



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB1792

Introduced 2/25/2005, by Sen. Miguel del Valle

#### SYNOPSIS AS INTRODUCED:

820 ILCS 175/2 new  
820 ILCS 175/5  
820 ILCS 175/10  
820 ILCS 175/12 new  
820 ILCS 175/15  
820 ILCS 175/20  
820 ILCS 175/30  
820 ILCS 175/35  
820 ILCS 175/40  
820 ILCS 175/45  
820 ILCS 175/50  
820 ILCS 175/55  
820 ILCS 175/70  
820 ILCS 175/75  
820 ILCS 175/85  
820 ILCS 175/90 new  
820 ILCS 175/95 new  
820 ILCS 175/97 new

Amends the Day and Temporary Labor Services Act. Adds legislative findings and provisions concerning recordkeeping, retaliation, private rights of action, and severability. Makes numerous changes concerning definitions, employment notices, meals, transportation, wage payment, notices to laborers, regulation of day and temporary labor service agencies, registration of day and temporary labor service agencies, violations, enforcement, penalties, regulation of third party employers, and other matters.

LRB094 08113 WGH 41317 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning employment.

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

4 Section 5. The Day and Temporary Labor Services Act is  
5 amended by changing Sections 5, 10, 15, 20, 30, 35, 40, 45, 50,  
6 55, 70, 75, and 85 and adding Sections 2, 12, 90, 95, and 97 as  
7 follows:

8 (820 ILCS 175/2 new)

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

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

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

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

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

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

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 service  
5 agency.

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

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

21 "Department" means the Department of Labor.

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

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

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

30 (820 ILCS 175/10)

31 Sec. 10. Employment Notice Statement.

32 (a) Whenever a day and temporary labor service agency  
33 agrees to send one or more persons to work as day or temporary  
34 laborers, the day and temporary labor service agency shall  
35 provide to each, ~~upon request by a~~ day or temporary laborer, at

1 the time of dispatch, provide to the day or temporary laborer a  
2 statement containing the following items on a form approved by  
3 the Department:

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

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

7 (3) the "wages offered;

8 (4) the name and address of the destination of each day  
9 or temporary laborer; ", "destination of the person  
10 employed";

11 (5) terms "terms of transportation;", and

12 (6) whether whether a meal or and equipment, or both,  
13 is provided, either by the day and temporary labor service  
14 agency or the third party employer, and the cost of the  
15 meal and equipment, if any.

16 If the day or temporary laborer is not placed with a third  
17 party employer or otherwise contracted to work for that day,  
18 the day and temporary labor service agency shall provide the  
19 day and temporary laborer with a confirmation that the day or  
20 temporary laborer sought work, signed by an employee of the day  
21 and temporary labor service agency, which shall include the  
22 name of the agency, the name and address of the day or  
23 temporary laborer, and the date and the time that the day or  
24 temporary laborer receives the confirmation.

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

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

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

1 (820 ILCS 175/12 new)

2 Sec. 12. Recordkeeping.

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

7 (1) the name, address and telephone number of each  
8 third party employer, including each worksite, to which day  
9 or temporary laborers were sent by the agency and the date  
10 of the transaction;

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

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

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

21 (5) copies of all contracts with and invoices for the  
22 third party employer;

23 (6) the period of employment for each day or temporary  
24 laborer at the third party employer, and for periods  
25 lasting longer than one day, any requirement that the day  
26 or temporary laborer report to the day and temporary labor  
27 service agency, and at what intervals the day or temporary  
28 laborer is required to report;

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

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

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

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

6           The day and temporary labor service agency shall maintain  
7           all records under this Section for a period of 3 years from  
8           their creation. The records shall be open to inspection by the  
9           Department during normal business hours. Records relating to an  
10           individual day or temporary laborer shall be available for  
11           review or copying by that day or temporary laborer during  
12           normal business hours within 5 days following a verbal or  
13           written request. It is a violation of this Section to make any  
14           false, inaccurate or incomplete entry into any record required  
15           by this Section, or to delete required information from any  
16           such record.

