

ASSEMBLY, No. 4315

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED NOVEMBER 14, 2016

Sponsored by:

Assemblywoman SHEILA Y. OLIVER

District 34 (Essex and Passaic)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Co-Sponsored by:

Assemblyman Eustace

SYNOPSIS

Regulates temporary help service firms as employment agencies; expands civil rights protections of certain job seekers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/13/2016)

1 AN ACT regulating temporary help service firms and amending
2 P.L.1989, c.331 and P.L.1981, c.1.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1989, c.331 (C.34:8-43) is amended to read
8 as follows:

9 1. As used in this act:

10 "Accepting employment" means that a job seeker has entered
11 into an agreement with an employer which includes:

12 (1) The terms and conditions of employment;

13 (2) The salary or wages and any benefits to be paid to the job
14 seeker as compensation for employment; and

15 (3) The date, time and place employment will commence.

16 "A career consulting or outplacement organization" means any
17 person, required to be registered under section 24 of this act,
18 providing or rendering services, with or without related products, in
19 connection with advice, instruction, analysis, recommendation or
20 assistance concerning past, present, or future employment or
21 compensation for an individual's time, labor or effort.

22 "Agent" means any individual who performs any function or
23 activity for or on behalf of any person, the purpose of which is to
24 provide services or products to individuals seeking employment,
25 career guidance or counseling, or employment related services or
26 products.

27 "Applicant" means any person applying for licensing or
28 registration under this act.

29 "Attorney General" means the Attorney General of this State or a
30 designee.

31 "Baby sitter" means and includes any individual under 16 years
32 of age, other than a registered nurse or a licensed nurse, entrusted
33 temporarily with the care of children during the absence of their
34 parents, guardians, or individuals standing in loco parentis to them.
35 This definition shall not include persons regularly employed by
36 agencies, or institutions operated by or under the control or
37 supervision of this State, or any of its political subdivisions, nor any
38 child care facilities operated for the care of children when the
39 facilities are similarly controlled or supervised.

40 "Booking agency" means any person who procures, offers,
41 promises, or attempts to procure employment for performing artists,
42 or athletes, not under the jurisdiction of the Athletic Control Board,
43 and who collects a fee for providing those services.

44 "Bureau" means the Bureau of Employment and Personnel
45 Services in the Division of Consumer Affairs within the Department
46 of Law and Public Safety created pursuant to section 2 of this act.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Career counseling service" means any business that, through its
2 agents or otherwise, procures or represents itself as procuring
3 employment or employment assistance or advertises in any manner
4 the following services for a fee: career counseling; vocational
5 guidance; aptitude, achievement or vocational testing; executive
6 consulting; personnel consulting; career management, evaluation, or
7 planning; the development of resumes and other promotional
8 materials relating to the preparation for employment; or referral
9 services relating to employment or employment qualifications. A
10 career counseling service shall be licensed as an employment
11 agency pursuant to the provisions of this act. A career counseling
12 service shall not include career consulting or outplacement
13 organizations required to be registered under section 24 of this act.

14 "Chief" means the Chief of the Bureau of Employment and
15 Personnel Services.

16 "Consulting firm" means any person required to be registered
17 under section 23 of this act that:

18 (1) Identifies, appraises, refers or recommends individuals to be
19 considered for employment by the employer; and

20 (2) Is compensated for services solely by payments from the
21 employer and is not, in any instance, compensated, directly or
22 indirectly, by an individual who is identified, appraised, referred or
23 recommended.

24 "Director" means the Director of the Division of Consumer
25 Affairs in the Department of Law and Public Safety, or his
26 designee.

27 "Employer" means a person seeking to obtain individuals to
28 perform services, tasks, or labor for which a salary, wage, or other
29 compensation or benefits are to be paid.

