manner and form heretofore provided~~
24 ~~in this Section of the Act.~~

25 Whenever the Director of Labor shall issue an order after
26 hearing as provided in this Section, ~~refuse to issue, or revoke~~

1 ~~the license of any such employment agency or employment~~
2 ~~counsellor,~~ the determination shall be reviewable under and in
3 accordance with the provisions of the Administrative Review
4 Law.

5 (d) The Department shall certify the record of its
6 proceedings if the party commencing the proceedings shall pay
7 to it the cost of preparing and certifying such records,
8 including the recording and transcribing of all testimony
9 introduced in the proceedings. If payment for such costs is not
10 made by the party commencing the proceedings for review within
11 10 days after notice from the Department of the cost of
12 preparing and certifying the record, the court in which the
13 proceeding is pending, on motion of the Director, shall dismiss
14 the complaint. Whenever, for any cause such license is revoked,
15 the revocation shall not take effect until 7 days after such
16 revocation is officially announced; and such revocation shall
17 be considered good cause for refusing to issue another license
18 to the person or his representative, or to any person with whom
19 he is to be associated in the business of furnishing employment
20 or employees.

21 (e) Whenever it appears that any employment agency has
22 violated a valid order of the Director of Labor issued under
23 this Act, the Director may commence an action and obtain from
24 the court an order upon the employment agency commanding the
25 employment agency to obey the order of the Director or be
26 adjudged guilty of contempt of court and punished accordingly.

1 ~~Any person who violates any provisions of this Act, except as~~
2 ~~provided in Sections 1, 4 and 10, commits a business offense,~~
3 ~~and shall be fined up to \$1000. The Department of Labor or its~~
4 ~~duly authorized agents may institute criminal proceedings for~~
5 ~~its enforcement in the circuit court.~~

6 (Source: P.A. 82-783.)

7 (225 ILCS 515/12.2 new)

8 Sec. 12.2. Civil penalties for violations of the Act;
9 hearing procedure.

10 (a) An employment agency that violates any of the
11 provisions of this Act or any rule adopted under this Act shall
12 be subject to a civil penalty not to exceed \$6,000 for
13 violations found in the first audit by the Department.
14 Following a first audit, an employment agency shall be subject
15 to a civil penalty not to exceed \$2,500 for each repeat
16 violation found by the Department within 3 years. For purposes
17 of this subsection (a), each violation of this Act, for each
18 day the violation continues, shall constitute a separate and
19 distinct violation. In determining the amount of a penalty, the
20 Director of Labor shall consider the appropriateness of the
21 penalty to the employment agency or employer charged, upon the
22 determination of the gravity of the violations. For any
23 violation determined by the Department to be willful which is
24 within 3 years of an earlier violation, the Department may
25 revoke the license of the violator, if the violator is an

1 employment agency.

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

8 (c) The Director of Labor may adopt rules in accordance
9 with Section 12 of this Act for the conduct of hearings and
10 collection of penalties assessed under this Section. Penalties
11 assessed under this Section, when determined, may be recovered
12 in a civil action brought by the Director of Labor in any
13 circuit court. In any such action, the Director of Labor shall
14 be represented by the Attorney General.

15 (225 ILCS 515/12.3 new)

16 Sec. 12.3. Violations of the Illinois Minimum Wage Law and
17 the Wage Payment and Collection Act.

18 (a) It is a violation of this Act for an employment agency
19 to refer an individual for employment at a wage rate less than
20 that established by Section 4 of the Illinois Minimum Wage Law,
21 or to facilitate underpayment of wages by an employer in any
22 manner. An employment agency that knowingly refers an
23 individual for employment at less than the minimum wage that
24 results in underpayment to an employee is jointly liable for
25 statutory damages as provided for in Section 12 the Illinois

1 Minimum Wage Law.

2 (b) It is a violation of this Act for an employment agency
3 to facilitate illegal deductions from wages or nonpayment of
4 wages by an employer in violation of the Wage Payment and
5 Collection Act. An employment agency that facilitates illegal
6 deduction of wages or nonpayment of wages is jointly liable for
7 statutory damages as provided for in Section 14 of the Wage
8 Payment and Collection Act.