17           (820 ILCS 175/15)

18           Sec. 15. Meals. A day and temporary labor service agency or  
19           a third party employer shall not charge a day or temporary  
20           laborer for any meal not consumed by the day and temporary  
21           laborer and, if consumed, no more than the actual cost of a  
22           meal. In no 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; 92-783, eff. 1-1-03.)

25           (820 ILCS 175/20)

26           Sec. 20. Transportation.

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

31           (b) A day and temporary labor service agency is responsible  
32           for the conduct and performance of any person who transports a  
33           day or temporary laborer from the agency to a work site, unless  
34           the transporter is: (1) a public mass transportation system as

1 defined in Section 2 of the Local Mass Transit District Act;  
2 (2) the day or temporary laborer providing his or her own  
3 transportation; or (3) selected exclusively by and at the sole  
4 choice of the day or temporary laborer for transportation in a  
5 vehicle not owned or operated by the day and temporary labor  
6 service agency. Any day and temporary labor service agency that  
7 knows or should know that a motor vehicle used for the  
8 transportation of day or temporary laborers is unsafe, not  
9 equipped as required by this Act or by any rule adopted under  
10 this Act, may not allow the motor vehicle to be used for the  
11 transporting of day laborers.

12 (c) A day and temporary labor service agency may not refer  
13 a day or temporary laborer to any person for transportation to  
14 a work site unless that person is (1) a public mass  
15 transportation system as defined in Section 2 of the Local Mass  
16 Transit District Act or (2) providing the transportation at a  
17 fee no greater than that specified in subsection (a) of this  
18 Section. Directing the day or temporary laborer to accept a  
19 specific car pool as a condition of work shall be considered a  
20 referral by the day and temporary labor service agency. Any  
21 mention or discussion of the cost of a car pool shall be  
22 considered a referral by the agency.

23 (d) ; however, the total cost to each day or temporary  
24 laborer shall not exceed 3% of the day or temporary laborer's  
25 daily wages. Any motor vehicle that is owned or operated by the  
26 day and temporary labor service agency or a third party  
27 employer, or a contractor or agent of either, or to which a day  
28 and temporary labor service agency refers a day or temporary  
29 laborer, which is used for the transportation of day or  
30 temporary laborers shall have proof of financial  
31 responsibility as provided for in Chapter 8 of the Illinois  
32 Vehicle Code or as required by Department rules. The driver of  
33 the vehicle shall hold a valid license to operate motor  
34 vehicles in the correct classification and shall be required to  
35 produce the license immediately upon demand by the Department,  
36 its inspectors or deputies, or any other person authorized to

1 enforce this Act. The Department shall forward a violation of  
2 this subsection to the appropriate law enforcement authorities  
3 or regulatory agencies, whichever is applicable.

4 (e) No motor vehicle that is owned or operated by the day  
5 and temporary labor service agency or a third party employer,  
6 or a contractor or agent of either, or to which a day and  
7 temporary labor service agency refers a day or temporary  
8 laborer, which is used for the transportation of day or  
9 temporary laborers may be operated if it is occupied by more  
10 passengers than recommended by the manufacturer of the vehicle  
11 if the vehicle is manufactured as a passenger vehicle. If the  
12 vehicle is manufactured for use other than as a passenger  
13 vehicle, then it may not accommodate more passengers than  
14 provided for by the manufacturer in passenger vehicles of like  
15 style or rating. The Department shall forward a violation of  
16 this subsection to the appropriate law enforcement authorities  
17 or regulatory agencies, whichever is applicable.

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

19 (820 ILCS 175/30)

20 Sec. 30. Wage Payment and Notice.

21 (a) At the end of each work day and at the time of ~~the~~  
22 payment of wages, a day and temporary labor service agency  
23 shall provide each day or temporary laborer with a detailed ~~an~~  
24 itemized statement, on a form approved by the Department,  
25 listing the following:

26 (1) the name, address and telephone number of each  
27 third party employer at which the day or temporary laborer  
28 worked;

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

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

34 (4) the total pay period earnings;

35 (5) all deductions made from the day or temporary



1 laborer's compensation made either by the third party  
2 employer or by the day and temporary labor service agency,  
3 and the purpose for which deductions were made, including  
4 for the day or temporary laborer's transportation, food,  
5 equipment, withheld income tax, withheld social security  
6 payments, and every other deduction; and

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

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

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

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

36 (e) Day or temporary laborers shall be paid no less than

1 the wage rate stated in the notice as provided in Section 10 of  
2 this Act for all the work performed on behalf of the third  
3 party employer in addition to the work listed in the written  
4 description.

