

AN ACT concerning employment.

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

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

(30 ILCS 105/8h)

Sec. 8h. Transfers to General Revenue Fund.

(a) Except as provided in subsection (b), notwithstanding any other State law to the contrary, the Governor may, through June 30, 2007, from time to time direct the State Treasurer and Comptroller to transfer a specified sum from any fund held by the State Treasurer to the General Revenue Fund in order to help defray the State's operating costs for the fiscal year. The total transfer under this Section from any fund in any fiscal year shall not exceed the lesser of (i) 8% of the revenues to be deposited into the fund during that fiscal year or (ii) an amount that leaves a remaining fund balance of 25% of the July 1 fund balance of that fiscal year. In fiscal year 2005 only, prior to calculating the July 1, 2004 final balances, the Governor may calculate and direct the State Treasurer with the Comptroller to transfer additional amounts determined by applying the formula authorized in Public Act 93-839 to the funds balances on July 1, 2003. No transfer may be made from a fund under this Section that would have the effect of reducing the available balance in the fund to an amount less than the amount remaining unexpended and unreserved from the total appropriation from that fund estimated to be expended for that fiscal year. This Section does not apply to any funds that are restricted by federal law to a specific use, to any funds in the Motor Fuel Tax Fund, the Hospital Provider Fund, the Medicaid Provider Relief Fund, or the Reviewing Court Alternative Dispute Resolution Fund, or to any funds to which

subsection (f) of Section 20-40 of the Nursing and Advanced Practice Nursing Act applies. Notwithstanding any other provision of this Section, for fiscal year 2004, the total transfer under this Section from the Road Fund or the State Construction Account Fund shall not exceed the lesser of (i) 5% of the revenues to be deposited into the fund during that fiscal year or (ii) 25% of the beginning balance in the fund. For fiscal year 2005 through fiscal year 2007, no amounts may be transferred under this Section from the Road Fund, the State Construction Account Fund, the Criminal Justice Information Systems Trust Fund, the Wireless Service Emergency Fund, or the Mandatory Arbitration Fund.

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

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

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

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

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

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

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

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

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

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

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

(820 ILCS 175/5)

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

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

"Day and temporary labor" means labor or employment that is occasional or irregular at which a person is employed for not longer than the time period required to complete the assignment for which the person was hired and where wage payments are made directly or indirectly by the day and temporary labor service agency or the third party client ~~employer~~ for work undertaken by day or temporary laborers pursuant to a contract between the day and temporary labor service agency with the third party

client ~~employer~~. "Day and temporary labor" does not include labor or employment of a professional or clerical nature.

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

"Department" means the Department of Labor.

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

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

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

(820 ILCS 175/10)

Sec. 10. Employment Notice Statement.

(a) Whenever a day and temporary labor service agency agrees to send one or more persons to work as day or temporary laborers, the day and temporary labor service agency shall provide to each, ~~upon request by a day or temporary laborer, at the time of dispatch, provide to the day or temporary laborer~~ a statement containing the following items on a form approved by the Department:

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

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

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

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

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

(6) whether ~~whether~~ a meal or ~~and~~ equipment, or both, ~~is~~ provided, either by the day and temporary labor service

agency or the third party client ~~employer~~, and the cost of the meal and equipment, if any.

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

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

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

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

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

(820 ILCS 175/12 new)

Sec. 12. Recordkeeping.

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

(1) the name, address and telephone number of each third party client, including each worksite, to which day

or temporary laborers were sent by the agency and the date of the transaction;

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

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

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

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

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

(7) deductions to be made from each day or temporary laborer's compensation made by either the third party client or by the day and temporary labor service agency for the day or temporary laborer's transportation, food, equipment, withheld income tax, withheld social security payments and every other deduction;

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

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

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

(b) The day and temporary labor service agency shall maintain all records under this Section for a period of 3 years from their creation. The records shall be open to inspection by the Department during normal business hours. Records described in paragraphs (1), (2), (3), (6), (7), and (8) of subsection (a) shall be available for review or copying by that day or temporary laborer during normal business hours within 5 days

following a written request. In addition, a day and temporary labor service agency shall make records related to the number of hours billed to a third party client for that individual day or temporary laborer's hours of work available for review or copying during normal business hours within 5 days following a written request. The day and temporary labor service agency shall make forms, in duplicate, for such requests available to day or temporary laborers at the dispatch office. The day or temporary laborer shall be given a copy of the request form. It is a violation of this Section to make any false, inaccurate or incomplete entry into any record required by this Section, or to delete required information from any such record.