30 "Employment agency" means any person who, for a fee, charge
31 or commission:

32 (1) Procures or obtains, or offers, promises or attempts to
33 procure, obtain, or assist in procuring or obtaining employment for
34 a job seeker or employees for an employer; or

35 (2) Supplies job seekers to employers seeking employees on a
36 part-time or temporary assignment basis **【**who has not filed
37 notification with the Attorney General pursuant to the provisions of
38 section 1 of P.L.1981, c.1 (C.56:8-1.1)**】**; or

39 (3) Procures, obtains, offers, promises or attempts to procure or
40 obtain employment or engagements for actors, actresses,
41 performing artists, vocalists, musicians or models; or

42 (4) Acts as a placement firm, career counseling service, or
43 resume service; or

44 (5) Acts as a nurses' registry.

45 The director shall have the authority to determine, from time to
46 time, that a particular employment agency or career-related service
47 or product, not otherwise expressly subject to the provisions of this

1 act, is subject to whichever requirements of this act he deems
2 appropriate.

3 "Fee, charge or commission" means any payment of money, or
4 promise to pay money to a person in consideration for performance
5 of any service for which licensure or registration is required by this
6 act, or the excess of money received by a person furnishing
7 employment or job seekers over what he has paid for transportation,
8 transfer of baggage or lodging for a job seeker. "Fee, charge or
9 commission" shall also include the difference between the amount
10 of money received by any person who either furnishes job seekers
11 or performers for any entertainment, exhibition or performance, or
12 who furnishes baby sitters for any occasion, and the amount paid by
13 the person to the job seekers, performers or baby sitters.

14 "Job listing service" means any person required to be registered
15 under section 25 of this act who, by advertisement or other means,
16 offers to provide job seekers with a list of employers, a list of job
17 openings or a similar publication, or prepares resumes or lists of
18 applicants for distribution to potential employers, where a fee or
19 other valuable consideration is exacted or attempted to be collected,
20 either directly or indirectly.

21 "Job seeker" means any individual seeking employment, career
22 guidance or counseling or employment related services or products.

23 "Job seeker contingent liability" means a provision in an
24 agreement between an employment agency and a job seeker
25 whereby the job seeker may become liable, in whole or in part, to
26 pay a fee, charge or commission of any amount, directly or
27 indirectly, on account of any service rendered by the employment
28 agency.

29 "Just cause for voluntary termination of employment by a job
30 seeker" means and includes, but is not limited to, cases in which
31 material misrepresentations of the terms or conditions of
32 employment have been relied upon by a job seeker who would not
33 have accepted the employment if the grounds for termination were
34 known before acceptance of the employment.

35 "License" means a license issued by the director to any person
36 to:

- 37 (1) Carry on the business of an employment agency; and
38 (2) Perform, as an agent of the agency, any of the functions
39 related to the operation of the agency.

40 "Performing artist" means a model, musical, theatrical or other
41 entertainment performer employed or engaged individually or in a
42 group.

43 "Person" means any natural person or legal representative,
44 partnership, corporation, company, trust, business entity or
45 association, and any agent, employee, salesperson, partner, officer,
46 director, member, stockholder, associate, trustee or cestuis que
47 trustent thereof.

1 "Prepaid computer job matching service" means any person
2 required to be registered under section 25 of this act who is engaged
3 in the business of matching job seekers with employment
4 opportunities, pursuant to an arrangement under which the job
5 seeker is required to pay a fee in advance of, or contemporaneously
6 with, the supplying of the matching, but which does not otherwise
7 involve services for the procurement of employment by the person
8 conducting the service.

9 "Primary location" means an address used for 90 or more
10 calendar days by a person for the conduct of an activity regulated
11 under this act.

12 "Principal owner" means any person who, directly or indirectly,
13 holds a beneficial interest or ownership in an applicant or who has
14 the ability to control an applicant.

15 "Temporary employment" means employment in which the
16 duration is fixed as some definite agreed period of time or by the
17 occurrence of some specified event, either of which shall be clearly
18 stated to all parties at the time of referral to the employment.