5 (f) The total amount deducted for meals, equipment, and  
6 transportation may not cause a day or temporary laborer's  
7 hourly wage to fall below the State or federal minimum wage.

8 (g) A day or temporary laborer who is contracted by a day  
9 and temporary labor service agency to work at a third party  
10 employer's worksite but is not contracted by the third party  
11 employer shall be paid for all hours required to travel to and  
12 from the third party employer's worksite.

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

14 (820 ILCS 175/35)

15 Sec. 35. Public Access Area. Each day and temporary labor  
16 service agency shall provide adequate seating in the public  
17 access area of the offices of the agency. The public access  
18 area shall be the location for the ~~employment and wage~~ notices  
19 required by Section 45 40 of this Act and any other State or  
20 federally mandated posting. The public access area shall allow  
21 for access to restrooms and water.

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

23 (820 ILCS 175/40)

24 Sec. 40. Work Restriction. No day and temporary labor  
25 service agency shall restrict the right of a day or temporary  
26 laborer to accept a permanent position with a third party  
27 employer to whom the day or temporary laborer has been referred  
28 for work or restrict the right of such third party employer to  
29 offer such employment to a day or temporary laborer. Any action  
30 by a day and temporary labor service agency to interfere with  
31 the right of a day or temporary laborer to accept a permanent  
32 position with a third party employer to whom the day or  
33 temporary laborer has been referred for work or to restrict the  
34 right of the third party employer to offer the employment to a

1 day or temporary laborer shall be considered an act of  
2 retaliation against the day or temporary day laborer. A ~~Nothing~~  
3 ~~in this Section shall restrict~~ a day and temporary labor  
4 service agency may not charge ~~from receiving~~ a placement fee to  
5 a ~~from the~~ third party employer for employing a day or  
6 temporary laborer for whom a contract for work was effected by  
7 the day and temporary labor service agency.

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

9 (820 ILCS 175/45)

10 Sec. 45. Registration; Department of Labor.

11 (a) A day and temporary labor service agency which is  
12 located, operates or transacts business within this State shall  
13 register with the Department of Labor in accordance with rules  
14 adopted by the Department for day and temporary labor service  
15 agencies and shall be subject to this Act and any rules adopted  
16 under this Act ~~that operate within the State.~~ The Department  
17 may assess each day and temporary labor service agency a  
18 non-refundable registration fee not exceeding \$1,000 ~~\$250~~ per  
19 year per agency and a non-refundable fee not to exceed \$250 for  
20 each branch office or other location where the agency regularly  
21 contracts with day or temporary laborers for services. The fee  
22 may be paid by check or money order and the Department may not  
23 refuse to accept a check on the basis that it is not a  
24 certified check or a cashier's check. The Department may charge  
25 an additional fee to be paid by a day and temporary labor  
26 service ~~an~~ agency if the agency, or any person on the agency's  
27 behalf, issues or delivers a check to the Department that is  
28 not honored by the financial institution upon which it is  
29 drawn. The Department shall also adopt rules for violation  
30 hearings and penalties for violations of this Act or the  
31 Department's rules in conjunction with the ~~finances and~~ penalties  
32 set forth in this Act.

33 (b) It is a violation of this Act to operate a day and  
34 temporary labor service agency without first registering with  
35 the Department in accordance with subsection (a) of this

1 Section. The Department has the authority to assess a penalty  
2 against any day and temporary labor service agency that fails  
3 to register with the Department of Labor in accordance with  
4 this Act or any rules adopted under this Act of \$500 for each  
5 violation. Each day during which a day and temporary labor  
6 service agency operates without registering with the  
7 Department shall be a separate and distinct violation of this  
8 Act.

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

13 (1) has been involved, as owner, officer, director,  
14 partner, or manager, of any day and temporary labor service  
15 agency whose registration has been revoked or has been  
16 suspended without being reinstated within the 7 years  
17 immediately preceding the filing of the application; or

18 (2) is under the age of 18.

