

AN ACT concerning regulation.

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

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

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

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

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

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

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

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

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

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

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

(3) a list of employment agencies in the State whose registration has been revoked, including the reason for the revocation and the date the registration was revoked.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~office.~~

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

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

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

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

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

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

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

(225 ILCS 515/1.5 new)

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

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

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

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

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

(3) An application fee. The Director shall adopt rules to establish a schedule of fees for application for a license. The application fee is nonrefundable.

(4) A schedule of fees, charges, and commissions, which the employment agency intends to charge and collect for its services, together with a copy of all forms and contracts that the agency intends to be used in the operation of the agency. Such schedule of fees, charges, and commissions may thereafter be changed by filing with the Department an amended or supplemental schedule showing such changes at least 15 days before such change is to become effective. Any change in forms or contracts must be filed with the Department of Labor at least 15 days before such change is going to become effective. Such schedule of fees to be charged shall be posted in a conspicuous place in each room of such an agency where applicants are interviewed, in not less than 30 point bold-faced type. Agencies which deal exclusively with employer paid fees shall not be required to post said schedule of fees. The Department may by rule require contracts to contain definitions of terms used in such contracts to eliminate ambiguity.

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

(b) Upon the filing of such application and supporting documentation, the Department shall cause an investigation to be made as to the character and the business integrity and financial responsibility of the applicant and those mentioned in the application, and as to the fitness of the premises to be used. The application shall be rejected if the Department finds that any of the persons named in the application fail to demonstrate good moral character, business integrity and financial responsibility, if the premises are unfit, or if there is any good and sufficient reason within the meaning and purpose of this Act for rejecting such application. Unless the application shall be rejected for one or more of the causes specified above, it shall be granted. A detailed report of such investigation and the action taken thereon shall be made in writing, signed by the investigator, and become a part of the official records of the Department. When, at the time of filing the application, the applicant or any person mentioned in the application is employed as an employment counsellor by a licensed employment agency in this State, the Department shall

notify the agency of this fact.

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

(d) No license shall be transferrable, but a licensee may, with the approval of the Department, make changes in the structure of the business entity operating the agency, but no licensee shall permit any person not mentioned in the original application for a license to become a partner if such agency is a partnership, or an officer of the corporation if such agency is a corporation, unless the written consent of the Department of Labor shall first be obtained. Such consent may be withheld for any reason for which an original application might have been rejected, if the person in question had been mentioned therein. No such change shall be permitted until the written consent of the surety or sureties on the bond required to be filed by Section 2 of this Act, to such change, is filed with the original bond. The Department shall be notified immediately of any change in the management of the agency so that at all times the identity of the person charged with the general management of the agency shall be known by the Department. A licensee may promote persons within its agency or change the

titles and duties of existing agency personnel, other than the general manager, without notice to the Department.

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

Sec. 3. Records. It shall be the duty of every such licensed person to keep a complete record in the English language of all orders for employees which are received from prospective employers. Upon request of the Department, a licensee shall verify the date when the order was received, the name of the person recording the job order, the name and address of the employer seeking the services of an employee, the name of the person placing the order, the kind of employee requested, the qualifications required in the employee, the salary or wages to be paid if known, and the possible duration of the job. Prior to the placement of any job advertisement, an employment agency must have a current, bona fide job order, and must maintain a copy of both the advertisement and the job order in a register established specially for that purpose. The term "current, bona fide job order" shall be defined as a job order obtained by the employment agency within 30 days prior to the placement of the advertisement. A job order must be renewed after 45 days and must be annotated with the name of the representative of the prospective employer who authorized the renewal and the date on which the renewal was authorized.

Such employment agency shall also keep a complete record in the English language of each applicant to whom employment is

offered or promised and who is sent out by the agency to secure a job or interview. This record, which shall be called the Applicant's Record, shall contain the date when the applicant was sent out for the job or interview, the name of the applicant, the name and address of the person or firm to whom sent, the type of job offered and the wages or salary proposed to be paid if known.

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

Notwithstanding the provisions of this Act concerning the records required to be kept by employment agencies, the Director of Labor may by regulation permit teachers' agencies, medical agencies, nurses' registries, theatrical agencies, contract labor agencies, baby sitter agencies and such other agencies of a like nature who serve the needs of a specialized class of workers, to keep such records concerning job orders, listing of placed applicants, listing of available applicants and payments of fees by either the employer or the employee as the Department by regulation may approve.

