

ASSEMBLY, No. 322

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 17 (Middlesex and Somerset)

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District 19 (Middlesex)

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SYNOPSIS

Provides certain protections for temporary laborers.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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
33 employment 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
- 17 by the temporary labor service agency or the third party client, and
- 18 the 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
- 48 generally understood in the locale of the temporary labor service
- 49 agency.

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

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

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

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

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

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

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

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

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

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

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

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

47 b. The temporary labor service agency shall maintain all
48 records under this section for a period of six years from their
49 creation. The records shall be open to inspection by the

1 commissioner during normal business hours. Records described in
2 paragraphs (1), (2), (3), (6), (7), and (8) of subsection a. of this
3 section shall be available for review or copying by that temporary
4 laborer or an authorized representative of the temporary laborer
5 during normal business hours within five days following a written
6 request.

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

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

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

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

38
39 5. (New section) a. A temporary labor service agency or a
40 third party client or a contractor or agent of either shall charge no
41 fee to transport a temporary laborer to or from the designated work
42 site.

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

- 47 (1) a public mass transportation system;
48 (2) a common carrier;

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

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

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

- 14 (1) the property of a public mass transportation system;
- 15 (2) the property of a common carrier;
- 16 (3) the temporary laborer's personal vehicle; or
- 17 (4) a vehicle of a temporary laborer used to carpool other
18 temporary laborers and which is selected exclusively by and at the
19 sole choice of the temporary laborer for transportation.

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

- 23 (1) a public mass transportation system; or
- 24 (2) providing the transportation at no fee to the temporary
25 laborer.

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

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

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

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

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

13

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

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

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

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

36 (4) the total pay period earnings;

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

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

48 For each temporary laborer who is contracted to work a single
49 day, the third party client shall, at the end of the work day, provide

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

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

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

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

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

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

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

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

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

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

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

41
42 7. (New section) a. (1) No temporary labor service agency
43 shall restrict the right of a temporary laborer to accept a permanent
44 position with a third party client to whom the temporary laborer has
45 been referred for work, restrict the right of a third party client to
46 offer employment to a temporary laborer, or restrict the right of a
47 temporary laborer to accept a permanent position for any other
48 employment. A temporary labor service agency may charge a
49 placement fee to a third party client for employing a temporary

1 laborer for whom a contract for work was effected by the temporary
2 labor service agency not to exceed the equivalent of the total daily
3 commission rate the temporary labor service agency would have
4 received over a 60-day period, reduced by the equivalent of the
5 daily commission rate the temporary labor service agency would
6 have received for each day the temporary laborer has performed
7 work for the temporary labor service agency in the preceding 12
8 months.

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

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

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

45 c. Any temporary laborer assigned to work at a third party
46 client shall not be paid less than the same average rate of pay and
47 equivalent benefits as a permanent employee of the third party
48 client performing the same or substantially similar work on jobs the
49 performance of which requires equal skill, effort, and responsibility,

1 and which are performed under similar working conditions. Each
2 violation of this subsection for each affected temporary laborer
3 shall constitute a separate violation under section 11 of P.L. ,
4 c. (C.) (pending before the Legislature as this bill).

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

11

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

29 The commissioner shall assess each temporary labor service
30 agency a non-refundable registration fee not exceeding \$2,000 per
31 year per agency and a non-refundable fee not to exceed \$750 for
32 each branch office or other location where the temporary labor
33 service agency regularly contracts with temporary laborers for
34 services. The fee shall be paid by check or money order, and the
35 commissioner may not refuse to accept a check on the basis that it
36 is not a certified check or a cashier's check. The commissioner may
37 charge an additional fee to be paid by a temporary labor service
38 agency if the agency, or any person on the agency's behalf, issues or
39 delivers a check to the commissioner that is not honored by the
40 financial institution upon which it is drawn. The commissioner shall
41 adopt rules for violation hearings and penalties for violations of
42 P.L. , c. (C.) (pending before the Legislature as this bill).

