

1 AN ACT concerning day labor.

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

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 Temporary Staffing  
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 temporary staffing day--labor  
16 services.

17 (820 ILCS 175/1)

18 Sec. 1. Short Title. This Act may be cited as the  
19 Temporary Staffing Day-Labor Services Act.

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

21 (820 ILCS 175/5)

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

23 "Temporary staffer Day-laborer" means a natural person  
24 who contracts for employment with a temporary staffing day  
25 labor service agency.

26 "Temporary staffing Day-labor" means labor or employment  
27 that is occasional or irregular at which a person is employed

1 for not longer than the time period required to complete the  
2 assignment for which the person was hired and where wage  
3 payments are made directly or indirectly by the temporary  
4 staffing day-lab~~er~~ service agency or the third party employer  
5 for work undertaken by temporary staffers day--lab~~erers~~  
6 pursuant to a contract between the temporary staffing day  
7 lab~~er~~ service agency with the third party employer.  
8 "Temporary staffing Day-lab~~er~~" does not include labor or  
9 employment of a professional or clerical nature.

10 "Temporary staffing Day-lab~~er~~ service agency" means any  
11 person or entity engaged in the business of employing  
12 temporary staffers day-lab~~erers~~ to provide services to or for  
13 any third party employer pursuant to a contract with the  
14 temporary staffing day--lab~~er~~ service and the third party  
15 employer.

16 "Department" means the Department of Labor.

17 "Third party employer" means any person that contracts  
18 with a temporary staffing day-lab~~er~~ service agency for the  
19 employment of temporary staffers day-lab~~erers~~.

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

21 (820 ILCS 175/10)

22 Sec. 10. Statement.

23 (a) Whenever a temporary staffing day--lab~~er~~ service  
24 agency agrees to send one or more persons to work as  
25 temporary staffers day-lab~~erers~~, the temporary staffing day  
26 lab~~er~~ service agency shall, upon request by a temporary  
27 staffer day-lab~~erer~~, provide to the temporary staffer day  
28 lab~~erer~~ a statement containing the following items: "Name and  
29 nature of the work to be performed", "wages offered",  
30 "destination of the person employed", "terms of  
31 transportation", and whether a meal and equipment is  
32 provided, either by the temporary staffing day-lab~~er~~ service  
33 or the third party employer, and the cost of the meal and

1 equipment, if any.

2 (b) No temporary staffing day-lab~~er~~ service agency may  
3 send any temporary staffer day-lab~~er~~ to any place where a  
4 strike, a lockout, or other labor trouble exists without  
5 first notifying the temporary staffer day-lab~~er~~ of the  
6 conditions.

7 (c) The Department shall recommend to temporary staffing  
8 day--lab~~er~~ service agencies that those agencies employ  
9 personnel who can effectively communicate information  
10 required in subsections (a) and (b) to temporary staffers day  
11 lab~~er~~s in Spanish, Polish, or any other language that is  
12 generally used in the locale of the temporary staffing day  
13 lab~~er~~ agency.

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

15 (820 ILCS 175/15)

16 Sec. 15. Meals. A temporary staffing day-lab~~er~~ service  
17 agency or a third party employer shall not charge a temporary  
18 staffer day-lab~~er~~ more than the actual cost of a meal. In  
19 no case shall the purchase of a meal be a condition of  
20 employment for a temporary staffer day-lab~~er~~.

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

22 (820 ILCS 175/20)

23 Sec. 20. Transportation. A temporary staffing day-lab~~er~~  
24 service agency or a third party employer shall charge no more  
25 than the actual cost to transport a temporary staffer day  
26 lab~~er~~ to or from the designated work site; however, the  
27 total cost to each temporary staffer day-lab~~er~~ shall not  
28 exceed 3% of the temporary staffer's day--lab~~er~~'s daily  
29 wages. Any motor vehicle that is owned or operated by the  
30 temporary staffing day-lab~~er~~ service agency or a third party  
31 employer, or a contractor of either, which is used for the  
32 transportation of temporary staffers day-lab~~er~~s shall have

1 proof of financial responsibility as provided for in Chapter  
 2 8 of the Illinois Vehicle Code.  
 3 (Source: P.A. 91-579, eff. 1-1-00.)

4 (820 ILCS 175/25)

5 Sec. 25. Temporary staffer ~~Day-laborer~~ equipment. For  
 6 any safety equipment, clothing, accessories, or any other  
 7 items required by the nature of the work, either by law,  
 8 custom, or as a requirement of the third party employer, the  
 9 temporary staffing ~~day-labor~~ service agency or the third  
 10 party employer may charge the temporary staffer ~~day-laborer~~  
 11 the market value of the item temporarily provided to the  
 12 temporary staffer ~~day-laborer~~ by the third party employer if  
 13 the temporary staffer ~~day-laborer~~ fails to return such items  
 14 to the third party employer or the temporary staffing ~~day~~  
 15 ~~labor~~ service agency. For any other equipment, clothing,  
 16 accessories, or any other items the temporary staffing ~~day~~  
 17 ~~labor~~ service agency makes available for purchase, the  
 18 temporary staffer ~~day-laborer~~ shall not be charged more than  
 19 the actual market value for the item.  
 20 (Source: P.A. 91-579, eff. 1-1-00.)