19 "Temporary help service firm" means any person who operates a
20 business which consists of employing individuals directly or
21 indirectly for the purpose of assigning the employed individuals to
22 assist the firm's customers in the handling of the customers'
23 temporary, excess or special work loads, and who, in addition to the
24 payment of wages or salaries to the employed individuals, pays
25 federal social security taxes and State and federal unemployment
26 insurance; carries worker's compensation insurance as required by
27 State law; and sustains responsibility for the actions of the
28 employed individuals while they render services to the firm's
29 customers. A temporary help service firm is required to comply
30 with the provisions of P.L.1960, c.39 (C.56:8-1 et seq.).
31 (cf: P.L.1989, c.331, s.1)

32

33 2. Section 5 of P.L.1989, c.331 (C.34:8-46) is amended to read
34 as follows:

35 5. The provisions of this act shall not apply to:

36 a. A teachers' registry conducted by an association of certified
37 teachers, whose membership is not less than 10 certified teachers,
38 incorporated as a nonprofit organization under the laws of New
39 Jersey, and operated under the supervision of a teacher recognized
40 and approved as a certified teacher by the Department of Education
41 of this State, or by the duly established authority of the state in
42 which the employment is procured, which registry procures
43 positions only for certified teachers who are recognized and
44 approved as certified teachers by the Department of Education of
45 this State;

46 b. Any State, federal, municipal or charitable agency which
47 does not charge fees;

1 c. Any department or bureau which is maintained by persons
2 for the purpose of securing help for themselves and does not charge
3 fees to job seekers. The exemption from the provisions of this act
4 provided by this subsection shall not be construed to exempt
5 associations or organizations of employers from the requirement to
6 procure the licenses or registration otherwise required under this
7 act;

8 d. The procuring of employment by any labor union for any of
9 its members in any job coming under the jurisdiction of the union;
10 provided, that no fee is charged any member for being furnished
11 employment or information where employment may be procured;

12 e. Any nurses' registry operated by any association of
13 registered nurses, whose membership is not less than 10 registered
14 nurses, duly incorporated as a nonprofit organization under the laws
15 of New Jersey, and operated under the supervision of a registered
16 nurse authorized to practice in the State of New Jersey; except that
17 no nurses' registry shall furnish help or employment to anyone other
18 than a registered nurse, a practical nurse licensed by the State, or a
19 person, other than a baby sitter, who is approved by the registered
20 nurse in charge of the nurses' registry and is sent by the agency to
21 an employer to assist nonprofessionally in the care of the sick or
22 ailing;

23 f. Any association of farmers which:

24 (1) Is duly incorporated on a nonprofit basis, under the laws of
25 New Jersey;

26 (2) Is certified to the director by the Secretary of Agriculture of
27 New Jersey as being an association of bona fide farmers of New
28 Jersey;

29 (3) Does not furnish job seekers to employers other than
30 members of their association; and

31 (4) Does not charge fees to any job seeker for being furnished
32 employment or information where employment may be procured.

33 g. Any person who furnishes farmers with field or harvest
34 workers to be employed on a seasonal basis, and charges no fee
35 either directly or indirectly to any worker, if the wages of the
36 workers are paid directly to the workers by the farmers who employ
37 them.

38 The exemptions established in this subsection and subsection f.
39 of this section shall not apply to any person who induces or
40 attempts to induce a person working under contract with an
41 employer to leave the employment in which he is working under
42 that contract before the contract is completed or the worker is no
43 longer responsible for its completion;

44 h. [Any temporary help service firm which does not:

45 (1) Charge a fee or liquidated charge to any individual
46 employed by the firm or in connection with employment by the
47 firm;

1 (2) Prevent or inhibit, by contract, any of the individuals it
2 employs from becoming employed by any other person;

