

ASSEMBLY, No. 5246

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 13, 2019

Sponsored by:

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblywoman ANGELICA M. JIMENEZ

District 32 (Bergen and Hudson)

SYNOPSIS

Provides certain protections for temporary laborers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/8/2019)

1 AN ACT concerning employment and protection of temporary
2 laborers, supplementing Title 34 of the Revised Statutes, and
3 amending P.L.1989, c.331.

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

7
8 1. (New section) The Legislature finds and declares:

9 a. At least 127,000 individuals work for temporary and staffing
10 firms in New Jersey. Approximately 100 temporary labor service
11 agencies with several branch offices are licensed throughout the
12 State. Moreover, there are a large, though unknown, number of
13 unlicensed temporary labor service agencies that operate outside the
14 purview of law enforcement.

15 b. Recent national data indicate that the share of Black and
16 Latino temporary and staffing workers far outstrips their proportion
17 of the workforce in general. In addition to a heavy concentration in
18 service occupations, temporary help agency workers are heavily
19 concentrated in the production, transportation, and material moving
20 occupations and manufacturing industries. Further, full-time
21 temporary help agency workers earn 41 percent less than workers in
22 traditional work arrangements, and these workers are far less likely
23 than other workers to receive employer-sponsored retirement and
24 health benefits.

25 c. Recent studies and a survey of low-wage temporary laborers
26 themselves find that, generally, these workers are particularly
27 vulnerable to abuse of their labor rights, including unpaid wages,
28 failure to pay for all hours worked, minimum wage and overtime
29 violations, unsafe working conditions, unlawful deductions from
30 pay for meals, transportation, equipment, and other items, as well as
31 discriminatory practices.

32 d. Current law is inadequate to protect the labor and employment
33 rights of these workers.

34

35 2. (New section) As used in P.L. , c. (C.) (pending
36 before the Legislature as this bill):

37 “Commissioner” means Commissioner of Labor and Workforce
38 Development, or a designee of the commissioner.

39 “Employ” means to suffer or permit to work for compensation,
40 including by means of ongoing, contractual relationships in which
41 the employer retains substantial direct or indirect control over the
42 employee's employment opportunities or terms and conditions of
43 employment.

44 “Employer” means any person or corporation, partnership,
45 individual proprietorship, joint venture, firm, company, or other

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 similar legal entity who engages the services of an employee and
2 who pays his wages, salary, or other compensation, or any person
3 acting directly or indirectly in the interest of an employer in relation
4 to an employee.

5 “Hours worked” means all of the time that the employee is
6 required to be at his or her place of work or on duty. Nothing in
7 P.L. , c. (C.) (pending before the Legislature as this bill)
8 requires an employer to pay an employee for hours the employee is
9 not required to be at his or her place of work because of holidays,
10 vacation, lunch hours, illness, and similar reasons.

11 “Person” means any natural person or his legal representative,
12 partnership, corporation, company, trust, business entity, or
13 association, and any agent, employee, salesman, partner, officer,
14 director, member, stockholder, associate, trustee, or beneficiary of a
15 trust thereof.

16 “Temporary laborer” means a person who contracts for
17 employment with a temporary labor service agency.

18 “Temporary labor applicant” means a person who requests a job
19 assignment through a temporary labor service agency, whether in
20 the presence of the agency, in writing, or through an online
21 application process.

22 “Temporary labor” means work performed by a temporary
23 laborer at the business of, or for, a third party client of a temporary
24 labor service agency, the duration of which may be specific or
25 undefined, pursuant to a contract or understanding between the
26 temporary labor service agency and the third party client.
27 Temporary labor does not include labor or employment of a
28 professional or clerical nature.

29 “Temporary labor service agency” means any person or entity
30 engaged in the business of employing temporary laborers to provide
31 services, whether or not a fee is charged to a temporary laborer or a
32 third party client, to or for any third party client pursuant to a
33 contract between the temporary labor service agency and the third
34 party client. Temporary labor service agency does not include an
35 employment agency as that term is defined by section 1 of
36 P.L.1989, c.331 (C.34:8-43).

37 “Third party client” means any person who contracts with a
38 temporary labor service agency for obtaining temporary laborers.

39

40 3. (New section) a. Whenever a temporary labor service
41 agency agrees to send a person to work as a temporary laborer, the
42 temporary labor service agency shall provide the temporary laborer,
43 at the time of dispatch, a statement, in writing in English and in the
44 language identified by the employee as the employee’s primary
45 language, containing the following items on a form approved by the
46 commissioner:

47 (1) the name of the temporary laborer;

48 (2) the name, address, and telephone number of:

- 1 (a) the temporary labor service agency, or the contact
- 2 information of the agency agent facilitating the placement;
- 3 (b) its workers' compensation carrier;
- 4 (c) the worksite employer or third party client; and
- 5 (d) the Department of Labor and Workforce Development;
- 6 (3) the name and nature of the work to be performed;
- 7 (4) the wages offered;
- 8 (5) the name and address of the assigned worksite of each
- 9 temporary laborer;
- 10 (6) the terms of transportation offered to the temporary laborer;
- 11 (7) a description of the position and whether it shall require any
- 12 special clothing, protective equipment, and training, and what
- 13 training and clothing will be provided by the temporary labor
- 14 service agency or the third party client; and any licenses and any
- 15 costs charged to the employee for supplies or training;
- 16 (8) whether a meal or equipment, or both, are provided, either by
- 17 the temporary labor service agency or the third party client, and the
- 18 cost of the meal and equipment, if any;
- 19 (9) for multi-day assignments, the schedule; and
- 20 (10) the length of the assignment.

21 In the event of a change in the schedule, shift, or location of an
22 assignment for a multi-day assignment of a temporary laborer, the
23 temporary labor service agency shall provide written notice of the
24 change not less than 48 hours in advance to the temporary laborer,
25 when possible. The temporary labor service agency shall bear the
26 burden of showing it was not possible to provide the required
27 notice.

28 If a temporary laborer is assigned to the same assignment for
29 more than one day, the temporary labor service agency shall be
30 required to provide the employment notice only on the first day of
31 the assignment and on any day that any of the terms listed on the
32 employment notice are changed.

33 If the temporary laborer is not placed with a third party client or
34 otherwise contracted to work for that day, the temporary labor
35 service agency shall, upon request, provide the temporary laborer
36 with a confirmation that the temporary laborer sought work, signed
37 by an employee of the temporary labor service agency, which shall
38 include the name of the agency, the name and address of the
39 temporary laborer, and the date and the time that the temporary
40 laborer receives the confirmation.