43 At the time of registration with the commissioner each year, a
44 temporary labor service agency shall provide the commissioner with
45 a report containing the information identified in paragraph (9) of
46 subsection a. of section 4 of P.L. , c. (C.) (pending before
47 the Legislature as this bill), broken down by branch office, in the
48 aggregate for all temporary laborers assigned within New Jersey in

1 the prior year to be submitted on a form created by the
2 commissioner.

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

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

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

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

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

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

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

40 Thirty days prior to the cancellation or termination of any surety
41 bond required by this section, the surety shall send written notice to
42 both the temporary labor service agency and the commissioner
43 identifying the bond and the date of the cancellation or termination.

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

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

- 1 (1) Wages;
- 2 (2) Hours of work;
- 3 (3) Working conditions;
- 4 (4) An expeditious process to resolve disputes concerning
- 5 nonpayment of wages;
- 6 (5) Documentation of its current workers' compensation
- 7 insurance policy in effect for the temporary laborers; and
- 8 (6) Compliance with all provisions of this section.
- 9 c. The principal executive officer of a temporary labor service
- 10 agency shall certify under oath at the time of registration of the
- 11 temporary labor service agency each year on a form created by the
- 12 commissioner that:
- 13 (1) the signing officer has reviewed the registration form of the
- 14 temporary labor service agency and confirmed the information is
- 15 true and accurate to the best of his or her knowledge;
- 16 (2) the signing officer has reviewed the recordkeeping practices
- 17 of the temporary labor service agency and confirmed that the
- 18 recordkeeping practices comply with the requirements of section 4
- 19 of P.L. , c. (C.) (pending before the Legislature as this bill)
- 20 to the best of his or her knowledge;
- 21 (3) the signing officer has reviewed the temporary labor service
- 22 agency's filing as required by subsection b. of section 7 of P.L. ,
- 23 c. (C.) (pending before the Legislature as this bill), related to
- 24 the placement of temporary laborers in permanent positions with
- 25 third party clients and has confirmed that those practices comply
- 26 with the requirements of section 7 of P.L. , c. (C.) (pending
- 27 before the Legislature as this bill) to the best of his or her
- 28 knowledge;
- 29 (4) the signing officer has reviewed the temporary labor service
- 30 agency's practices related to the transportation of temporary
- 31 laborers and has confirmed that those practices comply with the
- 32 requirements of section 5 of P.L. , c. (C.) (pending before
- 33 the Legislature as this bill) to the best of his or her knowledge;
- 34 (5) the signing officer has reviewed and is responsible for the
- 35 surety bond posted by the temporary labor service agency and its
- 36 renewals; and
- 37 (6) the signing officer:
- 38 (a) is responsible for establishing and maintaining internal
- 39 controls to comply with the recordkeeping requirements; and
- 40 (b) has evaluated the effectiveness of the internal controls.
- 41 d. An applicant is not eligible to register to operate a temporary
- 42 labor service agency under P.L. , c. (C.) (pending before
- 43 the Legislature as this bill) if the applicant or any of its officers,
- 44 directors, partners, or managers or any owner having 25 percent or
- 45 greater beneficial interest:
- 46 (1) has been involved, as owner, officer, director, partner, or
- 47 manager, of a temporary labor service agency the registration of
- 48 which has been revoked or suspended without being reinstated

1 within the five years immediately preceding the filing of the
2 application; or

3 (2) is under the age of 18.

4 e. Every temporary labor service agency shall post and keep
5 posted at each location, in a position easily accessible to all
6 employees, notices as supplied and required by the commissioner
7 containing a copy or summary of the provisions of P.L. ,
8 c. (C.) (pending before the Legislature as this bill), and a
9 notice which informs the public of a toll-free telephone number
10 operated by the commissioner for temporary laborers and the public
11 to file wage dispute complaints and other alleged violations by
12 temporary labor service agencies. The notices shall be in English or
13 any other language generally understood in the locale of the
14 temporary labor service agency.