(820 ILCS 175/15)

Sec. 15. Meals. A day and temporary labor service agency or a third party client ~~employer~~ shall not charge a day or temporary laborer for any meal not consumed by the day and temporary laborer and, if consumed, no more than the actual cost of a meal. In no case shall the purchase of a meal be a condition of employment for a day or temporary laborer.

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

(820 ILCS 175/20)

Sec. 20. Transportation.

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

(b) A day and temporary labor service agency is responsible for the conduct and performance of any person who transports a day or temporary laborer from the agency to a work site, unless the transporter is: (1) a public mass transportation system as defined in Section 2 of the Local Mass Transit District Act; (2) a common carrier; (3) the day or temporary laborer providing his or her own transportation; or (4) selected exclusively by and at the sole choice of the day or temporary

laborer for transportation in a vehicle not owned or operated by the day and temporary labor service agency. If any day and temporary labor service agency provides transportation to a day or temporary laborer or refers a day or temporary laborer as provided in subsection (c), the day and temporary labor service agency may not allow a motor vehicle to be used for the transporting of day or temporary laborers if the agency knows or should know that the motor vehicle used for the transportation of day or temporary laborers is unsafe or not equipped as required by this Act or by any rule adopted under this Act, unless the vehicle is: (1) the property of a public mass transportation system as defined in Section 2 of the Local Mass Transit District Act; (2) the property of a common carrier; (3) the day or temporary laborer's personal vehicle; or (4) a vehicle of a day or temporary laborer used to carpool other day or temporary laborers and which is selected exclusively by and at the sole choice of the day or temporary laborer for transportation.

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

(d) ; however, the total cost to each day or temporary laborer shall not exceed 3% of the day or temporary laborer's daily wages. Any motor vehicle that is owned or operated by the day and temporary labor service agency or a third party client employer, or a contractor or agent of either, or to which a day

and temporary labor service agency refers a day or temporary laborer, which is used for the transportation of day or temporary laborers shall have proof of financial responsibility as provided for in Chapter 8 of the Illinois Vehicle Code or as required by Department rules. The driver of the vehicle shall hold a valid license to operate motor vehicles in the correct classification and shall be required to produce the license immediately upon demand by the Department, its inspectors or deputies, or any other person authorized to enforce this Act. The Department shall forward a violation of this subsection to the appropriate law enforcement authorities or regulatory agencies, whichever is applicable.

(e) No motor vehicle that is owned or operated by the day and temporary labor service agency or a third party client, or a contractor or agent of either, or to which a day and temporary labor service agency refers a day or temporary laborer, which is used for the transportation of day or temporary laborers may be operated if it does not have a seat and a safety belt for each passenger. The Department shall forward a violation of this subsection to the appropriate law enforcement authorities or regulatory agencies, whichever is applicable.

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

(820 ILCS 175/25)

Sec. 25. Day or temporary laborer equipment. For any safety equipment, clothing, accessories, or any other items required by the nature of the work, either by law, custom, or as a requirement of the third party client ~~employer~~, the day and temporary labor service agency or the third party client ~~employer~~ may charge the day or temporary laborer the market value of the item temporarily provided to the day or temporary laborer by the third party client ~~employer~~ if the day or temporary laborer fails to return such items to the third party client ~~employer~~ or the day and temporary labor service agency. For any other equipment, clothing, accessories, or any other

items the day and temporary labor service agency makes available for purchase, the day or temporary laborer shall not be charged more than the actual market value for the item.

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

(820 ILCS 175/30)

Sec. 30. Wage Payment and Notice.

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

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

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

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

(4) the total pay period earnings;

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

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

(a-1) For each day or temporary laborer who is contracted

to work a single day, the third party client shall, at the end of the work day, provide such day or temporary laborer with a Work Verification Form, approved by the Department, which shall contain the date, the day or temporary laborer's name, the work location, and the hours worked on that day. Any third party client who violates this subsection (a-1) may be subject to a civil penalty not to exceed \$500 for each violation found by the Department. Such civil penalty may increase to \$2,500 for a second or subsequent violation. For purposes of this subsection (a-1), each violation of this subsection (a-1) for each day or temporary laborer and for each day the violation continues shall constitute a separate and distinct violation.

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

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

the notice at the location where the wages are received by the day or temporary laborers.

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

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

(f) The total amount deducted for meals, equipment, and transportation may not cause a day or temporary laborer's hourly wage to fall below the State or federal minimum wage. However, a day and temporary labor service agency may deduct the actual market value of reusable equipment provided to the day or temporary laborer by the day and temporary labor service agency which the day or temporary laborer fails to return, if the day or temporary laborer provides a written authorization for such deduction at the time the deduction is made.