41 b. No temporary labor service agency shall send any temporary
42 laborer to any place where a strike, a lockout, or other labor dispute
43 exists.

44 c. The commissioner shall require temporary labor service
45 agencies to employ personnel who can effectively communicate the
46 information required in subsections a. and b. of this section to
47 temporary laborers in Spanish or in any other language that is

1 generally understood in the locale of the temporary labor service
2 agency.

3 d. Any temporary labor service agency that violates this section
4 shall be subject to a civil penalty not to exceed \$500 for each
5 violation found by the commissioner. That penalty shall be
6 collected by the commissioner in a summary proceeding in
7 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
8 c.274 (C.2A:58-10 et seq.).

9
10 4. (New Section) a. Whenever a temporary labor service
11 agency sends one or more persons to work as temporary laborers,
12 the temporary labor service agency shall keep the following records
13 relating to that transaction:

14 (1) the name, address, and telephone number of the third party
15 client, including each worksite, to which temporary laborers were
16 sent by the agency and the date of the transaction;

17 (2) for each temporary laborer: the name and address, the
18 specific location sent to work, the type of work performed, the
19 number of hours worked, the hourly rate of pay, and the date sent.
20 The third party client shall be required to remit all information
21 required under this paragraph to the temporary labor service agency
22 no later than seven days following the last day of the work week
23 worked by the temporary laborer;

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

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

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

30 (6) copies of all employment notices provided in accordance
31 with subsection a. of section 3 of P.L. , c. (C.) (pending
32 before the Legislature as this bill);

33 (7) the amounts of any deductions to be made from each
34 temporary laborer's compensation by either the third party client or
35 by the temporary labor service agency for the temporary laborer's
36 transportation, food, equipment, withheld income tax, withheld
37 Social Security deductions, and every other deduction;

38 (8) verification of the actual cost of any equipment or meal
39 charged to a temporary laborer;

40 (9) the race, ethnicity, and gender of each temporary laborer or
41 applicant, as provided by that laborer or applicant, who requests
42 employment with, or is contracted by, the temporary labor service
43 agency. For each applicant, the temporary labor service agency
44 shall provide the applicant with and retain a copy of a written notice
45 specifying the date, time, and location at which the applicant
46 requested employment, signed by an employee of the temporary
47 labor service agency; and

48 (10) any additional information required by the commissioner.

1 b. The temporary labor service agency shall maintain all records
2 under this section for a period of six years from their creation. The
3 records shall be open to inspection by the commissioner during
4 normal business hours. Records described in paragraphs (1), (2),
5 (3), (6), (7), and (8) of subsection a. of this section shall be
6 available for review or copying by that temporary laborer or an
7 authorized representative of the temporary laborer during normal
8 business hours within five days following a written request.

9 In addition, a temporary labor service agency shall make records
10 related to the number of hours billed to a third party client for that
11 individual temporary laborer's hours of work available for review or
12 copying during normal business hours within five days following a
13 written request. The temporary labor service agency shall make
14 forms, in duplicate, for those requests available to temporary
15 laborers at the dispatch office. The temporary laborer shall be given
16 a copy of the request form. It shall be a violation of this section to
17 make any false, inaccurate, or incomplete entry into, or to delete
18 required information from, any record required by this section.

19 c. (1) Failure by the third party client to maintain and remit
20 accurate time records to the temporary labor service agency as
21 provided in paragraph (2) of subsection a. of this section shall
22 constitute a violation by a third party client under section 11 of
23 P.L. , c. (C.) (pending before the Legislature as this bill),
24 unless the third party client has been precluded from submitting
25 those time records for reasons beyond its control. A third party
26 client that violates paragraph (2) of subsection a. of this section
27 shall be subject to a civil penalty not to exceed \$500 for each
28 violation found by the commissioner. The penalty shall be
29 collected in a summary proceeding in accordance with the "Penalty
30 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

31 (2) A failure by the third party client to provide time records in
32 accordance with subsection b. of this section shall not be a violation
33 and shall not be the basis for a suit or other action under section 11
34 of P.L. , c. (C.) (pending before the Legislature as this
35 bill), against the temporary labor service agency.

36 (3) Failure of a third party client to remit any information
37 required by this section to a temporary labor service agency shall
38 not be a defense to the temporary labor service agency
39 recordkeeping requirements of this section.

40

41 5. (New section) a. A temporary labor service agency or a
42 third party client or a contractor or agent of either shall charge no
43 fee to transport a temporary laborer to or from the designated work
44 site.

45 b. A temporary labor service agency shall be responsible for the
46 conduct and performance of any person who transports a temporary
47 laborer from the agency to a work site, unless the transporter is:

48 (1) a public mass transportation system;

1 (2) a common carrier;

2 (3) the temporary laborer providing his or her own
3 transportation; or

4 (4) selected exclusively by and at the sole choice of the
5 temporary laborer for transportation in a vehicle not owned or
6 operated by the temporary labor service agency.

7 If any temporary labor service agency provides transportation to
8 a temporary laborer or refers a temporary laborer as provided in
9 subsection c. of this section, the temporary labor service agency
10 shall not allow a motor vehicle to be used for the transporting of
11 temporary laborers if the agency knows or should know that the
12 motor vehicle used for the transportation of temporary laborers is
13 unsafe or not equipped as required by P.L. , c. (C.)
14 (pending before the Legislature as this bill), unless the vehicle is:

15 (1) the property of a public mass transportation system;

16 (2) the property of a common carrier;

17 (3) the temporary laborer's personal vehicle; or

18 (4) a vehicle of a temporary laborer used to carpool other
19 temporary laborers and which is selected exclusively by and at the
20 sole choice of the temporary laborer for transportation.

21 c. A temporary labor service agency shall not refer a temporary
22 laborer to any person for transportation to a work site unless that
23 person is:

24 (1) a public mass transportation system; or

25 (2) providing the transportation at no fee to the temporary
26 laborer.

27 Directing the temporary laborer to accept a specific car pool as a
28 condition of work shall be considered a referral by the temporary
29 labor service agency. Any mention or discussion of the cost of a car
30 pool shall be considered a referral by the agency. Informing a
31 temporary laborer of the availability of a car pool driven by another
32 temporary laborer shall not be considered a referral by the agency.