3 (3) Knowingly send individuals it employs to, or knowingly
4 continue to render services to, any plant or office where a strike or
5 lockout is in progress for the purpose of replacing individuals who
6 are striking or who are locked out. Any person conducting a
7 temporary help service firm which knowingly sends its employed
8 individuals to, or knowingly continues to render services to, a plant
9 or office where a strike or lockout is in progress for the purpose of
10 replacing those individuals who are striking or who are locked out
11 or, directly or indirectly counsels, aids or abets that action shall be
12 liable to a penalty of \$1,000 upon each occurrence. The penalty
13 shall be sued for, and received by and in the name of the Attorney
14 General and shall be collected and enforced by summary
15 proceedings pursuant to "the penalty enforcement law"
16 (N.J.S.2A:58-1 et seq.).

17 This exclusion shall apply to temporary help service firms
18 operated by any person who also operates an employment agency as
19 long as the businesses are independently operated as prescribed by
20 rules and regulations promulgated by the Attorney General **]**
21 (Deleted by amendment P.L. c.) (pending before the
22 Legislature as this bill);

23 i. Any news periodical which contains listings of or classified
24 advertisements for jobs, positions, employers, or job seekers where
25 the periodical also contains news stories of general interest, articles
26 or essays of opinion, features and other advertising and which is
27 offered to the general public for sale at a nominal fee;

28 j. Any nonprofit educational, religious or charitable institution
29 which provides career counseling, job placement or other
30 employment-related services, skills evaluation, skills analysis, or
31 testing for vocational ability in order to develop a vocational profile
32 to counsel individuals and recommend placement opportunities as
33 part of the fulfillment of its educational, religious or charitable
34 purpose;

35 k. Any copying, printing, duplicating or resume preparation
36 service which in no instance charges a fee, directly or indirectly, for
37 providing any employment-related service other than copying,
38 printing, duplicating or assisting in arranging the layout of a
39 resume.

40 (cf: P.L.1989, c.331, s.5)

41

42 3. Section 10 of P.L.1989, c.331 (C.34:8-51) is amended to
43 read as follows:

44 10. a. Every employment agency shall:

45 (1) Keep and make available to the chief, or a designee, during
46 regular business hours, records containing information regarding
47 services provided, products sold to job seekers or employers, and
48 fees charged or collected, and other information required by rules

1 and regulations to enable the chief to determine the status of
2 compliance with the provisions of this act;

3 (2) Require all job seekers applying for positions of trust or
4 work with private families to furnish the agency with names and
5 addresses of individuals available as character references, and shall
6 communicate, orally or in writing, with at least one of the
7 individuals given by the job seeker as a character reference. If the
8 job seeker has not furnished the name of any individuals available
9 as character references, or if no favorable statement has been
10 received from a character reference, the agency shall so advise the
11 prospective employer to whom the job seeker is referred. This
12 information shall be written upon the referral slip given by the
13 agency to the job seeker to present to the prospective employer. The
14 written result of the verification to determine the character and
15 responsibility of any job seeker shall be kept on file in the agency
16 subject to examination by the chief. If the employer voluntarily
17 waives, in writing, a verification of references, the licensed agency
18 shall not be required to make the verification;

19 (3) Give to each job seeker a copy of every writing the job
20 seeker has signed, the form of which complies with P.L.1980, c.125
21 (C.56:12-1 et seq.).

22 (4) Furnish to each job seeker, who is sent to a prospective
23 employer for an interview concerning the job seeker's qualifications
24 or future employment in a job for which no order has been given to
25 the agency, a card or paper containing the names of the job seeker
26 and prospective employer, the address of the prospective employer
27 and any other particulars the agency may determine are necessary.
28 In each case, there shall be printed in bold-faced type on the card or
29 paper the following:

30 "This card of introduction is given to (name of job
31 seeker) with the understanding that there is no obligation to this
32 employment agency for any fee until, as a result of the services
33 rendered by this agency, (name of job seeker) is
34 employed in a job with respect to which the agency received a bona
35 fide order from an employer. (name of job seeker) has
36 agreed to pay the fee under the foregoing conditions if the fee is not
37 paid by an employer."

