



*Complying with the  
Illinois Day and  
Temporary Labor  
Services Act*

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# Temporary Employees in the General Labor Market

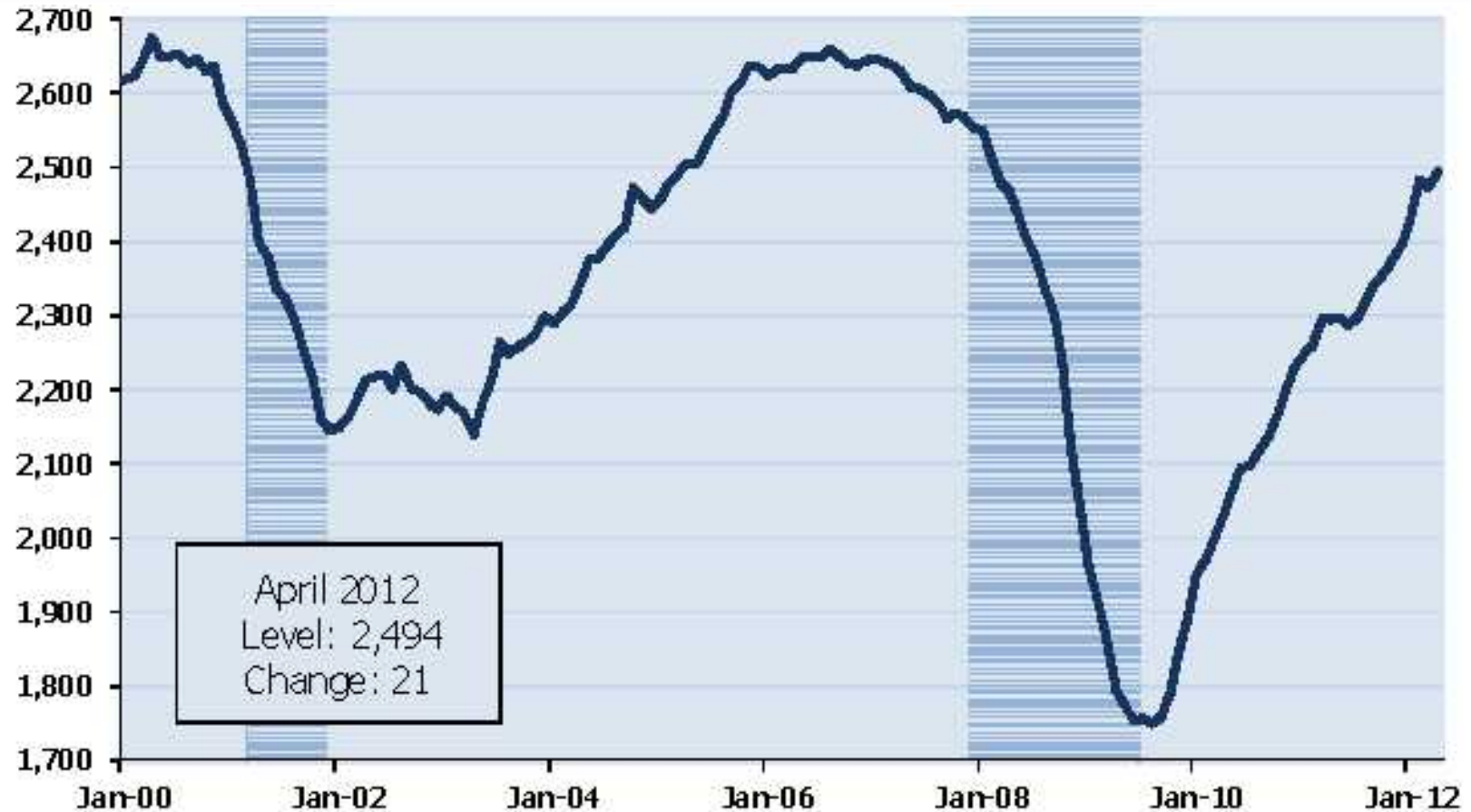
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- Temporary employees make up a sizeable percentage of the U.S. workforce and, more significantly, the addition of new jobs in the labor market.
- Nearly one-third of the 80,000 new jobs added in June 2012 were temporary or contingent workers.
- An increase in the number of temporary or contingent laborers hired by staffing companies typically precedes growth in the private sector by several months.
- During the last 12 years, the number of individuals employed in temporary help services has made up a sizeable portion of the U.S. Workforce.



# Employment in Temporary Help Services January 2000-April 2012

Seasonally adjusted in thousands



Source: Bureau of Labor Statistics, Current Employment Statistics survey, May 04, 2012.

Note: Shaded areas represent recessions as determined by the National Bureau of Economic Research. Most recent 2 months of data are preliminary.



# Illinois and Day and Temporary Labor Service Agencies and Laborers

- An amended to the Day and Temporary Labor Services Act was passed in 2005 that was intended to “make Illinois the most aggressive state in the nation when it comes to safeguarding day laborers from abuses at the hands of day and temporary labor agencies.”
- There were over 300,000 temporary employees and approximately 150 day and temporary labor services agencies with 600 branch offices in Illinois when the Day and Temporary Labor Services Act was amended in August 2005 (eff. 01/01/06).
- There are now over 250 registered day and temporary labor services agencies with nearly 730 branch offices in Illinois.



