

1 AMENDMENT TO SENATE BILL 1975

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1975 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The State Finance Act is amended by changing  
5 Section 5.306 as follows:

6 (30 ILCS 105/5.306) (from Ch. 127, par. 141.306)

7 Sec. 5.306. The Child Labor and Day and Temporary Labor  
8 Services Enforcement Fund.

9 (Source: P.A. 87-139; 87-895.)

10 Section 10. The Day Labor Services Act is amended by  
11 changing the title of the Act and Sections 1, 5, 10, 15, 20,  
12 25, 30, 35, 40, 45, and 50 and by adding Sections 55, 60, 65,  
13 70, 75, and 80 as follows:

14 (820 ILCS 175/Act title)

15 AN ACT in relation to day and temporary labor services.

16 (820 ILCS 175/1)

17 Sec. 1. Short Title. This Act may be cited as the Day  
18 and Temporary Labor Services Act.

19 (Source: P.A. 91-579, eff. 1-1-00.)

1 (820 ILCS 175/5)

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

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

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

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

22 "Department" means the Department of Labor.

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

26 (Source: P.A. 91-579, eff. 1-1-00.)

27 (820 ILCS 175/10)

28 Sec. 10. Statement.

29 (a) Whenever a day and temporary labor service agency  
30 agrees to send one or more persons to work as day or  
31 temporary laborers, the day and temporary labor service  
32 agency shall, upon request by a day or temporary laborer,  
33 provide to the day or temporary laborer a statement

1 containing the following items: "Name and nature of the work  
2 to be performed", "wages offered", "destination of the person  
3 employed", "terms of transportation", and whether a meal and  
4 equipment is provided, either by the day and temporary labor  
5 service or the third party employer, and the cost of the meal  
6 and equipment, if any.

7 (b) No day and temporary labor service agency may send  
8 any day or temporary laborer to any place where a strike, a  
9 lockout, or other labor trouble exists without first  
10 notifying the day or temporary laborer of the conditions.

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

17 (Source: P.A. 91-579, eff. 1-1-00.)

18 (820 ILCS 175/15)

19 Sec. 15. Meals. A day and temporary labor service  
20 agency or a third party employer shall not charge a day or  
21 temporary laborer more than the actual cost of a meal. In no  
22 case shall the purchase of a meal be a condition of  
23 employment for a day or temporary laborer.

24 (Source: P.A. 91-579, eff. 1-1-00.)

25 (820 ILCS 175/20)

26 Sec. 20. Transportation. A day and temporary labor  
27 service agency or a third party employer shall charge no more  
28 than the actual cost to transport a day or temporary laborer  
29 to or from the designated work site; however, the total cost  
30 to each day or temporary laborer shall not exceed 3% of the  
31 day or temporary laborer's daily wages. Any motor vehicle  
32 that is owned or operated by the day and temporary labor

1 service agency or a third party employer, or a contractor of  
 2 either, which is used for the transportation of day or  
 3 temporary laborers shall have proof of financial  
 4 responsibility as provided for in Chapter 8 of the Illinois  
 5 Vehicle Code.

6 (Source: P.A. 91-579, eff. 1-1-00.)

7 (820 ILCS 175/25)

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

22 (Source: P.A. 91-579, eff. 1-1-00.)

23 (820 ILCS 175/30)

24 Sec. 30. Wage Payment.

25 (a) At the time of the payment of wages, a day and  
 26 temporary labor service agency shall provide each day or  
 27 temporary laborer with an itemized statement showing in  
 28 detail each deduction made from the wages.

29 (b) A day and temporary labor service agency shall  
 30 provide each worker an annual earnings summary within a  
 31 reasonable time after the preceding calendar year, but in no  
 32 case later than February 1. A day and temporary labor

1 service agency shall, at the time of each wage payment, give  
2 notice to day or temporary laborers of the availability of  
3 the annual earnings summary or post such a notice in a  
4 conspicuous place in the public reception area.

