

AN ACT concerning employment.

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

Section 5. The Day and Temporary Labor Services Act is amended by changing Sections 30, 70, and 95 as follows:

(820 ILCS 175/30)

Sec. 30. Wage Payment and Notice.

(a) At the time of payment of wages, a day and temporary labor service agency shall provide each day or temporary laborer with a detailed 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. If the day or temporary laborer is assigned to work at the same work site of the same third party client for

multiple days in the same work week, the day and temporary labor service agency may record a summary of hours worked at that third party client's worksite so long as the first and last day of that work week are identified as well. The term "hours worked" has the meaning ascribed to that term in 56 Ill. Adm. Code 210.110 and in accordance with all applicable rules or court interpretations under 56 Ill. Adm. Code 210.110;

(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.

(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 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.

(h) A third party client is required to pay wages and related payroll taxes to a licensed day and temporary labor service agency for services performed by the day or temporary laborer for the third party client according to payment terms outlined on invoices, service agreements, or stated terms provided by the day and temporary labor service agency. A third party client who fails to comply with this subsection (h) is subject to the penalties provided in Section 70 of this Act. The Department shall review a complaint filed by a licensed day and temporary labor agency. The Department shall review the payroll and accounting records of the day and temporary labor service agency and the third party client for the period in which the violation of this Act is alleged to have occurred to determine if wages and payroll taxes have been paid to the agency and that the day or temporary laborer has been paid the wages owed him or her.

(Source: P.A. 94-511, eff. 1-1-06; 95-499, eff. 8-28-07.)

(820 ILCS 175/70)

Sec. 70. Penalties.

(a) A day and temporary labor service agency or third party client that violates any of the provisions of this Act or any rule adopted under this Act shall be subject to a civil penalty not to exceed \$6,000 for violations found in the first audit by the Department. Following a first audit, a day and temporary labor service agency or third party client shall be subject to a civil penalty not to exceed \$2,500 for each repeat violation found 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. In determining the amount of a penalty, the Director shall consider the appropriateness of the penalty to the day and temporary labor service agency or third party client 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, if the violator is a day and temporary labor service agency. 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. 94-511, eff. 1-1-06.)

(820 ILCS 175/95)

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. A day and temporary labor service agency aggrieved by a violation of this Act or any rule adopted under this Act by a third party client may file suit in circuit court of Illinois, in the county where the alleged offense occurred or where the day and

temporary labor service agency which is party to the action is located. 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 or a day and temporary labor service agency whose rights have been violated under this Act by 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 or day and temporary labor service agency 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 or upon the passing of 3 years from the date of termination of the contract between the day and temporary labor service agency and the third party client.

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This limitations period is tolled if a day labor employer has deterred a day and temporary labor service agency or day or temporary laborer's exercise of rights under this Act by contacting or threatening to contact law enforcement agencies.
(Source: P.A. 94-511, eff. 1-1-06.)

Section 99. Effective date. This Act takes effect upon becoming law.