

1 AMENDMENT TO SENATE BILL 1975

2 AMENDMENT NO. _____. Amend Senate Bill 1975, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

7 (30 ILCS 105/5.306) (from Ch. 127, par. 141.306)

8 Sec. 5.306. The Child Labor and Temporary Staffing
9 Services Enforcement Fund.

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

11 Section 10. The Day Labor Services Act is amended by
12 changing the title of the Act and Sections 1, 5, 10, 15, 20,
13 25, 30, 35, 40, 45, and 50 and by adding Sections 55, 60, 65,
14 70, 75, and 80 as follows:

15 (820 ILCS 175/Act title)

16 AN ACT in relation to temporary staffing day-labor
17 services.

18 (820 ILCS 175/1)

19 Sec. 1. Short Title. This Act may be cited as the

1 Temporary Staffing Day-Labor Services Act.

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

3 (820 ILCS 175/5)

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

5 "Temporary staffer Day--laborer" means a natural person
6 who contracts for employment with a temporary staffing day
7 labor service agency.

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

19 "Temporary staffing Day-labor service agency" means any
20 person or entity engaged in the business of employing
21 temporary staffers day-laborers to provide services to or for
22 any third party employer pursuant to a contract with the
23 temporary staffing day-labor service and the third party
24 employer.

25 "Department" means the Department of Labor.

26 "Third party employer" means any person that contracts
27 with a temporary staffing day-labor service agency for the
28 employment of temporary staffers day-laborers.

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

30 (820 ILCS 175/10)

31 Sec. 10. Statement.

32 (a) Whenever a temporary staffing day--labor service

1 agency agrees to send one or more persons to work as
2 temporary staffers day-laborers, the temporary staffing day
3 labor service agency shall, upon request by a temporary
4 staffer day--laborer, provide to the temporary staffer day
5 laborer a statement containing the following items: "Name and
6 nature of the work to be performed", "wages offered",
7 "destination of the person employed", "terms of
8 transportation", and whether a meal and equipment is
9 provided, either by the temporary staffing day-labor service
10 or the third party employer, and the cost of the meal and
11 equipment, if any.

12 (b) No temporary staffing day-labor service agency may
13 send any temporary staffer day-laborer to any place where a
14 strike, a lockout, or other labor trouble exists without
15 first notifying the temporary staffer day--laborer of the
16 conditions.

17 (c) The Department shall recommend to temporary staffing
18 day--labor service agencies that those agencies employ
19 personnel who can effectively communicate information
20 required in subsections (a) and (b) to temporary staffers day
21 laborers in Spanish, Polish, or any other language that is
22 generally used in the locale of the temporary staffing day
23 labor agency.

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

25 (820 ILCS 175/15)

26 Sec. 15. Meals. A temporary staffing day-labor service
27 agency or a third party employer shall not charge a temporary
28 staffer day-laborer more than the actual cost of a meal. In
29 no case shall the purchase of a meal be a condition of
30 employment for a temporary staffer day-laborer.

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

32 (820 ILCS 175/20)

1 Sec. 20. Transportation. A temporary staffing day-laborer
2 service agency or a third party employer shall charge no more
3 than the actual cost to transport a temporary staffer day
4 laborer to or from the designated work site; however, the
5 total cost to each temporary staffer day--laborer shall not
6 exceed 3% of the temporary staffer's day-laborer's daily
7 wages. Any motor vehicle that is owned or operated by the
8 temporary staffing day-laborer service agency or a third party
9 employer, or a contractor of either, which is used for the
10 transportation of temporary staffers day-laborers shall have
11 proof of financial responsibility as provided for in Chapter
12 8 of the Illinois Vehicle Code.

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

14 (820 ILCS 175/25)

15 Sec. 25. Temporary staffer Day-laborer equipment. For
16 any safety equipment, clothing, accessories, or any other
17 items required by the nature of the work, either by law,
18 custom, or as a requirement of the third party employer, the
19 temporary staffing day--laborer service agency or the third
20 party employer may charge the temporary staffer day--laborer
21 the market value of the item temporarily provided to the
22 temporary staffer day-laborer by the third party employer if
23 the temporary staffer day-laborer fails to return such items
24 to the third party employer or the temporary staffing day
25 laborer service agency. For any other equipment, clothing,
26 accessories, or any other items the temporary staffing day
27 laborer service agency makes available for purchase, the
28 temporary staffer day-laborer shall not be charged more than
29 the actual market value for the item.