5 (c) At the request of a day or temporary laborer, a day  
6 and temporary labor service agency shall hold the daily wages  
7 of the day or temporary laborer and make either weekly or  
8 semi-monthly payments. The wages shall be paid in a single  
9 check representing the wages earned during the period, either  
10 weekly or semi-monthly, designated by the day or temporary  
11 laborer in accordance with the Illinois Wage Payment and  
12 Collection Act. Day and temporary labor service agencies  
13 that make daily wage payments shall provide written  
14 notification to all day or temporary laborers of the right to  
15 request weekly or semi-monthly checks. The day and temporary  
16 labor service agency may provide this notice by conspicuously  
17 posting the notice at the location where the wages are  
18 received by the day or temporary laborers.

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

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

28 (Source: P.A. 91-579, eff. 1-1-00.)

29 (820 ILCS 175/35)

30 Sec. 35. Public Access Area. Each day and temporary  
31 labor service agency shall provide adequate seating in the  
32 public access area of the offices of the agency. The public  
33 access area shall be the location for the employment and wage

1 notices required by Section 10 of this Act. The public  
2 access area shall allow for access to restrooms and water.  
3 (Source: P.A. 91-579, eff. 1-1-00.)

4 (820 ILCS 175/40)

5 Sec. 40. Work Restriction. No day and temporary labor  
6 service agency shall restrict the right of a day or temporary  
7 laborer to accept a permanent position with a third party  
8 employer to whom the day or temporary laborer has been  
9 referred for work or restrict the right of such third party  
10 employer to offer such employment to a day or temporary  
11 laborer. Nothing in this Section shall restrict a day and  
12 temporary labor service agency from receiving a placement fee  
13 from the third party employer for employing a day or  
14 temporary laborer for whom a contract for work was effected  
15 by the day and temporary labor service agency.  
16 (Source: P.A. 91-579, eff. 1-1-00.)

17 (820 ILCS 175/45)

18 Sec. 45. Registration; Department of Labor. A day and  
19 temporary labor service agency shall register with the  
20 Department of Labor in accordance with rules adopted by the  
21 Department for day and temporary labor service agencies that  
22 operate within the State. The Department may assess each  
23 agency a non-refundable registration fee not exceeding \$250  
24 per year. The fee may be paid by check or money order and  
25 the Department may not refuse to accept a check on the basis  
26 that it is not a certified check or a cashier's check. The  
27 Department may charge an additional fee to be paid by an  
28 agency if the agency, or any person on the agency's behalf,  
29 issues or delivers a check to the Department that is not  
30 honored by the financial institution upon which it is drawn.  
31 The Department shall also adopt rules for violation hearings  
32 and penalties for violations of this Act or the Department's

1 rules in conjunction with the fines and penalties set forth  
2 in this Act. The Department shall cause to be posted in each  
3 agency a notice which informs the public of a toll-free  
4 telephone number for day or temporary laborers and the public  
5 to file wage dispute complaints and other alleged violations  
6 by day and temporary labor service agencies.

7 (Source: P.A. 91-579, eff. 1-1-00.)

8 (820 ILCS 175/50)

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

13 (Source: P.A. 91-579, eff. 1-1-00.)

14 (820 ILCS 175/55 new)

15 Sec. 55. Enforcement. It shall be the duty of the  
16 Department to enforce the provisions of this Act. The  
17 Department shall have the power to conduct investigations in  
18 connection with the administration and enforcement of this  
19 Act and any investigator with the Department shall be  
20 authorized to visit and inspect, at all reasonable times, any  
21 places covered by this Act. The Department shall conduct  
22 hearings in accordance with the Illinois Administrative  
23 Procedure Act upon written complaint by an investigator of  
24 the Department or any interested person of a violation of the  
25 Act. After the hearing, if supported by the evidence, the  
26 Department may (i) issue and cause to be served on any party  
27 an order to cease and desist from further violation of the  
28 Act, (ii) take affirmative or other action as deemed  
29 reasonable to eliminate the effect of the violation, (iii)  
30 deny, suspend, or revoke any registration under this Act, and  
31 (iv) determine the amount of any civil penalty allowed by the  
32 Act. The Director of Labor or his or her representative may

1 compel, by subpoena, the attendance and testimony of  
2 witnesses and the production of books, payrolls, records,  
3 papers, and other evidence in any investigation or hearing  
4 and may administer oaths to witnesses. Nothing in this Act  
5 applies to labor or employment of a clerical or professional  
6 nature.