38 (5) Post in the agency in **【the places that the chief, or a**
39 **designee, directs,】** a prominent place where the postings may be
40 easily seen and read by all persons visiting the agency, on notices to
41 be promulgated by the chief:

42 (a) an abstract of this act and the rules and regulations
43 promulgated by the director. 【The chief shall provide the abstracts
44 and charge for the printing of these abstracts】;

45 (b) any notices required to be posted by any employer in the
46 State pursuant to federal or State law or regulation; and

47 (c) a notice informing job seekers of the civil rights protections
48 provided pursuant to subsection p. of section 11 of P.L.1989, c.331

1 (C.34:8-52), and providing contact information for the reporting of
2 violations.

3 b. In addition to the requirements set forth in subsection a.,
4 each employment agency which charges or may charge the job
5 seeker a fee shall:

6 (1) File with the chief, for the chief's approval, a schedule of
7 fees proposed to be charged for any service rendered or product
8 sold to job seekers and adhere to the schedule in charging for these
9 services or products. The chief shall not approve the fee schedule
10 unless the chief is satisfied that the fee schedule is on a form which
11 makes the schedule reasonably understandable by job seekers and
12 that the fee schedule is in compliance with all other provisions of
13 this section. The schedule of fees may thereafter be changed or
14 supplemented, by filing an amended or supplemental schedule with
15 the bureau. The changes shall not become effective until approval
16 has been granted by the chief and the amended or supplemental fee
17 schedule has been posted for not less than seven days in a
18 conspicuous manner in the office of the agency. It shall be
19 unlawful for any employment agency to charge, demand, collect or
20 receive a greater fee for any service rendered or product sold to a
21 job seeker than is specified in the most recent schedule filed with
22 the bureau;

23 (2) Post the schedule of fees in a conspicuous manner in the
24 office of the agency using forms provided by the chief;

25 (3) Compute fees paid by a job seeker seeking employment on
26 the basis of permanent employment, unless the employment is
27 temporary employment. Where temporary employment merges into
28 permanent employment, or where a job seeker accepts permanent
29 employment within 30 days after the termination of temporary
30 employment, the permanent employment may be considered the
31 result of the references to the temporary position and the fee may be
32 based on the permanent employment with due credit given for the
33 payment made for the temporary employment;

34 (4) Not charge to a job seeker who obtains employment and who
35 is discharged without cause or who voluntarily terminates
36 employment for just cause more than 1% of the scheduled fee for
37 each day worked. For purposes of this paragraph, the employment
38 agency shall repay to any job seeker so discharged or terminated
39 any excess of the maximum fee in accordance with the fee schedule,
40 allowing three days' time to determine that the termination was not
41 due to any fault on the part of the job seeker. The employment
42 agency may, however, by separate written agreement between the
43 employment agency and the job seeker, retain the fee or any part of
44 the fee which has been paid for the job from which the job seeker
45 has been discharged without cause or terminated, if the agency
46 furnishes the job seeker with another job and allows due credit for
47 the retained payment;

1 (5) Not charge a job seeker who either fails to report for duty
2 after accepting employment or voluntarily terminates employment
3 without just cause within 30 days more than 30% of the scheduled
4 fee;

5 (6) Obtain a bona fide order for employment prior to collecting
6 any fee from a job seeker or sending out a job seeker to any place of
7 employment. Except as may be otherwise provided in rules and
8 regulations, no charge or advance fee of any kind shall be charged,
9 demanded, collected, or received by the agency from a job seeker
10 seeking employment until employment has been obtained by or
11 through the efforts of the agency;

12 (7) Give to every job seeker from whom a fee is received, at the
13 time payment is received, a receipt which shall state the name of the
14 job seeker, the name and address of the employment agency and its
15 agent, the date and amount of the fee and the purpose for which it
16 was paid; and

17 (8) Furnish each job seeker, who is sent to a prospective
18 employer, with a card or similar paper containing the nature of the
19 prospective employment, the names of the job seeker and
20 prospective employer, and the address of the employer.