9 (225 ILCS 515/12.4 new)

10 Sec. 12.4. Employer violations of Act; civil penalties;
11 hearing procedure.

12 (a) It is a violation of this Act for an employer to accept
13 a referral of an individual for employment from an employment
14 agency not licensed under Section 1.5 of this Act. An employer
15 has a duty to verify an employment agency's status with the
16 Department before entering into a contract with such an agency,
17 and on March 1 and September 1 of each year. An employment
18 agency shall be required to provide each of its employers with
19 proof of a valid license issued by the Department at the time
20 of entering into a contract. An employment agency shall be
21 required to notify, both by telephone and in writing, each
22 employer with whom it contracts within 24 hours of any denial,
23 suspension, or revocation of its license by the Department. All
24 contracts between any employment agency and any employer shall
25 be considered null and void from the date any such denial,

1 suspension, or revocation of registration becomes effective
2 and until such time as the employment agency becomes registered
3 and considered in good standing by the Department. The
4 Department shall provide on the Internet a list of entities
5 registered as employment agencies, as provided for in Section 1
6 of this Act. An employer may rely on information provided by
7 the Department or maintained on the Department's website
8 pursuant to Section 1 of this Act and shall be held harmless if
9 such information maintained or provided by the Department was
10 inaccurate.

11 (b) Any employer that violates this Section is subject to a
12 civil penalty not to exceed \$500. Each day during which a
13 employer contracts with an employment agency not registered
14 under Section 1.5 of this Act shall constitute a separate and
15 distinct offense.

16 (c) The Director of Labor may adopt rules for the conduct
17 of hearings and collection of these penalties assessed under
18 this Section in accordance with Section 12 of this Act. The
19 amount of these penalties, when finally determined, may be
20 recovered in a civil action brought by the Director of Labor in
21 any circuit court. In any such action, the Director of Labor
22 shall be represented by the Attorney General.

23 (225 ILCS 515/12.5 new)

24 Sec. 12.5. Employment agency retaliation against
25 employees; civil penalties; right of private suit.

1 (a) It is a violation of this Act for a private employment
2 agency, or any agent of a private employment agency, to
3 retaliate in any manner against any employee for exercising any
4 rights granted under this Act or any rights granted by the wage
5 laws of this State. Specifically, it is a violation of this Act
6 for a private employment agency or employer to retaliate
7 against an employee for:

8 (1) making a complaint to an employment agency, to an
9 employer, to a co-worker, to a community organization,
10 before a public hearing, or to a State or federal agency
11 that rights guaranteed under this Act or any wage law of
12 this State have been violated;

13 (2) causing to be instituted any proceeding under or
14 related to this Act or any wage law of this State; or

15 (3) testifying or preparing to testify in an
16 investigation or proceeding under this Act or any wage law
17 of this State.

18 (b) Such retaliation shall subject an employment agency to
19 civil penalties pursuant to Section 12.1 of this Act. The
20 Director may adopt rules for the conduct of hearings and
21 collection of these penalties assessed under this Section in
22 accordance with Section 12 of this Act.

23 (c) An individual who is retaliated against in violation of
24 this Section may, alternately, bring a private suit to recover
25 all legal or equitable relief as may be appropriate and
26 attorney's fees and costs. Such a suit must be brought in the

1 circuit court of Illinois in the county where the alleged
2 offense occurred or where the employment agency is located. The
3 right of an aggrieved individual to bring an action under this
4 Section terminates upon the passing of 3 years from the date of
5 referral by the employment agency. This limitations period is
6 tolled if the employment agency has deterred the employee's
7 exercise of rights under this Act.

8 (225 ILCS 515/12.6 new)

9 Sec. 12.6. Wage Theft Enforcement Fund. All moneys received
10 as fees and civil penalties under this Act shall be deposited
11 into the Wage Theft Enforcement Fund established under the
12 Illinois Wage Payment and Collection Act.