7 (820 ILCS 175/60 new)

8 Sec. 60. Review under Administrative Review Law. Any  
9 party to a proceeding under this Act may apply for and obtain  
10 judicial review of an order of the Department entered under  
11 this Act in accordance with the provisions of the  
12 Administrative Review Law, and the Department in proceedings  
13 under the Act may obtain an order from the court for the  
14 enforcement of its order.

15 (820 ILCS 175/65 new)

16 Sec. 65. Contempt. Whenever it appears that any day and  
17 temporary labor service agency has violated a valid order of  
18 the Department issued under this Act, the Director of Labor  
19 may commence an action and obtain from the court an order  
20 commanding the day and temporary labor service agency to obey  
21 the order of the Department or be adjudged guilty of contempt  
22 of court and punished accordingly.

23 (820 ILCS 175/70 new)

24 Sec. 70. Penalties. A day and temporary labor service  
25 agency that violates any of the provisions of this Act  
26 concerning registration, transportation, equipment, meals,  
27 wages, or waiting rooms shall be subject to a civil penalty  
28 not to exceed \$500 for any violations found in the first  
29 audit by the Department and not to exceed \$5,000 for any  
30 violations found in the second audit by the Department. For  
31 any violations that are found in a third audit by the



1 Department that are within 7 years of the earlier violations,  
2 the Department may revoke the registration of the violator.  
3 In determining the amount of a penalty, the Director shall  
4 consider the appropriateness of the penalty to the day and  
5 temporary labor service agency charged, upon the  
6 determination of the gravity of the violations. The amount of  
7 the penalty, when finally determined, may be:

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

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

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

18 (820 ILCS 175/75 new)

19 Sec. 75. Willful violations. Whoever willfully violates  
20 any of the provisions of this Act or any rule adopted under  
21 this Act, or whoever obstructs the Department of Labor, its  
22 inspectors or deputies, or any other person authorized to  
23 inspect places of employment under this Act shall be guilty  
24 of a Class A misdemeanor. Each day during which a violation  
25 of this Act continues shall constitute a separate and  
26 distinct offense, and the employment of any person in  
27 violation of the Act shall, with respect to each person so  
28 employed, constitute a separate and distinct offense.  
29 Whenever, in the opinion of the Department, a violation of  
30 the Act has occurred, the Department shall report the  
31 violation to the Attorney General of this State who shall  
32 have authority to prosecute all reported violations.

1 (820 ILCS 175/80 new)  
 2 Sec. 80. Child Labor and Day and Temporary Labor  
 3 Enforcement Fund. All moneys received as fees and civil  
 4 penalties under this Act shall be deposited into the Child  
 5 Labor and Day and Temporary Labor Enforcement Fund and may be  
 6 used for the purposes set forth in Section 17.3 of the Child  
 7 Labor Law.

8 Section 15. The Child Labor Law is amended by changing  
 9 Section 17.3 as follows:

10 (820 ILCS 205/17.3) (from Ch. 48, par. 31.17-3)

11 Sec. 17.3. Any employer who violates any of the  
 12 provisions of this Act or any rule or regulation issued under  
 13 the Act shall be subject to a civil penalty of not to exceed  
 14 \$5,000 for each such violation. In determining the amount of  
 15 such penalty, the appropriateness of such penalty to the size  
 16 of the business of the employer charged and the gravity of  
 17 the violation shall be considered. The amount of such  
 18 penalty, when finally determined, may be

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

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

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

29 Civil penalties recovered under this Section shall be  
 30 paid into the Child Labor and Day and Temporary Labor  
 31 Enforcement Fund, a special fund which is hereby created in  
 32 the State treasury. Moneys ~~Monies~~ in the Fund may ~~shall~~ be

1 used, subject to appropriation, for exemplary programs,  
2 demonstration projects, and other activities or purposes  
3 related to the enforcement of this Act or for the activities  
4 or purposes related to the enforcement of the Day and  
5 Temporary Labor Services Act.

6 (Source: P.A. 87-139; 88-365.)

7 Section 99. Effective date. This Act takes effect  
8 January 1, 2003."