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

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

(820 ILCS 175/35)

Sec. 35. Public Access Area. Each day and temporary labor service agency shall provide adequate seating in the public

access area of the offices of the agency. The public access area shall be the location for the ~~employment and wage~~ notices required by Section ~~45 40~~ of this Act and any other State or federally mandated posting. The public access area shall allow for access to restrooms and water.

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

(820 ILCS 175/40)

Sec. 40. Work Restriction. No day and temporary labor service agency shall restrict the right of a day or temporary laborer to accept a permanent position with a third party client employer to whom the day or temporary laborer has been referred for work or restrict the right of such third party client employer to offer such employment to a day or temporary laborer. A day and temporary labor service agency may charge a placement fee to a third party client for employing a day or temporary laborer for whom a contract for work was effected by the day and temporary labor service agency not to exceed the equivalent of the total daily commission rate the day and temporary labor service agency would have received over a 60-day period, reduced by the equivalent of the daily commission rate the day and temporary labor service agency would have received for each day the day or temporary laborer has performed work for the day and temporary labor service agency in the preceding 12 months. Days worked at a day and temporary labor service agency in the 12 months preceding the effective date of this amendatory Act of the 94th General Assembly shall be included for purposes of calculating the maximum placement fee described in this Section. However, placement of a day or temporary laborer who is contracted by a day and temporary labor service agency to provide skilled labor shall not be subject to any placement fee cap. For purposes of this Section, a day or temporary laborer who performs "skilled labor" shall apply only where the day and temporary labor service agency performs an advanced application process, a screening process, which may include processes such as advanced

testing, and a job interview. No fee provided for under this Section may be assessed or collected by the day and temporary labor service agency when the day or temporary laborer is offered permanent work following the suspension or revocation of the day and temporary labor service agency's registration by the Department. Nothing in this Section shall restrict a day and temporary labor service agency from receiving a placement fee from the third party employer for employing a day or temporary laborer for whom a contract for work was effected by the day and temporary labor service agency.

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

(820 ILCS 175/45)

Sec. 45. Registration; Department of Labor.

(a) A day and temporary labor service agency which is located, operates or transacts business within this State shall register with the Department of Labor in accordance with rules adopted by the Department for day and temporary labor service agencies and shall be subject to this Act and any rules adopted under this Act that operate within the State. Each day and temporary labor service agency shall provide proof of an employer account number issued by the Department of Employment Security for the payment of unemployment insurance contributions as required under the Unemployment Insurance Act, and proof of valid workers' compensation insurance in effect at the time of registration covering all of its employees. If, at any time, a day and temporary labor service agency's workers' compensation insurance coverage lapses, the agency shall have an affirmative duty to report the lapse of such coverage to the Department and the agency's registration shall be suspended until the agency's workers' compensation insurance is reinstated. The Department may assess each day and temporary labor service agency a non-refundable registration fee not exceeding \$1,000 \$250 per year per agency and a non-refundable fee not to exceed \$250 for each branch office or other location where the agency regularly contracts with day or

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

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

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

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

(2) is under the age of 18.

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

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

(820 ILCS 175/50)

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

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

(820 ILCS 175/55)

Sec. 55. Enforcement. It shall be the duty of the Department to enforce the provisions of this Act. The Department 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, at all reasonable times, any places covered by this Act and shall be authorized to inspect, at all reasonable times, contracts for the employment of all day or temporary laborers entered into by a third party client

~~employer~~ if the Department has received a complaint indicating that the third party client ~~employer~~ may have contracted with a day and temporary labor service agency that is not registered under this Act. The Department shall conduct hearings in accordance with the Illinois Administrative Procedure Act upon written complaint by an investigator of the Department or any interested person of a violation of the Act. After the hearing, if supported by the evidence, the Department may (i) issue and cause to be served on any party an order to cease and desist from further violation of the Act, (ii) take affirmative or other action as deemed reasonable to eliminate the effect of the violation, (iii) deny, suspend, or revoke any registration under this Act, and (iv) determine the amount of any civil penalty allowed by the Act. The Director of Labor or his or her representative may compel, by subpoena, the attendance and testimony of witnesses and the production of books, payrolls, records, papers, and other evidence in any investigation or hearing and may administer oaths to witnesses, ~~however, proprietary lists of a day and temporary labor service agency are not subject to subpoena.~~ Nothing in this Act applies to labor or employment of a clerical or professional nature.

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

(820 ILCS 175/70)

Sec. 70. Penalties.