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

18

19 9. (New section) a. It is a violation of P.L. , c. (C.)
20 (pending before the Legislature as this bill) for a third party client
21 to enter into a contract for the employment of a temporary laborer
22 with a temporary labor service agency not registered under section
23 8 of P.L. , c. (C.) (pending before the Legislature as this
24 bill). A third party client shall verify a temporary labor service
25 agency's status with the commissioner before entering into a
26 contract with an agency, and on March 1 and September 1 of each
27 year.

28 A temporary labor service agency shall provide each of its third
29 party clients with proof of valid registration issued by the
30 commissioner at the time of entering into a contract. A temporary
31 labor service agency shall be required to notify, both by telephone
32 and in writing, each temporary laborer it employs and each third
33 party client with whom it has a contract within 24 hours of any
34 denial, suspension, or revocation of its registration by the
35 commissioner. All contracts between any temporary labor service
36 agency and any third party client shall be considered null and void
37 from the date any denial, suspension, or revocation of registration
38 becomes effective and until such time as the temporary labor
39 service agency becomes registered and considered in good standing
40 by the commissioner as provided in section 8 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill).

42 Upon request, the commissioner shall provide to a third party
43 client a list of entities registered as temporary labor service
44 agencies. The commissioner shall provide on the Internet website of
45 the Department of Labor and Workforce Development a list of
46 entities registered as temporary labor service agencies. A third party
47 client may rely on information provided by the commissioner or
48 maintained on the commissioner's website pursuant to section 8 of
49 P.L. , c. (C.) (pending before the Legislature as this bill),

1 and shall be held harmless if such information maintained or
2 provided by the commissioner was inaccurate. Any third party
3 client that violates this section shall be subject to a civil penalty not
4 to exceed \$500. Each day during which a third party client contracts
5 with a person operating as a temporary labor service agency but not
6 registered as a temporary labor service agency under section 8 of
7 P.L. , c. (C.) (pending before the Legislature as this bill),
8 shall constitute a separate and distinct offense.

9 b. If a third party client leases or contracts with a temporary
10 labor service agency for the services of a temporary laborer, the
11 third party client shall be, with the temporary labor service agency,
12 jointly and severally responsible for:

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

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

19

20 10. (New section) a. It is a violation of P.L. , c. (C.)
21 (pending before the Legislature as this bill) for a temporary labor
22 service agency or third party client, or any agent of a temporary
23 labor service agency or third party client, to retaliate through
24 discharge or in any other manner against any temporary laborer for
25 exercising any rights granted under P.L. , c. (C.) (pending
26 before the Legislature as this bill). The termination or disciplinary
27 action by a temporary labor service agency against a temporary
28 laborer within 90 days of the person's exercise of rights protected
29 under P.L. , c. (C.) (pending before the Legislature as this
30 bill) shall raise a rebuttable presumption of having done so in
31 retaliation for the exercise of those rights. Such retaliation shall
32 subject a temporary labor service agency or third party client, or
33 both, to civil penalties pursuant to P.L. , c. (C.) (pending
34 before the Legislature as this bill) or a private cause of action.

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

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

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

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

1 11. (New section) a. A person aggrieved by a violation of
2 P.L. , c. (C.) (pending before the Legislature as this bill) by
3 a temporary labor service agency or a third party client may
4 institute a civil action in the Superior Court, in the county where the
5 alleged offense occurred or where any temporary laborer who is
6 party to the action resides, without regard to exhaustion of any
7 alternative administrative remedies provided in P.L. ,
8 c. (C.) (pending before the Legislature as this bill).

9 A temporary labor service agency aggrieved by a violation of
10 P.L. , c. (C.) (pending before the Legislature as this bill) by
11 a third party client may institute a civil action in the Superior Court,
12 in the county where the alleged offense occurred or where the
13 temporary labor service agency which is party to the action is
14 located.