33 The temporary labor service agency shall obtain, and keep on
34 file, documentation that any provider of transportation to the
35 temporary laborer that the agency makes referrals to or contracts
36 with is in compliance with the requirements of subsections d., e.,
37 and f. of this section.

38 d. Any motor vehicle that is owned or operated by the temporary
39 labor service agency or a third party client, or a contractor or agent
40 of either, or to which a temporary labor service agency refers a
41 temporary laborer, which is used for the transportation of temporary
42 laborers shall comply with minimum insurance requirements set by
43 the State of New Jersey. The driver of the vehicle shall hold a valid
44 license to operate motor vehicles in the correct classification and
45 shall be required to produce the license immediately upon demand
46 by the commissioner or any other person authorized to enforce
47 P.L. , c. (C.) (pending before the Legislature as this bill).

1 The commissioner shall forward a violation of this subsection to the
2 appropriate law enforcement authority or regulatory agency.

3 e. A motor vehicle that is owned or operated by the temporary
4 labor service agency or a third party client, or a contractor or agent
5 of either, or to which a temporary labor service agency refers a
6 temporary laborer, which is used for the transportation of temporary
7 laborers shall have a seat and a safety belt for each passenger. The
8 commissioner shall forward a violation of this subsection to the
9 appropriate law enforcement authority or regulatory agency.

10 f. Unless the temporary laborer requests otherwise, when a
11 temporary laborer has been transported to a work site, the
12 temporary labor service agency or a third party client, or a
13 contractor or agent of either, shall provide transportation back to the
14 point of hire at the end of each work day.

15

16 6. (New section) a. At the time of payment of wages, a
17 temporary labor service agency shall provide each temporary
18 laborer with a detailed itemized statement, on the temporary
19 laborer's paycheck stub or on a form approved by the commissioner,
20 listing the following:

21 (1) the name, address, and telephone number of each third party
22 client at which the temporary laborer worked. If this information is
23 provided on the temporary laborer's paycheck stub, a code for each
24 third party client may be used so long as the required information
25 for each coded third party client is made available to the temporary
26 laborer;

27 (2) the number of hours worked by the temporary laborer at each
28 third party client each day during the pay period. If the temporary
29 laborer is assigned to work at the same work site of the same third
30 party client for multiple days in the same work week, the temporary
31 labor service agency may record a summary of hours worked at that
32 third party client's worksite so long as the first and last day of that
33 work week are identified as well;

34 (3) the rate of payment for each hour worked, including any
35 premium rate or bonus. Overtime pay shall be paid in accordance
36 with the provisions of subsection b. of section 5 of P.L.1966, c.113
37 (C.34:11-56a4);

38 (4) the total pay period earnings;

39 (5) the amount of each deduction made from the temporary
40 laborer's compensation made either by the third party client or by
41 the temporary labor service agency, and the purpose for which each
42 deduction was made, including for the temporary laborer's food,
43 equipment, withheld income tax, withheld Social Security
44 deductions, and every other deduction; the current maximum
45 amount of a placement fee which the temporary labor service
46 agency may charge to a third party client to directly hire the
47 temporary laborer pursuant to subsection a. of section 7 of P.L. ,
48 c. (C.) (pending before the Legislature as this bill); and

1 (6) any additional information required by the commissioner.

2 For each temporary laborer who is contracted to work a single
3 day, the third party client shall, at the end of the work day, provide
4 such temporary laborer with a Work Verification Form, approved
5 by the commissioner, which shall contain the date, the temporary
6 laborer's name, the work location, and the hours worked on that
7 day. Any third party client who violates this section shall be subject
8 to a civil penalty not to exceed \$500 for each violation found by the
9 commissioner. The maximum civil penalty shall increase to \$2,500
10 for a second or subsequent violation. Each violation of paragraph 1
11 of this subsection for each temporary laborer and for each day the
12 violation continues shall constitute a separate and distinct violation.
13 That penalty shall be collected by the commissioner in a summary
14 proceeding in accordance with the "Penalty Enforcement Law of
15 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

16 b. A temporary labor service agency shall provide each worker
17 an annual earnings summary within a reasonable time after the
18 preceding calendar year, but in no case later than February 1. A
19 temporary labor service agency shall, at the time of each wage
20 payment, give notice to temporary laborers of the availability of the
21 annual earnings summary or post such a notice in a conspicuous
22 place in the public reception area.

23 c. At the request of a temporary laborer, a temporary labor
24 service agency shall hold the daily wages of the temporary laborer
25 and make either weekly, bi-weekly, or semi-monthly payments. The
26 wages shall be paid in a single check, or, at the temporary laborer's
27 sole option, by direct deposit or other manner approved by the
28 commissioner, representing the wages earned during the period,
29 either weekly, bi-weekly, or semi-monthly, designated by the
30 temporary laborer in accordance with P.L.1965, c.173 (C.34:11-4.1
31 et seq.).

32 Vouchers or any other method of payment which are not
33 negotiable shall be prohibited as a method of payment of wages.
34 Temporary labor service agencies that make daily wage payments
35 shall provide written notification to all temporary laborers of the
36 right to request weekly, bi-weekly, or semi-monthly checks. The
37 temporary labor service agency may provide this notice by
38 conspicuously posting the notice at the location where the wages
39 are received by the temporary laborers.

40 d. No temporary labor service agency shall charge any temporary
41 laborer for cashing a check issued by the agency for wages earned
42 by a temporary laborer who performed work through that agency.
43 No temporary labor service agency or third party client shall charge
44 any temporary laborer for the expense of conducting any consumer
45 report, as that term is defined in the "Fair Credit Reporting Act,"
46 (15 U.S.C. s.1681 et seq.), any criminal background check of any
47 kind, or any drug test of any kind.

1 e. Temporary laborers shall be paid no less than the wage rate
2 stated in the notice as provided in section 3 of P.L. , c. (C.)
3 (pending before the Legislature as this bill), for all the work
4 performed on behalf of the third party client in addition to the work
5 listed in the written description.

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

14 g. A temporary laborer who is contracted by a temporary labor
15 service agency to work at a third party client's worksite but is not
16 utilized by the third party client shall be paid by the temporary
17 labor service agency for a minimum of four hours of pay at the
18 agreed upon rate of pay. However, in the event the temporary labor
19 service agency contracts the temporary laborer to work at another
20 location during the same shift, the temporary laborer shall be paid
21 by the temporary labor service agency for a minimum of two hours
22 of pay at the agreed upon rate of pay.