21 (cf: P.L.1989, c.331, s.10)

22

23 4. Section 11 of P.L.1989, c.331 (C.34:8-52) is amended to
24 read as follows:

25 11. It shall be a violation of the provisions of this act for any
26 person to:

27 a. Open, conduct, or maintain, either directly or indirectly, an
28 employment agency or perform any of the functions of an
29 employment agency without first obtaining a valid employment
30 agency license from the director and complying with all
31 requirements of this act regarding agents' licenses for the agents of
32 the agency. A license shall not authorize the furnishing of help or
33 employment or the furnishing of information where help or
34 employment may be procured in the capacity of baby sitters. A
35 license shall not authorize activities of any person other than the
36 individual person or persons holding the license, except that a
37 corporation may be the holder of an employment agency license. A
38 license shall not authorize activities at any place other than the
39 place designated in the license except upon issuance of a special
40 permit by the director. A licensee may engage in activities
41 requiring registration under sections 23, 24 and 25 of this act if it
42 complies with the requirements of those sections.

43 b. Conduct business, or any phase thereof, in any room or place
44 where:

45 (1) An individual sleeps or conducts his or her household
46 affairs, unless the business premises have separate ingress and
47 egress from the residential premises;

- 1 (2) Premises are rented or leased on an hourly, daily, weekly, or
2 other transient basis except as otherwise provided by regulation;
- 3 c. Charge or accept payment of any fees which are greater than
4 those shown by any schedule of fees which is required to be filed
5 with the chief and posted in the agency;
- 6 d. Accept and receive any gift as, or in lieu of, a fee;
- 7 e. Divide or offer to divide fees, directly or indirectly, with
8 prospective or actual employers or any agent, employee, or
9 representative;
- 10 f. Accept payment of a fee or attempt to collect any fee for a
11 service rendered or product sold where employment has not been
12 accepted, except that the requirements of this subsection shall not
13 apply to any career counseling service if that service receives no
14 prepayment for services or products and provides services or
15 products strictly on an hourly basis, with no financial obligation
16 required of the job seeker beyond the hourly fee for the services or
17 products rendered;
- 18 g. Falsely state or imply to a job seeker that the person is
19 seeking to obtain individuals to perform services, tasks or labor for
20 which salary, wages, or other compensation is to be paid;
- 21 h. Send or cause to be sent any individual to any place used for
22 unlawful purposes;
- 23 i. Place or assist in placing an individual under 18 years of age
24 into employment which is in violation of the laws of this State;
- 25 j. Induce or compel any individual to enter the agency, for any
26 purpose, by the use of force or by taking forcible possession of the
27 individual's property;
- 28 k. Publish or cause to be published any deceptive or misleading
29 notice or advertisement. All advertisements of any agency by any
30 means, including, but not limited to, cards, circulars or signs, or in
31 newspapers and other publications, and all letterheads, receipts and
32 blanks, shall contain the name and address of the agency;
- 33 l. Make a deceptive or misleading representation to a job
34 seeker or employer, or enter into any contract with any job seeker
35 or employer or induce or attempt to induce any job seeker or
36 employer to make any agreement, the provisions of which contract
37 or agreement, if fulfilled, violate this act;
- 38 m. Require that a job seeker enter into a contract with the
39 agency or any specific lender for the purpose of fulfilling a
40 financial obligation to the employment agency;
- 41 n. Demand, charge, collect, or receive a fee unless in
42 accordance with the terms of a written contract or agreement with a
43 job seeker;
- 44 o. Engage in any act or practice in violation of P.L.1960, c.39
45 (C.56:8-1 et seq.) and regulations promulgated thereunder;
- 46 p. Refuse to refer a job seeker for employment or to
47 discriminate against a job seeker in compensation or in terms,
48 conditions or privileges of employment to which the job seeker is