15 An action may be brought by one or more temporary laborers
16 employed by the temporary labor service agency for and on behalf
17 of themselves and other temporary laborers similarly situated
18 against the temporary labor service agency or a third party client.

19 Notwithstanding any other relief provided under any other
20 provision of law, a temporary laborer whose rights have been
21 violated under P.L. , c. (C.) (pending before the
22 Legislature as this bill) by a temporary labor service agency or a
23 third party client or a temporary labor service agency whose rights
24 have been violated under P.L. , c. (C.) (pending before the
25 Legislature as this bill) by a third party client is entitled to the
26 following relief:

27 (1) in the case of any violation of subsection a. of section 7 of
28 P.L. , c. (C.) (pending before the Legislature as this bill)
29 relating to any unlawful restrictions by a temporary labor service
30 agency on the right of a temporary laborer to accept a permanent
31 position for any other employment or the right of a third party client
32 to offer such employment to a temporary laborer, \$50 for each
33 temporary laborer affected by the temporary labor service agency's
34 policy, practice, or agreement and for each day that policy, practice,
35 or agreement is in effect, plus actual damages;

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

40 (3) attorney's fees and costs.

41 b. The right of an aggrieved person to bring an action under
42 this section terminates upon the passing of six years from the final
43 date of employment by the temporary labor service agency or the
44 third party client or upon the passing of six years from the date of
45 termination of the contract between the temporary labor service
46 agency and the third party client.

47
48 12. (New section) a. The commissioner shall have the authority
49 to deny, revoke, or refuse to renew any registration issued under

1 section 8 of P.L. , c. (C.) (pending before the Legislature
2 as this bill).

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

10 (1) The temporary labor service agency is in default of payment
11 of the registration fee required under section 8 of P.L. ,
12 c. (C.) (pending before the Legislature as this bill), fails to
13 obtain or terminates the surety bond required under section 8 of
14 P.L. , c. (C.) (pending before the Legislature as this bill),
15 or otherwise fails to comply with the requirements under section 8
16 of P.L. , c. (C.) (pending before the Legislature as this
17 bill);

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

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

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

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

31 (4) The temporary labor service agency has failed to comply
32 with the terms of an administrative penalty or final order, within 30
33 days of issuance of that penalty or order, issued by the
34 commissioner pursuant to P.L. , c. (C.) (pending before the
35 Legislature as this bill) or P.L.1966, c.113 (C.34:11-56a et seq.) for
36 which all appeal rights have been exhausted; or

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

40

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

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

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

46 (1) The terms and conditions of employment;

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

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

2 "A career consulting or outplacement organization" means any
3 person, required to be registered under section 24 of **[this act]**
4 P.L.1989, c.331 (C.34:8-65), providing or rendering services, with
5 or without related products, in connection with advice, instruction,
6 analysis, recommendation or assistance concerning past, present, or
7 future employment or compensation for an individual's time, labor
8 or effort.

9 "Agent" means any individual who performs any function or
10 activity for or on behalf of any person, the purpose of which is to
11 provide services or products to individuals seeking employment,
12 career guidance or counseling, or employment related services or
13 products.

14 "Applicant" means any person applying for licensing or
15 registration under **[this act]** P.L.1989, c.331 (C.34:8-43 et al.).

16 "Attorney General" means the Attorney General of this State or
17 a designee.

18 "Baby sitter" means and includes any individual under 16 years
19 of age, other than a registered nurse or a licensed nurse, entrusted
20 temporarily with the care of children during the absence of their
21 parents, guardians, or individuals standing in loco parentis to them.
22 This definition shall not include persons regularly employed by
23 agencies, or institutions operated by or under the control or
24 supervision of this State, or any of its political subdivisions, nor any
25 child care facilities operated for the care of children when the
26 facilities are similarly controlled or supervised.

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

31 "Bureau" means the Bureau of Employment and Personnel
32 Services in the Division of Consumer Affairs within the Department
33 of Law and Public Safety created pursuant to section 2 of **[this act]**
34 P.L.1989, c.331 (C.52:17B-139.4).