23 h. A third party client is required to reimburse a temporary labor
24 service agency wages and related payroll taxes for services
25 performed by the temporary laborer for the third party client
26 according to payment terms outlined on invoices, service
27 agreements, or stated terms provided by the temporary labor service
28 agency. A third party client who fails to comply with this
29 subsection is subject to the penalties provided in section 11 of
30 P.L. , c. (C.) (pending before the Legislature as this bill).

31 The commissioner shall review a complaint filed by a licensed
32 temporary labor service agency against a third party client. The
33 commissioner shall review the payroll and accounting records of the
34 temporary labor service agency and the third party client for the
35 period in which the violation of P.L. , c. (C.) (pending
36 before the Legislature as this bill) is alleged to have occurred to
37 determine if wages and payroll taxes have been paid to the
38 temporary labor service agency and that the temporary laborer has
39 been paid the wages owed him or her.

40 i. Any temporary labor service agency that violates this section
41 shall be subject to a civil penalty not to exceed \$500 for each
42 violation found by the commissioner. That penalty shall be
43 collected by the commissioner in a summary proceeding in
44 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
45 c.274 (C.2A:58-10 et seq.).

46
47 7. (New section) a. (1) No temporary labor service agency
48 shall restrict the right of a temporary laborer to accept a permanent

1 position with a third party client to whom the temporary laborer has
2 been referred for work, restrict the right of a third party client to
3 offer employment to a temporary laborer, or restrict the right of a
4 temporary laborer to accept a permanent position for any other
5 employment. A temporary labor service agency may charge a
6 placement fee to a third party client for employing a temporary
7 laborer for whom a contract for work was effected by the temporary
8 labor service agency not to exceed the equivalent of the total daily
9 commission rate the temporary labor service agency would have
10 received over a 60-day period, reduced by the equivalent of the
11 daily commission rate the temporary labor service agency would
12 have received for each day the temporary laborer has performed
13 work for the temporary labor service agency in the preceding 12
14 months.

15 (2) Notwithstanding the provisions of paragraph (1) of this
16 subsection to the contrary, placement of a temporary laborer who is
17 contracted by a temporary labor service agency to provide skilled
18 labor shall not be subject to any placement fee cap. For purposes of
19 this section, temporary labor shall be considered "skilled labor" if
20 the temporary labor service agency performs an advanced
21 application process, a screening process, which may include
22 processes such as advanced testing, and a job interview.

23 (3) Any temporary labor service agency which charges a
24 placement fee to a third party client for employing a temporary
25 laborer shall include on the Wage Payment and Notice form of each
26 affected temporary laborer the maximum amount of a fee that shall
27 be charged to a third party client by the temporary labor service
28 agency, and the total amount of actual charges to the third party
29 client for the temporary laborer during each pay period compared to
30 the total compensation cost for the temporary laborer, including
31 costs of any benefits provided. Failure to provide the required
32 information shall constitute a separate violation for each day the
33 temporary labor service agency fails to provide the required
34 information. No fee provided for under this section shall be
35 assessed or collected by the temporary labor service agency when
36 the temporary laborer is offered permanent work following the
37 suspension or revocation of the temporary labor service agency's
38 registration by the commissioner.

39 b. Each year, at the time of registration with the commissioner
40 as required by section 8 of P.L. , c. (C.) (pending before
41 the Legislature as this bill), each temporary labor service agency
42 shall submit to the commissioner, on a form created by the
43 commissioner, the number of temporary laborers the agency has
44 placed in a permanent position with a third party client in the
45 preceding 12 months as well as the percentage those permanent
46 placements represent of the total number of temporary laborers
47 contracted by the temporary labor service agency during the same
48 period. Each day that the temporary labor service agency fails to

1 fully comply with the requirements of this subsection shall
2 constitute a separate notice violation.

3 c. Any temporary laborer assigned to work at a third party client
4 shall not be paid less than the same average rate of pay and
5 equivalent benefits as a permanent employee of the third party
6 client performing the same or substantially similar work on jobs the
7 performance of which requires equal skill, effort, and responsibility,
8 and which are performed under similar working conditions. Each
9 violation of this subsection for each affected temporary laborer
10 shall constitute a separate violation under section 11 of P.L. , c.
11 (C.) (pending before the Legislature as this bill).

12 d. Any temporary labor service agency that violates this section
13 shall be subject to a civil penalty not to exceed \$500 for each
14 violation found by the commissioner. That penalty shall be
15 collected by the commissioner in a summary proceeding in
16 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
17 c.274 (C.2A:58-10 et seq.).

18

19 8. (New section) a. A temporary labor service agency which is
20 located, operates, or transacts business within this State shall
21 register with the commissioner in accordance with rules adopted by
22 the commissioner for temporary labor service agencies and shall be
23 subject to P.L. , c. (C.) (pending before the Legislature as
24 this bill). Each temporary labor service agency shall provide proof
25 of an employer account number issued by the commissioner for the
26 payment of unemployment insurance contributions as required
27 under the "unemployment compensation law," R.S.43:21-1 et seq.,
28 and proof of valid workers' compensation insurance in effect at the
29 time of registration covering all of its employees. If, at any time, a
30 temporary labor service agency's workers' compensation insurance
31 coverage lapses, the temporary labor service agency shall have an
32 affirmative duty to report the lapse of coverage to the commissioner
33 and the temporary labor service agency's registration shall be
34 suspended until the agency's workers' compensation insurance is
35 reinstated.

36 The commissioner shall assess each temporary labor service
37 agency a non-refundable registration fee not exceeding \$2,000 per
38 year per agency and a non-refundable fee not to exceed \$750 for
39 each branch office or other location where the temporary labor
40 service agency regularly contracts with temporary laborers for
41 services. The fee shall be paid by check or money order, and the
42 commissioner may not refuse to accept a check on the basis that it
43 is not a certified check or a cashier's check. The commissioner may
44 charge an additional fee to be paid by a temporary labor service
45 agency if the agency, or any person on the agency's behalf, issues or
46 delivers a check to the commissioner that is not honored by the
47 financial institution upon which it is drawn. The commissioner shall

1 adopt rules for violation hearings and penalties for violations of
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3 At the time of registration with the commissioner each year, a
4 temporary labor service agency shall provide the commissioner with
5 a report containing the information identified in paragraph (9) of
6 subsection a. of section 4 of P.L. , c. (C.) (pending before
7 the Legislature as this bill), broken down by branch office, in the
8 aggregate for all temporary laborers assigned within New Jersey in
9 the prior year to be submitted on a form created by the
10 commissioner.