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

31 (820 ILCS 175/30)

32 Sec. 30. Wage Payment.

1 (a) At the time of the payment of wages, a temporary
2 staffing day--labor service agency shall provide each
3 temporary staffer day--laborer with an itemized statement
4 showing in detail each deduction made from the wages.

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

13 (c) At the request of a temporary staffer, a temporary
14 staffing day-laborer, a day-labor service agency shall hold
15 the daily wages of the temporary staffer day-laborer and make
16 either weekly or semi-monthly payments. The wages shall be
17 paid in a single check representing the wages earned during
18 the period, either weekly or semi-monthly, designated by the
19 temporary staffer day-laborer in accordance with the Illinois
20 Wage Payment and Collection Act. Temporary staffing Day
21 labor service agencies that make daily wage payments shall
22 provide written notification to all temporary staffers day
23 laborers of the right to request weekly or semi-monthly
24 checks. The temporary staffing day-labor service agency may
25 provide this notice by conspicuously posting the notice at
26 the location where the wages are received by the temporary
27 staffers day-laborers.

28 (d) No temporary staffing day-labor service agency shall
29 charge any temporary staffer day-laborer for cashing a check
30 issued by the agency for wages earned by a temporary staffer
31 day-laborer who performed work through that agency.

32 (e) Temporary staffers Day--laborers shall be paid no
33 less than the wage rate stated in the notice as provided in
34 Section 10 of this Act for all the work performed on behalf

1 of the third party employer in addition to the work listed in
2 the written description.

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

4 (820 ILCS 175/35)

5 Sec. 35. Public Access Area. Each temporary staffing
6 ~~day--laborer~~ service agency shall provide adequate seating in
7 the public access area of the offices of the agency. The
8 public access area shall be the location for the employment
9 and wage notices required by Section 10 of this Act. The
10 public access area shall allow for access to restrooms and
11 water.

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

13 (820 ILCS 175/40)

14 Sec. 40. Work Restriction. No temporary staffing day
15 ~~laborer~~ service agency shall restrict the right of a temporary
16 staffer day-laborer to accept a permanent position with a
17 third party employer to whom the temporary staffer day
18 laborer has been referred for work or restrict the right of
19 such third party employer to offer such employment to a
20 temporary staffer day-laborer. Nothing in this Section shall
21 restrict a temporary staffing day-laborer service agency from
22 receiving a placement fee from the third party employer for
23 employing a temporary staffer day-laborer for whom a contract
24 for work was effected by the temporary staffing day--laborer
25 service agency.

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

27 (820 ILCS 175/45)

28 Sec. 45. Registration; Department of Labor. A temporary
29 staffing day--laborer service agency shall register with the
30 Department of Labor in accordance with rules adopted by the
31 Department for temporary staffing day-laborer service agencies

1 that operate within the State. The Department may assess
2 each agency a non-refundable registration fee not exceeding
3 \$250 per year. The fee may be paid by check or money order
4 and the Department may not refuse to accept a check on the
5 basis that it is not a certified check or a cashier's check.
6 The Department may charge an additional fee to be paid by an
7 agency if the agency, or any person on the agency's behalf,
8 issues or delivers a check to the Department that is not
9 honored by the financial institution upon which it is drawn.
10 The Department shall also adopt rules for violation hearings
11 and penalties for violations of this Act or the Department's
12 rules in conjunction with the fines and penalties set forth
13 in this Act. The Department shall cause to be posted in each
14 agency a notice which informs the public of a toll-free
15 telephone number for temporary staffers day-laborers and the
16 public to file wage dispute complaints and other alleged
17 violations by temporary staffing day-labor service agencies.
18 (Source: P.A. 91-579, eff. 1-1-00.)

19 (820 ILCS 175/50)

20 Sec. 50. Violations. The Department shall have the
21 authority to suspend or revoke the registration of a
22 temporary staffing day-labor service agency if warranted by
23 public health and safety concerns or violations of this Act.
24 (Source: P.A. 91-579, eff. 1-1-00.)