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

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

31 (820 ILCS 175/50)

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

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

2 (820 ILCS 175/55)

3 Sec. 55. Enforcement. It shall be the duty of the  
4 Department to enforce the provisions of this Act. The  
5 Department shall have the power to conduct investigations in  
6 connection with the administration and enforcement of this Act  
7 and any investigator with the Department shall be authorized to  
8 visit and inspect, at all reasonable times, any places covered  
9 by this Act and shall be authorized to inspect, at all  
10 reasonable times, contracts for the employment of all day or  
11 temporary laborers entered into by a third party employer if  
12 the Department has received a complaint indicating that the  
13 third party employer may have contracted with a day and  
14 temporary labor service agency that is not registered under  
15 this Act. The Department shall conduct hearings in accordance  
16 with the Illinois Administrative Procedure Act upon written  
17 complaint by an investigator of the Department or any  
18 interested person of a violation of the Act. After the hearing,  
19 if supported by the evidence, the Department may (i) issue and  
20 cause to be served on any party an order to cease and desist  
21 from further violation of the Act, (ii) take affirmative or  
22 other action as deemed reasonable to eliminate the effect of  
23 the violation, (iii) deny, suspend, or revoke any registration  
24 under this Act, and (iv) determine the amount of any civil  
25 penalty allowed by the Act. The Director of Labor or his or her  
26 representative may compel, by subpoena, the attendance and  
27 testimony of witnesses and the production of books, payrolls,  
28 records, papers, and other evidence in any investigation or  
29 hearing and may administer oaths to witnesses; ~~however,~~  
30 ~~proprietary lists of a day and temporary labor service agency~~  
31 ~~are not subject to subpoena.~~ Nothing in this Act applies to  
32 labor or employment of a clerical or professional nature.

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

34 (820 ILCS 175/70)

1 Sec. 70. Penalties.

2 (a) A day and temporary labor service agency that violates  
3 any of the provisions of this Act or any rule adopted under  
4 this Act ~~concerning registration, transportation, equipment,~~  
5 ~~meals, wages, or waiting rooms~~ shall be subject to a civil  
6 penalty not to exceed \$1,000 ~~\$500~~ for each violation ~~any~~  
7 ~~violations~~ found ~~in the first audit~~ by the Department and not  
8 to exceed \$5,000 for any repeat violation ~~violations~~ found ~~by~~  
9 ~~in the second audit~~ by the Department within 7 years. For  
10 purposes of this subsection, each violation of this Act for  
11 each day or temporary laborer and for each day the violation  
12 continues shall constitute a separate and distinct violation.  
13 ~~For any violations that are found in a third audit by the~~  
14 ~~Department that are within 7 years of the earlier violations,~~  
15 ~~the Department may revoke the registration of the violator.~~ In  
16 determining the amount of a penalty, the Director shall  
17 consider the appropriateness of the penalty to the day and  
18 temporary labor service agency charged, upon the determination  
19 of the gravity of the violations. For any violation determined  
20 by the Department to be willful which is within 7 years of an  
21 earlier violation, the Department may revoke the registration  
22 of the violator. The amount of the penalty, when finally  
23 determined, may be:

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

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

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

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

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

2 (820 ILCS 175/75)

3 Sec. 75. Willful violations.

4 (a) Whoever willfully violates any of the provisions of  
5 this Act or any rule adopted under this Act, or whoever  
6 obstructs the Department of Labor, its inspectors or deputies,  
7 or any other person authorized to inspect places of employment  
8 under this Act shall be liable for penalties up to double the  
9 statutory amount.

10 (b) Whoever willfully violates any of the provisions of  
11 this Act or any rule adopted under this Act which results in an  
12 underpayment to a day or temporary laborer shall be liable to  
13 the Department for up to 20% of the employer's total  
14 underpayment and shall also be liable to the employee for  
15 punitive damages in the amount of 2% of the amount of any such  
16 underpayments for each month following the date of payment  
17 during which the underpayments remain unpaid.