11 b. It is a violation of P.L. , c. (C.) (pending before the
12 Legislature as this bill) to operate a temporary labor service agency
13 without being registered with the commissioner in accordance with
14 subsection a. of this section. The commissioner shall create and
15 maintain on the Internet website of the Department of Labor and
16 Workforce Development, accessible to the public:

17 (1) a list of all registered temporary labor service agencies in the
18 State whose registration is in good standing;

19 (2) a list of temporary labor service agencies in the State whose
20 registration has been suspended, including the reason for the
21 suspension, the date that the suspension was initiated, and the date,
22 if known, that the suspension is to be lifted; and

23 (3) a list of temporary labor service agencies in the State whose
24 registration has been revoked, including the reason for the
25 revocation and the date that the registration was revoked.

26 The commissioner shall assess a penalty against any temporary
27 labor service agency that fails to register with the commissioner in
28 accordance with P.L. , c. (C.) (pending before the
29 Legislature as this bill) or any rules adopted under P.L. ,
30 c. (C.) (pending before the Legislature as this bill) of \$500
31 for each violation. Each day during which a person operates as a
32 temporary labor service agency without being registered as a
33 temporary labor service agency with the commissioner shall be a
34 separate and distinct violation of P.L. , c. (C.) (pending
35 before the Legislature as this bill). That penalty shall be collected
36 by the commissioner in a summary proceeding in accordance with
37 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
38 10 et seq.).

39 A temporary labor service agency shall obtain a surety bond
40 issued by a surety company admitted to do business in this State.
41 The principal sum of the bond shall not be less than \$200,000. A
42 copy of the bond shall be filed with the commissioner.

43 The bond required by this section shall be in favor of, and
44 payable to, the people of the State of New Jersey, and shall be for
45 the benefit of any temporary laborer damaged by the temporary
46 labor service agency's failure to pay wages, interest on wages, or
47 fringe benefits, or damaged by violation of this section.

1 Thirty days prior to the cancellation or termination of any surety
2 bond required by this section, the surety shall send written notice to
3 both the temporary labor service agency and the commissioner
4 identifying the bond and the date of the cancellation or termination.

5 A temporary labor service agency shall not conduct any business
6 until it obtains a new surety bond and files a copy of it with the
7 commissioner.

8 This subsection shall not apply to a temporary labor service
9 agency whose temporary laborers are covered by a valid collective
10 bargaining agreement, if the agreement expressly provides for:

11 (1) Wages;

12 (2) Hours of work;

13 (3) Working conditions;

14 (4) An expeditious process to resolve disputes concerning
15 nonpayment of wages;

16 (5) Documentation of its current workers' compensation
17 insurance policy in effect for the temporary laborers; and

18 (6) Compliance with all provisions of this section.

19 c. The principal executive officer of a temporary labor service
20 agency shall certify under oath at the time of registration of the
21 temporary labor service agency each year on a form created by the
22 commissioner that:

23 (1) the signing officer has reviewed the registration form of the
24 temporary labor service agency and confirmed the information is
25 true and accurate to the best of his or her knowledge;

26 (2) the signing officer has reviewed the recordkeeping practices
27 of the temporary labor service agency and confirmed that the
28 recordkeeping practices comply with the requirements of section 4
29 of P.L. , c. (C.) (pending before the Legislature as this bill)
30 to the best of his or her knowledge;

31 (3) the signing officer has reviewed the temporary labor service
32 agency's filing as required by subsection b. of section 7 of P.L. ,
33 c. (C.) (pending before the Legislature as this bill), related to
34 the placement of temporary laborers in permanent positions with
35 third party clients and has confirmed that those practices comply
36 with the requirements of section 7 of P.L. , c. (C.) (pending
37 before the Legislature as this bill) to the best of his or her
38 knowledge;

39 (4) the signing officer has reviewed the temporary labor service
40 agency's practices related to the transportation of temporary
41 laborers and has confirmed that those practices comply with the
42 requirements of section 5 of P.L. , c. (C.) (pending before
43 the Legislature as this bill) to the best of his or her knowledge;

44 (5) the signing officer has reviewed and is responsible for the
45 surety bond posted by the temporary labor service agency and its
46 renewals; and

47 (6) the signing officer:

1 (a) is responsible for establishing and maintaining internal
2 controls to comply with the recordkeeping requirements; and

3 (b) has evaluated the effectiveness of the internal controls.

4 d. An applicant is not eligible to register to operate a temporary
5 labor service agency under P.L. , c. (C.) (pending before
6 the Legislature as this bill) if the applicant or any of its officers,
7 directors, partners, or managers or any owner having 25 percent or
8 greater beneficial interest:

9 (1) has been involved, as owner, officer, director, partner, or
10 manager, of a temporary labor service agency the registration of
11 which has been revoked or suspended without being reinstated
12 within the five years immediately preceding the filing of the
13 application; or

14 (2) is under the age of 18.

15 e. Every temporary labor service agency shall post and keep
16 posted at each location, in a position easily accessible to all
17 employees, notices as supplied and required by the commissioner
18 containing a copy or summary of the provisions of P.L. , c.
19 (C.) (pending before the Legislature as this bill), and a notice
20 which informs the public of a toll-free telephone number operated
21 by the commissioner for temporary laborers and the public to file
22 wage dispute complaints and other alleged violations by temporary
23 labor service agencies. The notices shall be in English or any other
24 language generally understood in the locale of the temporary labor
25 service agency.

26 f. No temporary labor service agency shall be permitted to
27 register to operate in New Jersey until it has complied with the
28 requirements of this section.

29

30 9. (New section) a. It is a violation of P.L. , c. (C.)
31 (pending before the Legislature as this bill) for a third party client
32 to enter into a contract for the employment of a temporary laborer
33 with a temporary labor service agency not registered under section
34 8 of P.L. , c. (C.) (pending before the Legislature as this
35 bill). A third party client shall verify a temporary labor service
36 agency's status with the commissioner before entering into a
37 contract with an agency, and on March 1 and September 1 of each
38 year.