(a) A day and temporary labor service agency that violates any of the provisions of this Act or any rule adopted under this Act concerning registration, transportation, equipment, meals, wages, or waiting rooms shall be subject to a civil penalty not to exceed \$6,000 \$500 for any violations found in the first audit by the Department. Following a first audit, a day and temporary labor service agency shall be subject to a civil penalty and not to exceed \$2,500 \$5,000 for each repeat violation any violations found in the second audit by the Department within 3 years. For purposes of this subsection, each violation of this Act for each day or temporary laborer

and for each day the violation continues shall constitute a separate and distinct violation. ~~For any violations that are found in a third audit by the Department that are within 7 years of the earlier violations, the Department may revoke the registration of the violator.~~ In determining the amount of a penalty, the Director shall consider the appropriateness of the penalty to the day and temporary labor service agency 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 registration of the violator. The amount of the penalty, when finally determined, may be:

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

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

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

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

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

(820 ILCS 175/75)

Sec. 75. Willful violations.

(a) Whoever willfully violates any of the provisions of this Act or any rule adopted under this Act, or whoever obstructs the Department of Labor, 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.

(b) Whoever willfully violates any of the provisions of

this Act or any rule adopted under this Act which results in an underpayment to a day or temporary laborer shall be liable to the Department for up to 20% of the day and temporary labor service agency's or the third party client's total underpayment and shall also be liable to the employee for punitive damages in the amount of 2% of the amount of any such underpayments for each month following the date of payment during which the underpayments remain unpaid.

(c) The Director may promulgate rules for the collection of these penalties. The penalty shall be imposed in cases in which a day and temporary labor service agency's or a third party client's conduct is proven by a preponderance of the evidence to be willful. The penalty 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. ~~guilty of a Class A misdemeanor. Each day during which a violation of this Act continues shall constitute a separate and distinct offense, and the employment of any person in violation of the Act shall, with respect to each person so employed, constitute a separate and distinct offense. Whenever, in the opinion of the Department, a violation of the Act has occurred, the Department shall report the violation to the Attorney General of this State who shall have authority to prosecute all reported violations.~~

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

(820 ILCS 175/85)

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

(a) It is a violation of this Act for a third party client to enter into a contract ~~Third party employers are prohibited from entering into contracts~~ for the employment of day or temporary laborers with any day and temporary labor service agency not registered under Section 45 of this Act. A third party client has a duty to verify a day and temporary labor service agency's status with the Department before entering into a contract with such an agency, and on March 1 and

September 1 of each year. A day and temporary labor service agency shall be required to provide each of its third party clients with proof of valid registration issued by the Department at the time of entering into a contract. A day and temporary labor service agency shall be required to notify, both by telephone and in writing, each day or temporary laborer it employs and each third party client with whom it has a contract within 24 hours of any denial, suspension, or revocation of its registration by the Department. All contracts between any day and temporary labor service agency and any third party client shall be considered null and void from the date any such denial, suspension, or revocation of registration becomes effective and until such time as the day and temporary labor service agency becomes registered and considered in good standing by the Department as provided in Section 50 and Section 55. Upon request, the Department shall provide to a third party client ~~employer~~ a list of entities registered as day and temporary labor service agencies. The Department shall provide on the Internet a list of entities registered as day and temporary labor service agencies. A third party client may rely on information provided by the Department or maintained on the Department's website pursuant to Section 45 of this Act and shall be held harmless if such information maintained or provided by the Department was inaccurate. Any third party client that violates this provision of the Act is subject to a civil penalty not to exceed \$500. Each day during which a third party client contracts with a day and temporary labor service agency not registered under Section 45 of this Act shall constitute a separate and distinct offense.

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

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

(820 ILCS 175/90 new)

Sec. 90. Retaliation.

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

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

(1) making a complaint to a day and temporary labor service agency, to a third party client, 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 have been violated;

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

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

(820 ILCS 175/95 new)

Sec. 95. Private Right of Action.

(a) A person aggrieved by a violation of this Act or any rule adopted under this Act by a day and temporary labor service agency or a third party client may file suit in circuit court of Illinois, in the county where the alleged offense occurred or where any day or temporary laborer who is party to the action resides, without regard to exhaustion of any alternative administrative remedies provided in this Act. Actions may be brought by one or more day or temporary laborers

for and on behalf of themselves and other day or temporary laborers similarly situated. A day or temporary laborer whose rights have been violated under this Act by a day and temporary labor service agency or a third party client is entitled to collect:

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

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

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

(4) attorney's fees and costs.

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

(820 ILCS 175/97 new)

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