25 (820 ILCS 175/55 new)

26 Sec. 55. Enforcement. It shall be the duty of the
27 Department to enforce the provisions of this Act. The
28 Department shall have the power to conduct investigations in
29 connection with the administration and enforcement of this
30 Act and any investigator with the Department shall be
31 authorized to visit and inspect, at all reasonable times, any
32 places covered by this Act. The Department shall conduct

1 hearings in accordance with the Illinois Administrative
2 Procedure Act, as amended, upon written complaint by an
3 investigator of the Department or any interested person of a
4 violation of the Act. After the hearing, if supported by the
5 evidence, the Department may (i) issue and cause to be served
6 on any party an order to cease and desist from further
7 violation of the Act, (ii) take affirmative or other action
8 as deemed reasonable to eliminate the effect of the
9 violation, (iii) deny, suspend, or revoke any registration
10 under this Act, and (iv) determine the amount of any civil
11 penalty allowed by the Act. The Director of Labor or his or
12 her representative may compel, by subpoena, the attendance
13 and testimony of witnesses and the production of books,
14 payrolls, records, papers, and other evidence in any
15 investigation or hearing and may administer oaths to
16 witnesses.

17 (820 ILCS 175/60 new)

18 Sec. 60. Review under Administrative Review Law. Any
19 party to a proceeding under this Act may apply for and obtain
20 judicial review of an order of the Department entered under
21 this Act in accordance with the provisions of the
22 Administrative Review Law, as amended, and the Department in
23 proceedings under the Act may obtain an order from the court
24 for the enforcement of its order.

25 (820 ILCS 175/65 new)

26 Sec. 65. Contempt. Whenever it appears that any
27 temporary staffing service agency has violated a valid order
28 of the Department issued under this Act, the Director of
29 Labor may commence an action and obtain from the court an
30 order commanding the temporary staffing service agency to
31 obey the order of the Department or be adjudged guilty of
32 contempt of court and punished accordingly.

1 (820 ILCS 175/70 new)

2 Sec. 70. Penalties. A temporary staffing service agency
3 that violates any of the provisions of this Act concerning
4 registration, transportation, equipment, meals, wages, or
5 waiting rooms shall be subject to a civil penalty not to
6 exceed \$500 for any violations found in the first audit and
7 not to exceed \$5,000 for any violations found in the second
8 audit. For any violations that are found in a third audit
9 that are within 7 years of the earlier violations, the
10 Department may revoke the registration of the violator. In
11 determining the amount of a penalty, the Director shall
12 consider the appropriateness of the penalty to the temporary
13 staffing service agency charged, upon the determination of
14 the gravity of the violations. The amount of the penalty,
15 when finally determined may be:

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

20 (2) Ordered by the court, in action brought for
21 violation under this Act, to be paid to the Director of
22 Labor.

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

26 (820 ILCS 175/75 new)

27 Sec. 75. Willful violations. Whoever willfully violates
28 any of the provisions of this Act or any rule adopted under
29 this Act, or whoever obstructs the Department of Labor, its
30 inspectors or deputies, or any other person authorized to
31 inspect places of employment under this Act shall be guilty
32 of a Class A misdemeanor. Each day during which a violation
33 of this Act continues shall constitute a separate and

1 distinct offense, and the employment of any person in
2 violation of the Act shall, with respect to each person so
3 employed, constitute a separate and distinct offense.
4 Whenever, in the opinion of the Department, a violation of
5 the Act has occurred, the Department shall report the
6 violation to the Attorney General of this State who shall
7 prosecute all reported violations.

8 (820 ILCS 175/80 new)

9 Sec. 80. Child Labor and Temporary Staffing Enforcement
10 Fund. All moneys received as fees and civil penalties under
11 this Act shall be deposited into the Child Labor and
12 Temporary Staffing Enforcement Fund and may be used for the
13 purposes set forth in Section 17.3 of the Child Labor Law.

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

16 (820 ILCS 205/17.3) (from Ch. 48, par. 31.17-3)

17 Sec. 17.3. Any employer who violates any of the
18 provisions of this Act or any rule or regulation issued under
19 the Act shall be subject to a civil penalty of not to exceed
20 \$5,000 for each such violation. In determining the amount of
21 such penalty, the appropriateness of such penalty to the size
22 of the business of the employer charged and the gravity of
23 the violation shall be considered. The amount of such
24 penalty, when finally determined, may be

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

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

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

4 Civil penalties recovered under this Section shall be
5 paid into the Child Labor and Temporary Staffing Enforcement
6 Fund, a special fund which is hereby created in the State
7 treasury. Moneys ~~Monies~~ in the Fund may ~~shall~~ be used,
8 subject to appropriation, for exemplary programs,
9 demonstration projects, and other activities or purposes
10 related to the enforcement of this Act or for the activities
11 or purposes related to the enforcement of the Temporary
12 Staffing Services Act.

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

14 Section 99. Effective date. This Act takes effect
15 January 1, 2003."