39 A temporary labor service agency shall provide each of its third
40 party clients with proof of valid registration issued by the
41 commissioner at the time of entering into a contract. A temporary
42 labor service agency shall be required to notify, both by telephone
43 and in writing, each temporary laborer it employs and each third
44 party client with whom it has a contract within 24 hours of any
45 denial, suspension, or revocation of its registration by the
46 commissioner. All contracts between any temporary labor service
47 agency and any third party client shall be considered null and void
48 from the date any denial, suspension, or revocation of registration

1 becomes effective and until such time as the temporary labor
2 service agency becomes registered and considered in good standing
3 by the commissioner as provided in section 8 of P.L. , c.
4 (C.) (pending before the Legislature as this bill).

5 Upon request, the commissioner shall provide to a third party
6 client a list of entities registered as temporary labor service
7 agencies. The commissioner shall provide on the Internet website of
8 the Department of Labor and Workforce Development a list of
9 entities registered as temporary labor service agencies. A third party
10 client may rely on information provided by the commissioner or
11 maintained on the commissioner's website pursuant to section 8 of
12 P.L. , c. (C.) (pending before the Legislature as this bill),
13 and shall be held harmless if such information maintained or
14 provided by the commissioner was inaccurate. Any third party
15 client that violates this section shall be subject to a civil penalty not
16 to exceed \$500. Each day during which a third party client contracts
17 with a person operating as a temporary labor service agency but not
18 registered as a temporary labor service agency under section 8 of
19 P.L. , c. (C.) (pending before the Legislature as this bill),
20 shall constitute a separate and distinct offense.

21 b. If a third party client leases or contracts with a temporary
22 labor service agency for the services of a temporary laborer, the
23 third party client shall be, with the temporary labor service agency,
24 jointly and severally responsible for:

25 (1) the payment of wages under the "New Jersey State Wage and
26 Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.), P.L.1965, c.173
27 (C.34:11-4.1 et seq.), R.S.34:11-57, and P.L.1952, c.9 (C.34:11-
28 56.1 et seq.); and

29 (2) any violation of P.L. , c. (C.) (pending before the
30 Legislature as this bill).

31

32 10. (New section) a. It is a violation of P.L. , c. (C.)
33 (pending before the Legislature as this bill) for a temporary labor
34 service agency or third party client, or any agent of a temporary
35 labor service agency or third party client, to retaliate through
36 discharge or in any other manner against any temporary laborer for
37 exercising any rights granted under P.L. , c. (C.) (pending
38 before the Legislature as this bill). The termination or disciplinary
39 action by a temporary labor service agency against a temporary
40 laborer within 90 days of the person's exercise of rights protected
41 under P.L. , c. (C.) (pending before the Legislature as this
42 bill) shall raise a rebuttable presumption of having done so in
43 retaliation for the exercise of those rights. Such retaliation shall
44 subject a temporary labor service agency or third party client, or
45 both, to civil penalties pursuant to P.L. , c. (C.) (pending
46 before the Legislature as this bill) or a private cause of action.

1 b. It is a violation of P.L. , c. (C.) (pending before the
2 Legislature as this bill) for a temporary labor service agency or
3 third party client to retaliate against a temporary laborer for:

4 (1) making a complaint to a temporary labor service agency, to a
5 third party client, to a co-worker, to a community organization,
6 before a public hearing, or to a State or federal agency that rights
7 guaranteed under P.L. , c. (C.) (pending before the
8 Legislature as this bill) have been violated;

9 (2) instituting any proceeding under or related to P.L. , c.
10 (C.) (pending before the Legislature as this bill); or

11 (3) testifying or preparing to testify in an investigation or
12 proceeding under P.L. , c. (C.) (pending before the
13 Legislature as this bill).

14

15 11. (New section) a. A person aggrieved by a violation of
16 P.L. , c. (C.) (pending before the Legislature as this bill) by
17 a temporary labor service agency or a third party client may
18 institute a civil action in the Superior Court, in the county where the
19 alleged offense occurred or where any temporary laborer who is
20 party to the action resides, without regard to exhaustion of any
21 alternative administrative remedies provided in P.L. , c.
22 (C.) (pending before the Legislature as this bill).

23 A temporary labor service agency aggrieved by a violation of
24 P.L. , c. (C.) (pending before the Legislature as this bill) by
25 a third party client may institute a civil action in the Superior Court,
26 in the county where the alleged offense occurred or where the
27 temporary labor service agency which is party to the action is
28 located.

29 An action may be brought by one or more temporary laborers
30 employed by the temporary labor service agency for and on behalf
31 of themselves and other temporary laborers similarly situated
32 against the temporary labor service agency or a third party client.

33 Notwithstanding any other relief provided under any other
34 provision of law, a temporary laborer whose rights have been
35 violated under P.L. , c. (C.) (pending before the
36 Legislature as this bill) by a temporary labor service agency or a
37 third party client or a temporary labor service agency whose rights
38 have been violated under P.L. , c. (C.) (pending before the
39 Legislature as this bill) by a third party client is entitled to the
40 following relief:

41 (1) in the case of any violation of subsection a. of section 7 of
42 P.L. , c. (C.) (pending before the Legislature as this bill)
43 relating to any unlawful restrictions by a temporary labor service
44 agency on the right of a temporary laborer to accept a permanent
45 position for any other employment or the right of a third party client
46 to offer such employment to a temporary laborer, \$50 for each
47 temporary laborer affected by the temporary labor service agency's

1 policy, practice, or agreement and for each day that policy, practice,
2 or agreement is in effect, plus actual damages;

3 (2) in the case of unlawful retaliation, the greater of all legal or
4 equitable relief as may be appropriate or liquidated damages equal
5 to \$20,000 per incident of retaliation, at the selection of the
6 aggrieved temporary laborer, and reinstatement, if appropriate; and

7 (3) attorney's fees and costs.

8 b. The right of an aggrieved person to bring an action under this
9 section terminates upon the passing of six years from the final date
10 of employment by the temporary labor service agency or the third
11 party client or upon the passing of six years from the date of
12 termination of the contract between the temporary labor service
13 agency and the third party client.

14

15 12. (New section) a. The commissioner shall have the authority
16 to deny, revoke, or refuse to renew any registration issued under
17 section 8 of P.L. , c. (C.) (pending before the Legislature
18 as this bill).