35 "Career counseling service" means any business that, through its
36 agents or otherwise, procures or represents itself as procuring
37 employment or employment assistance or advertises in any manner
38 the following services for a fee: career counseling; vocational
39 guidance; aptitude, achievement or vocational testing; executive
40 consulting; personnel consulting; career management, evaluation, or
41 planning; the development of resumes and other promotional
42 materials relating to the preparation for employment; or referral
43 services relating to employment or employment qualifications. A
44 career counseling service shall be licensed as an employment
45 agency pursuant to the provisions of **[this act]** P.L.1989, c.331
46 (C.34:8-43 et al.). A career counseling service shall not include
47 career consulting or outplacement organizations required to be

1 registered under section 24 of **【this act】** P.L.1989, c.331 (C.34:8-
2 65).

3 "Chief" means the Chief of the Bureau of Employment and
4 Personnel Services.

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

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

9 (2) Is compensated for services solely by payments from the
10 employer and is not, in any instance, compensated, directly or
11 indirectly, by an individual who is identified, appraised, referred or
12 recommended.

13 "Director" means the Director of the Division of Consumer
14 Affairs in the Department of Law and Public Safety, or his
15 designee.

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

19 "Employment agency" means any person who, for a fee, charge
20 or commission:

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

24 (2) Supplies job seekers to employers seeking employees on a
25 part-time or temporary assignment basis who has not filed
26 notification with the Attorney General pursuant to the provisions of
27 section **【1】** 14 of P.L.1981, c.1 (C.56:8-1.1); or

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

31 (4) Acts as a placement firm, career counseling service, or
32 resume service; or

33 (5) Acts as a nurses' registry.

34 "Employment agency" does not mean "temporary labor service
35 agency" as that term is defined and used in sections 1 through 12 of
36 P.L. , c. (C.) (pending before the Legislature as this bill).

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

43 "Fee, charge or commission" means any payment of money, or
44 promise to pay money to a person in consideration for performance
45 of any service for which licensure or registration is required by
46 **【this act】** P.L.1989, c.331 (C.34:8-43 et al.), or the excess of money
47 received by a person furnishing employment or job seekers over
48 what he has paid for transportation, transfer of baggage or lodging

1 for a job seeker. "Fee, charge or commission" shall also include the
2 difference between the amount of money received by any person
3 who either furnishes job seekers or performers for any
4 entertainment, exhibition or performance, or who furnishes baby
5 sitters for any occasion, and the amount paid by the person to the
6 job seekers, performers or baby sitters.

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

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

16 "Job seeker contingent liability" means a provision in an
17 agreement between an employment agency and a job seeker
18 whereby the job seeker may become liable, in whole or in part, to
19 pay a fee, charge or commission of any amount, directly or
20 indirectly, on account of any service rendered by the employment
21 agency.

22 "Just cause for voluntary termination of employment by a job
23 seeker" means and includes, but is not limited to, cases in which
24 material misrepresentations of the terms or conditions of
25 employment have been relied upon by a job seeker who would not
26 have accepted the employment if the grounds for termination were
27 known before acceptance of the employment.

28 "License" means a license issued by the director to any person
29 to:

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

33 "Performing artist" means a model, musical, theatrical or other
34 entertainment performer employed or engaged individually or in a
35 group.

36 "Person" means any natural person or legal representative,
37 partnership, corporation, company, trust, business entity or
38 association, and any agent, employee, salesperson, partner, officer,
39 director, member, stockholder, associate, trustee or cestuis que
40 trustent thereof.

41 "Prepaid computer job matching service" means any person
42 required to be registered under section 25 of **【this act】** P.L.1989,
43 c.331 (C.34:8-66) who is engaged in the business of matching job
44 seekers with employment opportunities, pursuant to an arrangement
45 under which the job seeker is required to pay a fee in advance of, or
46 contemporaneously with, the supplying of the matching, but which
47 does not otherwise involve services for the procurement of
48 employment by the person conducting the service.