21 (820 ILCS 175/30)

22 Sec. 30. Wage Payment.

23 (a) At the time of the payment of wages, a temporary  
 24 staffing ~~day--labor~~ service agency shall provide each  
 25 temporary staffer ~~day--laborer~~ with an itemized statement  
 26 showing in detail each deduction made from the wages.

27 (b) A temporary staffing ~~day-labor~~ service agency shall  
 28 provide each worker an annual earnings summary within a  
 29 reasonable time after the preceding calendar year, but in no  
 30 case later than February 1. A temporary staffing ~~day-labor~~  
 31 service agency shall, at the time of each wage payment, give  
 32 notice to temporary staffers ~~day-laborers~~ of the availability

1 of the annual earnings summary or post such a notice in a  
2 conspicuous place in the public reception area.

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

18 (d) No temporary staffing ~~day-labor~~ service agency shall  
19 charge any temporary staffer ~~day-laborer~~ for cashing a check  
20 issued by the agency for wages earned by a temporary staffer  
21 ~~day-laborer~~ who performed work through that agency.

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

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

28 (820 ILCS 175/35)

29 Sec. 35. Public Access Area. Each temporary staffing  
30 ~~day-labor~~ service agency shall provide adequate seating in  
31 the public access area of the offices of the agency. The  
32 public access area shall be the location for the employment  
33 and wage notices required by Section 10 of this Act. The

1 public access area shall allow for access to restrooms and  
2 water.

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

4 (820 ILCS 175/40)

5 Sec. 40. Work Restriction. No temporary staffing day  
6 ~~labor~~ service agency shall restrict the right of a temporary  
7 staffer day--laborer to accept a permanent position with a  
8 third party employer to whom the temporary staffer day  
9 ~~laborer~~ has been referred for work or restrict the right of  
10 such third party employer to offer such employment to a  
11 temporary staffer day-laborer. Nothing in this Section shall  
12 restrict a temporary staffing day-labor service agency from  
13 receiving a placement fee from the third party employer for  
14 employing a temporary staffer day-laborer for whom a contract  
15 for work was effected by the temporary staffing day-labor  
16 service agency.

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

18 (820 ILCS 175/45)

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

1 and penalties for violations of this Act or the Department's  
2 rules in conjunction with the fines and penalties set forth  
3 in this Act. The Department shall cause to be posted in each  
4 agency a notice which informs the public of a toll-free  
5 telephone number for temporary staffers day-laborers and the  
6 public to file wage dispute complaints and other alleged  
7 violations by temporary staffing day-labor service agencies.  
8 (Source: P.A. 91-579, eff. 1-1-00.)

9 (820 ILCS 175/50)

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

15 (820 ILCS 175/55 new)

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

1 penalty allowed by the Act. The Director of Labor or his or  
2 her representative may compel, by subpoena, the attendance  
3 and testimony of witnesses and the production of books,  
4 payrolls, records, papers, and other evidence in any  
5 investigation or hearing and may administer oaths to  
6 witnesses.

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, as amended, and the Department in  
13 proceedings under the Act may obtain an order from the court  
14 for the enforcement of its order.

15 (820 ILCS 175/65 new)

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

23 (820 ILCS 175/70 new)

24 Sec. 70. Penalties. A temporary staffing service agency  
25 that violates any of the provisions of this Act concerning  
26 registration, transportation, equipment, meals, wages, or  
27 waiting rooms shall be subject to a civil penalty not to  
28 exceed \$500 for any violations found in the first audit and  
29 not to exceed \$5,000 for any violations found in the second  
30 audit. For any violations that are found in a third audit  
31 that are within 7 years of the earlier violations, the



1 Department may revoke the registration of the violator. In  
 2 determining the amount of a penalty, the Director shall  
 3 consider the appropriateness of the penalty to the temporary  
 4 staffing service agency charged, upon the determination of  
 5 the gravity of the violations. The amount of the penalty,  
 6 when finally determined may be:

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

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

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

17 (820 ILCS 175/75 new)

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

32 (820 ILCS 175/80 new)

1        Sec. 80. Child Labor and Temporary Staffing Enforcement  
 2        Fund. All moneys received as fees and civil penalties under  
 3        this Act shall be deposited into the Child Labor and  
 4        Temporary Staffing Enforcement Fund and may be used for the  
 5        purposes set forth in Section 17.3 of the Child Labor Law.

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

8        (820 ILCS 205/17.3) (from Ch. 48, par. 31.17-3)

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

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

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

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

27       Civil penalties recovered under this Section shall be  
 28       paid into the Child Labor and Temporary Staffing Enforcement  
 29       Fund, a special fund which is hereby created in the State  
 30       treasury. Moneys ~~Moneys~~ in the Fund may ~~shall~~ be used,  
 31       subject to appropriation, for exemplary programs,  
 32       demonstration projects, and other activities or purposes

1 related to the enforcement of this Act or for the activities  
2 or purposes related to the enforcement of the Temporary  
3 Staffing Services Act.

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

5 Section 99. Effective date. This Act takes effect  
6 January 1, 2003.