18 (c) The Director may promulgate rules for the collection of  
19 these penalties. The penalty shall be imposed in cases in which  
20 an employer's conduct is proven by a preponderance of the  
21 evidence to be willful. The penalty may be recovered in a civil  
22 action brought by the Director of Labor in any circuit court.  
23 In any such action, the Director of Labor shall be represented  
24 by the Attorney General. ~~guilty of a Class A misdemeanor. Each~~  
25 ~~day during which a violation of this Act continues shall~~  
26 ~~constitute a separate and distinct offense, and the employment~~  
27 ~~of any person in violation of the Act shall, with respect to~~  
28 ~~each person so employed, constitute a separate and distinct~~  
29 ~~offense. Whenever, in the opinion of the Department, a~~  
30 ~~violation of the Act has occurred, the Department shall report~~  
31 ~~the violation to the Attorney General of this State who shall~~  
32 ~~have authority to prosecute all reported violations.~~

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

34 (820 ILCS 175/85)

1           Sec. 85. Third party employers.

2           (a) It is a violation of this Act for a third party  
3 employer to enter into a contract ~~Third party employers are~~  
4 ~~prohibited from entering into contracts~~ for the employment of  
5 day or temporary laborers with any day and temporary labor  
6 service agency not registered under Section 45 of this Act. A  
7 third party employer has a duty to verify a day and temporary  
8 labor service agency's status with the Department before  
9 entering into a contract with such an agency. Upon request, the  
10 Department shall provide to a third party employer a list of  
11 entities registered as day and temporary labor service  
12 agencies. The Department shall provide on the Internet a list  
13 of entities registered as day and temporary labor service  
14 agencies. Any third party employer that violates this provision  
15 of the Act is subject to a civil penalty not to exceed \$500.  
16 Each day during which a third party employer contracts with a  
17 day and temporary labor service agency not registered under  
18 Section 45 of this Act shall constitute a separate and distinct  
19 offense.

20           (b) If a third party employer leases or contracts with a  
21 day and temporary service agency for the services of day or  
22 temporary laborer, the third party employer shall be a joint  
23 employer of the day or temporary laborer and shall share all  
24 legal responsibility and liability for the payment of wages  
25 under the Illinois Wage Payment and Collection Act and the  
26 Minimum Wage Law.

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

28           (820 ILCS 175/90 new)

29           Sec. 90. Retaliation.

30           (a) Prohibition. It is a violation of this Act for a day  
31 and temporary labor service agency or third party employer, or  
32 any agent of a day and temporary labor service agency or third  
33 party employer, to retaliate through discharge or in any other  
34 manner against any day or temporary laborer for exercising any  
35 rights granted under this Act. Such retaliation shall subject a



1 day and temporary labor service agency or third party employer,  
2 or both, to civil penalties pursuant to this Act or a private  
3 cause of action.

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

8 (1) making a complaint to the day or temporary  
9 laborer's employer, to a co-worker, to a community  
10 organization, before a public hearing, or to a State or  
11 federal agency that rights guaranteed under this Act have  
12 been violated;

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

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

17 (820 ILCS 175/95 new)

18 Sec. 95. Private Right of Action.

19 (a) A person aggrieved by a violation of this Act or any  
20 rule adopted under this Act by a day and temporary labor  
21 service agency or a third party employer may file suit in  
22 circuit court of Illinois without regard to exhaustion of any  
23 alternative administrative remedies provided in this Act.

24 Actions may be brought by one or more day or temporary laborers  
25 for and on behalf of themselves and other day or temporary  
26 laborers similarly situated. A day or temporary laborer whose  
27 rights have been violated under this Act by a day and temporary  
28 labor service agency or a third party employer is entitled to  
29 collect:

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

35 (2) in the case of a health and safety or notice

1 violation, compensatory damages and an amount up to \$500  
2 for the violation of each subpart of each Section;

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

5 (4) attorney's fees and costs.

6 If a finding of liability is established against a violator  
7 under this Section and the violator's registration has  
8 previously been revoked under Section 50, 55, or 70 of this  
9 Act, then any aggrieved party may name any or all corporate  
10 officers individually as defendants in any such action.

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

17 (820 ILCS 175/97 new)

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