19 b. The commissioner shall notify a temporary labor service
20 agency in writing by mail of the denial, revocation of, or refusal to
21 renew the registration and the reason for the denial, revocation, or
22 refusal. The commissioner may deny, revoke, or refuse to renew
23 any registration issued under section 8 of P.L. , c. (C.)
24 (pending before the Legislature as this bill) on the following
25 grounds:

26 (1) The temporary labor service agency is in default of payment
27 of the registration fee required under section 8 of P.L. , c.
28 (C.) (pending before the Legislature as this bill), fails to obtain
29 or terminates the surety bond required under section 8 of P.L. , c.
30 (C.) (pending before the Legislature as this bill), or otherwise
31 fails to comply with the requirements under section 8 of P.L. , c.
32 (C.) (pending before the Legislature as this bill);

33 (2) The registration required under section 8 of P.L. , c.
34 (C.) (pending before the Legislature as this bill) was procured
35 by fraud or false representation of fact;

36 (3) The temporary labor service agency is subject to a court order
37 entering final judgment for violations of P.L. , c. (C.)
38 (pending before the Legislature as this bill) or for violations of
39 P.L.1966, c.113 (C.34:11-56a et seq.) and the judgment was not
40 satisfied within 30 days of either:

41 (a) the expiration of the time for filing an appeal from the final
42 judgment order; or

43 (b) if a timely appeal was made, the date of the final resolution
44 of that appeal and any subsequent appeals resulting in final judicial
45 affirmation of the findings of a violation;

46 (4) The temporary labor service agency has failed to comply with
47 the terms of an administrative penalty or final order, within 30 days
48 of issuance of that penalty or order, issued by the commissioner

1 pursuant to P.L. , c. (C.) (pending before the Legislature as
2 this bill) or P.L.1966, c.113 (C.34:11-56a et seq.) for which all
3 appeal rights have been exhausted; or

4 (5) The temporary labor service agency has been determined
5 through a separate enforcement process to be operating in violation
6 of any law.

7

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

10 1. As used in **【this act】** P.L.1989, c.331 (C.34:8-43 et al.):

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

13 (1) The terms and conditions of employment;

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

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

17 "A career consulting or outplacement organization" means any
18 person, required to be registered under section 24 of **【this act】**
19 P.L.1989, c.331 (C.34:8-65), providing or rendering services, with
20 or without related products, in connection with advice, instruction,
21 analysis, recommendation or assistance concerning past, present, or
22 future employment or compensation for an individual's time, labor
23 or effort.

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

29 "Applicant" means any person applying for licensing or
30 registration under **【this act】** P.L.1989, c.331 (C.34:8-43 et al.).

31 "Attorney General" means the Attorney General of this State or
32 a designee.

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

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

46 "Bureau" means the Bureau of Employment and Personnel
47 Services in the Division of Consumer Affairs within the Department

1 of Law and Public Safety created pursuant to section 2 of **[this act]**
2 P.L.1989, c.331 (C.52:17B-139.4).

3 "Career counseling service" means any business that, through its
4 agents or otherwise, procures or represents itself as procuring
5 employment or employment assistance or advertises in any manner
6 the following services for a fee: career counseling; vocational
7 guidance; aptitude, achievement or vocational testing; executive
8 consulting; personnel consulting; career management, evaluation, or
9 planning; the development of resumes and other promotional
10 materials relating to the preparation for employment; or referral
11 services relating to employment or employment qualifications. A
12 career counseling service shall be licensed as an employment
13 agency pursuant to the provisions of **[this act]** P.L.1989, c.331
14 (C.34:8-43 et al.). A career counseling service shall not include
15 career consulting or outplacement organizations required to be
16 registered under section 24 of **[this act]** P.L.1989, c.331 (C.34:8-
17 65).

18 "Chief" means the Chief of the Bureau of Employment and
19 Personnel Services.

20 "Consulting firm" means any person required to be registered
21 under section 23 of **[this act]** P.L.1989, c.331 (C.34:8-64) that:

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

24 (2) Is compensated for services solely by payments from the
25 employer and is not, in any instance, compensated, directly or
26 indirectly, by an individual who is identified, appraised, referred or
27 recommended.

28 "Director" means the Director of the Division of Consumer
29 Affairs in the Department of Law and Public Safety, or his
30 designee.

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

34 "Employment agency" means any person who, for a fee, charge
35 or commission:

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

39 (2) Supplies job seekers to employers seeking employees on a
40 part-time or temporary assignment basis who has not filed
41 notification with the Attorney General pursuant to the provisions of
42 section **[1] 14** of P.L.1981, c.1 (C.56:8-1.1); or

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

46 (4) Acts as a placement firm, career counseling service, or
47 resume service; or

1 (5) Acts as a nurses' registry.

2 “Employment agency” does not mean “temporary labor service
3 agency” as that term is defined and used in sections 1 through 12 of
4 P.L. , c. (C.) (pending before the Legislature as this bill).

5 The director shall have the authority to determine, from time to
6 time, that a particular employment agency or career-related service
7 or product, not otherwise expressly subject to the provisions of
8 **【this act】 P.L.1989, c.331 (C.34:8-43 et al.)**, is subject to whichever
9 requirements of **【this act he】 P.L.1989, c.331 (C.34:8-43 et al.) the**
10 **director** deems appropriate.

11 "Fee, charge or commission" means any payment of money, or
12 promise to pay money to a person in consideration for performance
13 of any service for which licensure or registration is required by
14 **【this act】 P.L.1989, c.331 (C.34:8-43 et al.)**, or the excess of money
15 received by a person furnishing employment or job seekers over
16 what he has paid for transportation, transfer of baggage or lodging
17 for a job seeker. "Fee, charge or commission" shall also include the
18 difference between the amount of money received by any person
19 who either furnishes job seekers or performers for any
20 entertainment, exhibition or performance, or who furnishes baby
21 sitters for any occasion, and the amount paid by the person to the
22 job seekers, performers or baby sitters.

23 "Job listing service" means any person required to be registered
24 under section 25 of **【this act】 P.L.1989, c.331 (C.34:8-66)** who, by
25 advertisement or other means, offers to provide job seekers with a
26 list of employers, a list of job openings or a similar publication, or
27 prepares resumes or lists of applicants for distribution to potential
28 employers, where a fee or other valuable consideration is exacted or
29 attempted to be collected, either directly or indirectly.