The aforesaid records shall be kept in the agency for 3 years ~~one year~~ and shall be open during office hours to

inspection by the Department and its duly qualified agents, or produced in response to a subpoena issued by the Attorney General in accordance with Section 10-104 of the Illinois Human Rights Act. No such licensee, or his employee, shall knowingly make any false entry in such records. It is a violation of this Act to falsify or fail to keep any of the aforesaid records.

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

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

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

The term "employment agency" means any person engaged for gain or profit in the business of placing, referring, securing, or attempting to secure employment for persons seeking employment, or in finding employees for employers. However, the term "employment agency" shall not include any person engaged in the business of consulting or recruiting, and who in the course of such business is compensated solely by any employer to identify, appraise, or recommend an individual or individuals who are at least 18 years of age or who hold a high school diploma for consideration for a position, provided that in no instance is the individual who is identified, appraised, or recommended for consideration for such position charged a fee directly or indirectly in connection with such identification, appraisal, or recommendation, or for preparation of any resume, or on account of any other personal

service performed by the person engaged in the business of consulting or recruiting; but this exclusion is not applicable to theatrical employment agencies or domestic service employment agencies.

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

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

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

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

The term "acceptance" means a mutual agreement, verbal or written, between employee and employer as to starting salary, position, time and place of employment.

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

The term "department" means the Department of Labor.

The term "Director" means the Director of the Department of

Labor.

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

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

The term "theatrical employment agency" means and includes the business of conducting an agency, bureau, office or any other place for the purpose of procuring or offering, promising or attempting to provide engagements for persons who want employment in the following occupations: circus, vaudeville, theatrical and other entertainment, or exhibitions, or performances, or of giving information as to where such engagements may be procured or provided, whether such business is conducted in a building, on the street, or elsewhere.

The term "theatrical engagement" means and includes any engagement or employment of a person as an actor, performer, or

entertainer, in a circus, vaudeville, theatrical or any other entertainment, exhibition or performance.

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

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

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

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

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

(a) The enforcement of this Act shall be entrusted to the Department of Labor, which shall appoint such inspectors and officers as it may deem necessary to carry out the provisions of this Act. The Director of Labor or his authorized representative shall have the power to conduct investigations in connection with the administration and enforcement of this Act, and any investigator with the Department shall be authorized to visit and inspect such places and records as the Director of Labor may deem necessary or appropriate to determine if there has been a violation of this Act.

(b) The Director of Labor or his designated representative

shall have the power and authority to conduct hearings in accordance with "The Illinois Administrative Procedure Act", as now or hereafter amended, subject to appropriation and upon complaint by an authorized officer of the Department of Labor or any interested person of a violation of the Act or the rules and regulations of the Department of Labor. The Director of Labor or his duly qualified assistants shall have the power to issue subpoenas requiring the attendance of witnesses and the production of books and papers pertinent to such hearing, and to administer oaths to such witnesses. If any witness refuses to obey a subpoena issued hereunder, the Director of Labor may petition the circuit court of the county in which the hearing is held for an order requiring the witness to attend and testify or produce documentary evidence. The circuit court shall hear the petition and if it appears that the witness should testify or should produce documentary evidence, it may enter an order requiring the witness to obey the subpoena. The court may compel obedience by attachment proceedings as for contempt of court. A calendar of all such hearings shall be kept by the Department of Labor, and shall be posted in a conspicuous place in its public office for at least one day before the date of such hearing. ~~The result of such hearing shall be rendered within 30 days from the time the matter is finally submitted.~~

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

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

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

(3) refuse to issue and may revoke or suspend any license;7 ~~and for any good cause shown within the meaning and purpose of this Act.~~

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

Whenever the Director of Labor shall issue an order after hearing as provided in this Section, ~~refuse to issue, or revoke the license of any such employment agency or employment counsellor,~~ the determination shall be reviewable under and in accordance with the provisions of the Administrative Review Law.

(d) The Department shall certify the record of its

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

(e) Whenever it appears that any employment agency has violated a valid order of the Director of Labor issued under this Act, the Director may commence an action and obtain from the court an order upon the employment agency commanding the employment agency to obey the order of the Director or be adjudged guilty of contempt of court and punished accordingly. ~~Any person who violates any provisions of this Act, except as provided in Sections 1, 4 and 10, commits a business offense, and shall be fined up to \$1000. The Department of Labor or its duly authorized agents may institute criminal proceedings for its enforcement in the circuit court.~~

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

(225 ILCS 515/12.2 new)

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

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

(b) An employment agency that willfully violates any of the provisions of this Act or any rule adopted under this Act, or obstructs the Department, its inspectors or deputies, or any other person authorized to inspect places of employment under

this Act shall be liable for penalties up to double the statutory amount.