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

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

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

11 "Temporary help service firm" means any person who operates a
12 business which consists of employing individuals directly or
13 indirectly for the purpose of assigning the employed individuals to
14 assist the firm's customers in the handling of the customers'
15 temporary, excess or special work loads, and who, in addition to the
16 payment of wages or salaries to the employed individuals, pays
17 federal social security taxes and State and federal unemployment
18 insurance; carries worker's compensation insurance as required by
19 State law; and sustains responsibility for the actions of the
20 employed individuals while they render services to the firm's
21 customers. A temporary help service firm is required to comply
22 with the provisions of P.L.1960, c.39 (C.56:8-1 et seq.), and does
23 not include "temporary labor service agency" as defined and used in
24 sections 1 through 12 of P.L. , c. (C.) (pending before the
25 Legislature as this bill).
26 (cf: P.L.1989, c.331, s.1)
27

28 14. This act shall take effect immediately.
29
30

31 STATEMENT 32

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

41 (1) the name of the temporary laborer;

42 (2) the name, address and telephone number of: (a) the
43 temporary labor service agency, or the contact information of the
44 agency agent facilitating the placement; (b) its workers'
45 compensation carrier; (c) the worksite employer or third party
46 client; and (d) the Department of Labor and Workforce
47 Development;

48 (3) the name and nature of the work to be performed;

- 1 (4) the wages offered;
- 2 (5) the name and address of the assigned worksite of each
- 3 temporary laborer;
- 4 (6) the terms of transportation offered to the temporary laborer;
- 5 (7) a description of the position and whether it shall require any
- 6 special clothing, protective equipment and training and what will be
- 7 provided by the agency or the third party client, and any costs
- 8 charged to the employee for supplies or training;
- 9 (8) whether a meal or equipment is provided by the temporary
- 10 agency or the third party client, and the cost of the meal and
- 11 equipment;
- 12 (9) the schedule for multi-day assignments; and
- 13 (10) the length of the assignment.

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

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

- 26 (1) a public mass transportation system;
- 27 (2) a common carrier;
- 28 (3) the temporary laborer providing his or her own
- 29 transportation; or
- 30 (4) selected exclusively by the temporary laborer for
- 31 transportation in a vehicle not owned or operated by the temporary
- 32 labor service agency.

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

37 Further, under the bill, a temporary labor service agency is
38 prohibited from restricting the right of a temporary laborer to accept
39 a permanent position with a third party client to whom the
40 temporary laborer has been referred for work, restricting the right of
41 a temporary laborer to accept a permanent position with another
42 employer, or restricting the right of that third party client to offer
43 employment to a temporary laborer.

44 In addition, the bill provides that a temporary labor service
45 agency operating in the State is required to register with the
46 commissioner and is required to provide proof of an employer
47 account number for the payment of unemployment insurance
48 contributions and valid workers' compensation insurance. Under the

1 bill, the commissioner has the authority to deny, revoke, or refuse to
2 renew any registration for certain specified reasons.

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

8 The bill also makes it a violation for a temporary labor service
9 agency or third party client to retaliate through discharge or in any
10 other manner against any temporary laborer for exercising any
11 rights granted under the bill. Under the bill, the termination or
12 disciplinary action by a temporary labor service agency against a
13 temporary laborer within 90 days of the person's exercise of rights
14 under the bill raises a rebuttable presumption of having done so in
15 retaliation for the exercise of those rights.

16 In addition, a person aggrieved by a violation under the bill by a
17 temporary labor service agency or a third party client may institute
18 a civil action in the Superior Court, and a temporary labor service
19 agency aggrieved by a violation under the bill by a third party client
20 may institute a civil action in the Superior Court. The bill also
21 provides that actions may be brought by one or more temporary
22 laborers for and on behalf of themselves and other temporary
23 laborers similarly situated.