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

32 "Job seeker contingent liability" means a provision in an
33 agreement between an employment agency and a job seeker
34 whereby the job seeker may become liable, in whole or in part, to
35 pay a fee, charge or commission of any amount, directly or
36 indirectly, on account of any service rendered by the employment
37 agency.

38 "Just cause for voluntary termination of employment by a job
39 seeker" means and includes, but is not limited to, cases in which
40 material misrepresentations of the terms or conditions of
41 employment have been relied upon by a job seeker who would not
42 have accepted the employment if the grounds for termination were
43 known before acceptance of the employment.

44 "License" means a license issued by the director to any person
45 to:

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

1 "Performing artist" means a model, musical, theatrical or other
2 entertainment performer employed or engaged individually or in a
3 group.

4 "Person" means any natural person or legal representative,
5 partnership, corporation, company, trust, business entity or
6 association, and any agent, employee, salesperson, partner, officer,
7 director, member, stockholder, associate, trustee or cestuis que
8 trustent thereof.

9 "Prepaid computer job matching service" means any person
10 required to be registered under section 25 of **[this act]** P.L.1989,
11 c.331 (C.34:8-66) who is engaged in the business of matching job
12 seekers with employment opportunities, pursuant to an arrangement
13 under which the job seeker is required to pay a fee in advance of, or
14 contemporaneously with, the supplying of the matching, but which
15 does not otherwise involve services for the procurement of
16 employment by the person conducting the service.

17 "Primary location" means an address used for 90 or more
18 calendar days by a person for the conduct of an activity regulated
19 under **[this act]** P.L.1989, c.331 (C.34:8-43 et al.).

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

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

27 "Temporary help service firm" means any person who operates a
28 business which consists of employing individuals directly or
29 indirectly for the purpose of assigning the employed individuals to
30 assist the firm's customers in the handling of the customers'
31 temporary, excess or special work loads, and who, in addition to the
32 payment of wages or salaries to the employed individuals, pays
33 federal social security taxes and State and federal unemployment
34 insurance; carries worker's compensation insurance as required by
35 State law; and sustains responsibility for the actions of the
36 employed individuals while they render services to the firm's
37 customers. A temporary help service firm is required to comply
38 with the provisions of P.L.1960, c.39 (C.56:8-1 et seq.), and does
39 not include "temporary labor service agency" as defined and used in
40 sections 1 through 12 of P.L. , c. (C.) (pending before the
41 Legislature as this bill).

42 (cf: P.L.1989, c.331, s.1)

43

44 14. This act shall take effect immediately.

STATEMENT

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This bill provides certain protections to temporary laborers and imposes requirements on temporary labor service agencies and third party clients of those agencies. Additionally, the bill provides that the Department of Labor and Workforce Development will be responsible for the oversight of temporary labor service agencies and third party clients. Specifically, under the bill, a temporary labor service agency is required to provide a statement to temporary laborers with the following information:

- (1) the name of the temporary laborer;
- (2) the name, address and telephone number of: (a) the temporary labor service agency, or the contact information of the agency agent facilitating the placement; (b) its workers' compensation carrier; (c) the worksite employer or third party client; and (d) the Department of Labor and Workforce Development;
- (3) the name and nature of the work to be performed;
- (4) the wages offered;
- (5) the name and address of the assigned worksite of each temporary laborer;
- (6) the terms of transportation offered to the temporary laborer;
- (7) a description of the position and whether it shall require any special clothing, protective equipment and training and what will be provided by the agency or the third party client, and any costs charged to the employee for supplies or training;
- (8) whether a meal or equipment is provided by the temporary agency or the third party client, and the cost of the meal and equipment;
- (9) the schedule for multi-day assignments; and
- (10) the length of the assignment.

Additionally, under the bill, a temporary labor service agency is required to keep certain records relating to its transactions with temporary laborers, and to maintain the records for six years from their creation. The Commissioner of Labor and Workforce Development ("commissioner") may inspect the records during normal business hours.

Moreover, the bill provides that a temporary labor service agency or a third party client is prohibited from charging a fee to transport a temporary laborer to or from the designated work site, and that a temporary labor service agency is responsible for the performance of any person who transports a temporary laborer from the agency to a work site, unless the transporter is:

- (1) a public mass transportation system;
- (2) a common carrier;
- (3) the temporary laborer providing his or her own transportation; or

1 (4) selected exclusively by the temporary laborer for
2 transportation in a vehicle not owned or operated by the temporary
3 labor service agency.

4 The bill also requires that, at the time of payment of wages, a
5 temporary labor service agency is required to provide each
6 temporary laborer with a detailed itemized statement on the
7 temporary laborer's paycheck stub.

8 Further, under the bill, a temporary labor service agency is
9 prohibited from restricting the right of a temporary laborer to accept
10 a permanent position with a third party client to whom the
11 temporary laborer has been referred for work, restricting the right of
12 a temporary laborer to accept a permanent position with another
13 employer, or restricting the right of that third party client to offer
14 employment to a temporary laborer.

15 In addition, the bill provides that a temporary labor service
16 agency operating in the State is required to register with the
17 commissioner and is required to provide proof of an employer
18 account number for the payment of unemployment insurance
19 contributions and valid workers' compensation insurance. Under the
20 bill, the commissioner has the authority to deny, revoke, or refuse to
21 renew any registration for certain specified reasons.

22 Moreover, under the bill, a third party client is prohibited from
23 entering into a contract for the employment of temporary laborers
24 with any temporary labor service agency that is not registered. The
25 bill also imposes a duty on the third party client to verify a
26 temporary labor service agency's status with the commissioner.

27 The bill also makes it a violation for a temporary labor service
28 agency or third party client to retaliate through discharge or in any
29 other manner against any temporary laborer for exercising any
30 rights granted under the bill. Under the bill, the termination or
31 disciplinary action by a temporary labor service agency against a
32 temporary laborer within 90 days of the person's exercise of rights
33 under the bill raises a rebuttable presumption of having done so in
34 retaliation for the exercise of those rights.

35 In addition, a person aggrieved by a violation under the bill by a
36 temporary labor service agency or a third party client may institute
37 a civil action in the Superior Court, and a temporary labor service
38 agency aggrieved by a violation under the bill by a third party client
39 may institute a civil action in the Superior Court. The bill also
40 provides that actions may be brought by one or more temporary
41 laborers for and on behalf of themselves and other temporary
42 laborers similarly situated.