1 referred because of the race, creed, color, national origin, ancestry,
2 age, marital status, civil union status, domestic partnership status,
3 affectional or sexual orientation, genetic information, pregnancy,
4 sex, gender identity or expression, disability or atypical hereditary
5 cellular or blood trait of any individual, or because of the liability
6 for service in the Armed Forces of the United States or the
7 nationality of any individual, or because of the refusal to submit to
8 a genetic test or make available the results of a genetic test to an
9 employer. Nothing in this subsection shall be construed to bar an
10 employment agency from refusing to refer a job seeker on the basis
11 of sex in those certain circumstances where sex is a bona fide
12 occupational qualification that is reasonably necessary to the
13 normal operation of the particular business or enterprise.

14 (cf: P.L.1989, c.331, s.11)

15

16 5. Section 14 of P.L.1981, c.1 (C.56:8-1.1) is amended to read
17 as follows:

18 14. Services provided by a temporary help service firm shall
19 constitute services within the term "merchandise" pursuant to
20 P.L.1960, c.39, s.1 (C.56:8-1(c)), and the provisions of P.L.1960,
21 c.39 (C.56:8-1 et seq.) shall apply to the operation of a temporary
22 help service firm.

23 The Attorney General shall promulgate rules and regulations
24 pursuant to section 4 of P.L.1960, c.39 (C.56:8-4). The Attorney
25 General shall, by rule or regulation, establish, prescribe or change
26 an annual registration fee or other charge on temporary help service
27 firms to such extent as shall be necessary to defray all proper
28 expenses incurred by his office in the performance of its duties
29 under this section of this act but such registration fees or other
30 charges shall not be fixed at a level that will raise amounts in excess
31 of the amount estimated to be so required. In addition to any other
32 appropriate requirements, the Attorney General shall, by rule or
33 regulation require the following:

34 a. Each temporary help service firm operating within the State
35 of New Jersey shall, prior to the effective date of this act or
36 commencement of operation and annually thereafter, notify the
37 Attorney General as to its appropriate name, if applicable; the trade
38 name of its operation; its complete address, including street and
39 street number of the building and place where its business is to be
40 conducted; and the names and resident addresses of its officers.
41 Each principal or owner shall provide an affidavit to the Attorney
42 General setting forth whether such principal or owner has ever been
43 convicted of a crime.

44 b. When a temporary help service firm utilizes any location
45 other than its primary location for the recruiting of applicants,
46 including mobile locations, it shall notify the Office of the Attorney
47 General of such fact in writing or by telephone, and subsequently
48 confirm in writing prior to the utilization of such facility.

1 c. Each temporary help service firm shall at the time of its
2 initial notification to the Attorney General, and annually thereafter,
3 post a bond of **[\$1,000.00 with the Attorney General to secure**
4 **compliance with P.L.1960, c. 39 (C. 56:8-1 et seq.), provided**
5 **however that the Attorney General may waive such bond for any**
6 **corporation or entity having a net worth of \$100,000 or more]**
7 \$10,000, as required pursuant to section 8 of P.L.1989, c.331
8 (C.34:8-49).