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

(225 ILCS 515/12.3 new)

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

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

(b) It is a violation of this Act for an employment agency to facilitate illegal deductions from wages or nonpayment of wages by an employer in violation of the Wage Payment and Collection Act. An employment agency that facilitates illegal

deduction of wages or nonpayment of wages is jointly liable for statutory damages as provided for in Section 14 of the Wage Payment and Collection Act.

(225 ILCS 515/12.4 new)

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

(a) An employment agency shall be required to provide each of its employer clients with proof of a valid license issued by the Department at the time of entering into a contract. An employment agency shall be required to notify, both by telephone and in writing, each employer with whom it contracts within 24 hours of any denial, suspension, or revocation of its license by the Department. All contracts between any employment agency and any employer shall be considered null and void from the date any denial, suspension, or revocation of license becomes effective and until such time as the employment agency becomes licensed and considered in good standing by the Department.

(b) The Department shall provide on the Internet a list of entities licensed as employment agencies, as provided for in Section 1 of this Act. An employer may rely on information provided by the Department or maintained on the Department's website pursuant to Section 1 of this Act and shall be held harmless if the information maintained or provided by the Department was inaccurate. It is a violation of this Act for an

employer to accept a referral of an individual for employment from an employment agency not licensed under Section 1.5 of this Act.

If, upon investigation, the Department finds that a violation of this subsection (b) has occurred, for a first violation by an employer, the Department shall provide notice to any employer that it finds is doing business with an unlicensed employment agency. The notice shall identify the unlicensed entity, indicate that any contract between the unlicensed employment agency and the employer client is null and void, provide information regarding the Department's website that lists licensed employment agencies, and inform the employer of penalties for subsequent violations.

For a second violation by an employer, or if the first violation is not remedied within 10 days of notice by the Department, the Director may impose a civil penalty of up to \$500 for each referral of an individual for employment accepted from an employment agency not licensed under Section 1.5.

For any violation by an employer after the second violation, the Director may impose a civil penalty of up to \$1,500 for each referral of an individual for employment accepted from an employment agency not licensed under Section 1.5. If the first violation is not remedied within 30 days of notice by the Department, the Director may impose an additional civil penalty of up to \$1,500 for every 30 days that passes thereafter.

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

(225 ILCS 515/12.5 new)

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

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

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

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

(3) testifying or preparing to testify in an

investigation or proceeding under this Act or any wage law of this State.

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

(c) An individual who is retaliated against in violation of this Section may, alternately, bring a private suit to recover all legal or equitable relief as may be appropriate and attorney's fees and costs. Such a suit must be brought in the circuit court of Illinois in the county where the alleged offense occurred or where the employment agency is located. The right of an aggrieved individual to bring an action under this Section terminates upon the passing of 3 years from the date of referral by the employment agency. This limitations period is tolled if the employment agency has deterred the employee's exercise of rights under this Act.

(225 ILCS 515/12.6 new)

Sec. 12.6. Child Labor and Day and Temporary Labor Services Enforcement Fund. All moneys received as fees and penalties under this Act shall be deposited into the Child Labor and Day and Temporary Labor Services Enforcement Fund and may be used for the purposes set forth in Section 17.3 of the Child Labor Law.

Section 10. The Child Labor Law is amended by changing Section 17.3 as follows:

(820 ILCS 205/17.3) (from Ch. 48, par. 31.17-3)

Sec. 17.3. Any employer who violates any of the provisions of this Act or any rule or regulation issued under the Act shall be subject to a civil penalty of not to exceed \$5,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the employer charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be

(1) recovered in a civil action brought by the Director of Labor in any circuit court, in which litigation the Director of Labor shall be represented by the Attorney General;

(2) ordered by the court, in an action brought for violation under Section 19, to be paid to the Director of Labor.

Any administrative determination by the Department of Labor of the amount of each penalty shall be final unless reviewed as provided in Section 17.1 of this Act.

Civil penalties recovered under this Section shall be paid into the Child Labor and Day and Temporary Labor Services Enforcement Fund, a special fund which is hereby created in the

Public Act 099-0422

SB1859 Enrolled

LRB099 06627 HAF 26700 b

State treasury. Moneys in the Fund may be used, subject to appropriation, for exemplary programs, demonstration projects, and other activities or purposes related to the enforcement of this Act or for the activities or purposes related to the enforcement of the Day and Temporary Labor Services Act, or for the activities or purposes related to the enforcement of the Private Employment Agency Act.

(Source: P.A. 98-463, eff. 8-16-13.)