



Sen. Mike Jacobs

Filed: 5/15/2007

09500SB1314sam004

LRB095 05017 WGH 36376 a

1 AMENDMENT TO SENATE BILL 1314

2 AMENDMENT NO. _____. Amend Senate Bill 1314, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Day and Temporary Labor Services Act is
6 amended by changing Sections 5, 12, and 30 as follows:

7 (820 ILCS 175/5)

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

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

12 "Day and temporary labor" means work performed by a day or
13 temporary laborer at a third party client, the duration of
14 which may be specific or undefined, pursuant to a contract or
15 understanding between the day and temporary labor service
16 agency and the third party client ~~labor or employment that is~~

1 ~~occasional or irregular at which a person is employed for not~~
2 ~~longer than the time period required to complete the assignment~~
3 ~~for which the person was hired and where wage payments are made~~
4 ~~directly or indirectly by the day and temporary labor service~~
5 ~~agency or the third party client for work undertaken by day or~~
6 ~~temporary laborers pursuant to a contract between the day and~~
7 ~~temporary labor service agency with the third party client.~~
8 ~~"Day and temporary labor" does not include labor or employment~~
9 ~~of a professional or clerical nature.~~

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

15 "Department" means the Department of Labor.

16 "Third party client" means any person that contracts with a
17 day and temporary labor service agency for obtaining day or
18 temporary laborers.

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

23 (Source: P.A. 94-511, eff. 1-1-06.)

24 (820 ILCS 175/12)

25 Sec. 12. Recordkeeping.

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

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

9 (2) for each day or temporary laborer: the name and
10 address, the specific location sent to work, the type of
11 work performed, the number of hours worked, the hourly rate
12 of pay and the date sent. The term "hours worked" has the
13 meaning ascribed to that term in 56 Ill. Adm. Code 210.110
14 and in accordance with all applicable rules or court
15 interpretations under 56 Ill. Adm. Code 210.110. The third
16 party client shall be required to remit all information
17 required under this subsection to the day and temporary
18 labor service agency no later than 7 days following the
19 last day of the work week worked by the day or temporary
20 laborer. Failure of a third party client to remit such
21 information to a day and temporary labor service agency
22 shall not be a defense to the recordkeeping requirement of
23 this Section;

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

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

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

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

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

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

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

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

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

1 temporary laborer during normal business hours within 5 days
2 following a written request. In addition, a day and temporary
3 labor service agency shall make records related to the number
4 of hours billed to a third party client for that individual day
5 or temporary laborer's hours of work available for review or
6 copying during normal business hours within 5 days following a
7 written request. The day and temporary labor service agency
8 shall make forms, in duplicate, for such requests available to
9 day or temporary laborers at the dispatch office. The day or
10 temporary laborer shall be given a copy of the request form. It
11 is a violation of this Section to make any false, inaccurate or
12 incomplete entry into any record required by this Section, or
13 to delete required information from any such record. Failure by
14 the third party client to remit time records to the day and
15 temporary labor service agency as provided in paragraph (a) (2)
16 shall constitute a notice violation by a third party client
17 under Section 95 of this Act unless the third party client has
18 been precluded from submitting such time records for reasons
19 beyond its control. A failure by the third party client to
20 provide time records in accordance with this subsection (b)
21 shall not be a notice violation and shall not be the basis for
22 a suit or other action under Section 95 of this Act against the
23 day and temporary labor service agency.

24 (Source: P.A. 94-511, eff. 1-1-06.)

1 Sec. 30. Wage Payment and Notice.

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

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

14 (2) the number of hours worked by the day or temporary
15 laborer at each third party client each day during the pay
16 period. If the day or temporary laborer is assigned to work
17 at the same work site of the same third party client for
18 multiple days in the same work week, the day and temporary
19 labor service agency may record a summary of hours worked
20 at that third party client's worksite so long as the first
21 and last day of that work week are identified as well. The
22 term "hours worked" has the meaning ascribed to that term
23 in 56 Ill. Adm. Code 210.110 and in accordance with all
24 applicable rules or court interpretations under 56 Ill.
25 Adm. Code 210.110;

26 (3) the rate of payment for each hour worked, including

1 any premium rate or bonus;

2 (4) the total pay period earnings;

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

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

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

25 (b) A day and temporary labor service agency shall provide
26 each worker an annual earnings summary within a reasonable time

1 after the preceding calendar year, but in no case later than
2 February 1. A day and temporary labor service agency shall, at
3 the time of each wage payment, give notice to day or temporary
4 laborers of the availability of the annual earnings summary or
5 post such a notice in a conspicuous place in the public
6 reception area.

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

25 (d) No day and temporary labor service agency shall charge
26 any day or temporary laborer for cashing a check issued by the

1 agency for wages earned by a day or temporary laborer who
2 performed work through that agency.

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

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

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

1 of pay.

2 (Source: P.A. 94-511, eff. 1-1-06.)".