9 d. Any temporary help service firm, as the term is used in
10 P.L.1960, c.39 (C.56:8-1 et seq.), P.L.1989, c.331 (C.34:8-43 et
11 seq.) or this section, which places individuals in work which
12 requires them to obtain transportation services to get to, or return
13 from, the site of the work shall be subject to the provisions of this
14 subsection, except that the provisions of this subsection shall not
15 apply if the firm requires the individuals to use their own vehicles
16 or other transportation of their choice, for transportation to and
17 from work and shall not apply if public transportation is available at
18 the times needed for them to get to, and return from, the site of the
19 work and the firm permits them to use the public transportation. If
20 the firm provides transportation services with any vehicle owned,
21 leased or otherwise under the control of the firm, the firm shall be
22 responsible for compliance with the provisions of R.S.48:4-3 et seq.
23 and any other applicable law or regulation regarding the vehicle and
24 its use and shall keep records in the manner required by regulations
25 adopted by the Attorney General in consultation with the New
26 Jersey Motor Vehicle Commission. If the firm does not provide
27 transportation services, but refers, directs or requires the individuals
28 to use any other provider or providers of transportation services, or
29 provides no practical alternative to the use of services of the
30 provider or providers, the firm shall obtain, and keep on file,
31 documentation that each provider is in compliance with the
32 provisions of R.S.48:4-3 et seq. and any other applicable law or
33 regulation in the manner required by regulations adopted by the
34 Attorney General in consultation with the New Jersey Motor
35 Vehicle Commission. The firm may not require the individuals to
36 use transportation provided by the firm or another provider of
37 transportation services if they have other transportation available.
38 A failure to comply with the provisions of this subsection, including
39 all record-keeping requirements of this subsection, shall be
40 regarded as an unlawful practice and a violation of this section, of
41 P.L.1960, c.39 (C.56:8-1 et seq.) and of R.S.48:4-3 et seq. and a
42 temporary help service firm found to be in violation shall be subject
43 to penalties provided for violations of those acts, and shall be
44 jointly and severally liable with the provider of transportation
45 services for any injury which occurs to the individuals while being
46 transported in a vehicle owned, leased or otherwise under the
47 control of the provider. In the case of noncompliance with the
48 provisions of this section on more than one occasion, the Attorney

1 General may suspend or revoke the firm's registration as a
2 temporary help service firm for the purposes of this section,
3 P.L.1960, c.39 (C.56:8-1 et seq.) and P.L.1989, c.331 (C.34:8-43 et
4 seq.).
5 (cf: P.L.2007, c.14)

6
7 6. This act shall take effect on the first day of the third month
8 following enactment.

9
10

11 STATEMENT

12

13 This bill regulates temporary help service firms as employment
14 agencies and expands the civil rights protections of job seekers who
15 use employment agencies.

16 Specifically, the bill includes temporary help service firms
17 within the definition of employment agencies, which extends the
18 registration, regulations, and bonding requirements that currently
19 apply to employment agencies to temporary help service firms.

20 The bill also requires that employment agencies, including
21 temporary help service firms, post in a prominent place where the
22 postings may be easily seen and read by all persons visiting the
23 agency:

24 (1) an abstract of employment agency law and the rules and
25 regulations promulgated by the director;

26 (2) any notices required to be posted by any employer in the
27 State pursuant to federal or State law or regulation; and

28 (3) a notice informing job seekers of the civil rights protections
29 provided to job seekers pursuant to the bill, and providing contact
30 information for the reporting of violations.

31 The bill provides that it is a violation for an employment agency,
32 to refuse to refer a job seeker for employment or to discriminate
33 against a job seeker in compensation or in terms, conditions or
34 privileges of employment to which the job seeker is referred
35 because of the race, creed, color, national origin, ancestry, age,
36 marital status, civil union status, domestic partnership status,
37 affectional or sexual orientation, genetic information, pregnancy,
38 sex, gender identity or expression, disability or atypical hereditary
39 cellular or blood trait of any individual, or because of the liability
40 for service in the Armed Forces of the United States or the
41 nationality of any individual, or because of the refusal to submit to
42 a genetic test or make available the results of a genetic test to an
43 employer. The bill provides that it shall not be construed to bar an
44 employment agency from refusing to refer a job seeker on the basis
45 of sex in those certain circumstances where sex is a bona fide
46 occupational qualification that is reasonably necessary to the
47 normal operation of the particular business or enterprise.