# Intent of The Day and Temporary Labor Services Act

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- Establish day and temporary labor workers' rights and protections
- Provide for the regulation of day and temporary labor agencies
- Establish duties and responsibilities of day and temporary labor agencies **AND** third party clients
- Provide penalties and enforcement procedures for violations
- Require third party clients to verify that day and temporary labor service agencies are registered with the Illinois Department of Labor



# Penalties for Violations of The Act (Department of Labor)

- Up to \$6,000 for violations found in the first audit.
  - ▶ May be assessed for violations of ANY provision of the Act
  - ▶ Penalty may be assessed against both day and temporary labor service agencies and third party clients.
- Up to \$2,500 for **each** repeat violation found within 3 years.
  - ▶ Each violation of the Act for is considered separate and distinct for:
    - Each day or temporary laborer; and
    - For each day the violation continues
- Willful violations allow for additional penalties.
  - ▶ Potential revocation of a day and temporary labor service agencies registration for violations found within 3 years of an earlier violation;
  - ▶ Statutory penalties may be doubled; and
  - ▶ Any violation causing a day and temporary laborer to be underpaid shall be liable to the Department for up to 20% of the underpayment and for punitive damages to the employee.



# Penalties for Violations of the Act (Civil)

- Wage and Hour Violations:
  - ▶ Amount of any wages, salary, employment benefits, or other compensation denied or lost;
  - ▶ An equal amount in liquidated damages; and
  - ▶ Attorneys' fees and costs
- Health and safety or notice violation:
  - ▶ Compensatory damages;
  - ▶ Up to \$500 for the violation of each subpart of each Section of the Act; and
  - ▶ Attorneys' fees and costs
- Retaliation claims allow for all legal or equitable relief as may be appropriate, including attorneys' fees and costs.
- Actions must be brought within 3 years of the final day of employment or termination of the contract



## What is “Day and Temporary” Labor?

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- Work performed by a day or temporary laborer at a third party client, the duration of which may be specific or undefined, pursuant to a contract or understanding between the day and temporary labor service agency and the third party client.
- DOES NOT include labor or employment of a professional or clerical nature.





# What Must Be Provided to Day and Temporary Laborers?

- Detailed employment and usage notices;
- Employment notices at the time of dispatch, describing the terms and conditions of their employment, involving the nature of work to be performed, wages to be paid, and the name, address and location of where the work will be performed; and
- Pay for lost time when they are sent to a job, only to be sent back because the agency has overbooked the work (4 hours minimum);
- Wage notices at the time of payment that includes:
  - ▶ The name, address, and telephone number of each third party client for whom work was performed;
  - ▶ The number of hours worked at each third party client during the pay period; and
  - ▶ The rate of payment for each hour worked, including any premium or bonus
  - ▶ The total pay period earnings;
  - ▶ All deductions made and the purpose for which deductions were made, including for transportation, food, equipment, withheld income tax, social security



# Sample Employment Notice

Employment Notice			
<b>Day and Temporary Labor Service Agency:</b> ABC Staffing 123 First Avenue Chicago, IL 60601			
<b>Name of Day or Temporary Laborer:</b>		<b>Last Name:</b>	<b>First Name:</b>
<b>Name and Nature of the work to be performed:</b> (dates, times, type of work, etc)			
<b>Wages offered:</b>			
<b>Destination Company Name and Address:</b>			
		<b>Destination Company Name:</b> <b>Address Line 1:</b> <b>Address Line 2:</b> <b>City:</b> <b>State:</b> <b>Zip Code:</b>	
<b>Terms of Transportation:</b>			
<b>Meal provided?:</b>		Yes	No
<b>Cost of Meal:</b>		\$ .	N/A
<b>Equipment provided?:</b>		Yes	No
<b>Cost of Equipment:</b>		\$ .	N/A



# Sample Wage Payment Notice

Wage Payment Notice Sample Form										
<b>Employer:</b>		ABC Staffing 123 First Avenue Chicago, IL 60601					<b>Earnings Statement</b> Pay Period: 8/21/2005 to 8/27/05 Paydate: 9/2/05			
Client:	Earnings	Sunday Rate Hours	Monday Rate Hours	Tuesday Rate Hours	Wednesday Rate Hours	Thursday Rate Hours	Friday Rate Hours	Saturday Rate Hours	This Period	Year to Date
342	Regular		10 8	10 8	10 8				240	3,322.00
	Overtime									
	Holiday									
	Vacation									
541	Regular					12 8	13 8		200	2,104.00
	Overtime									
	Holiday									
	Vacation									
<b>Gross Pay:</b>									440	5,428.00
<b>Deductions</b>									<b>This Period</b>	<b>Year to Date</b>
Federal Income Tax									66	813.90
Social Security Tax									44	542.80
Medicare									35	434.08
State Income Tax									13	162.78
Other - Meals/Equipment (specify)									20	400.00
<b>Total Deductions:</b>									178	2,353.36
<b>Net Pay:</b>									262	3,072.64



# Paycheck Deductions Sample Authorization Form

Paycheck Deductions - Sample Authorization Form		
<b>Day and Temporary Labor Services Agency:</b> ABC Staffing 123 First Avenue Chicago, IL 60601		
<b>Name of Day or Temporary Laborer:</b>	<b>Last Name:</b>	<b>First Name:</b>
<b>Paycheck Date:</b>		
<b>Deductions from paycheck:</b>	<b>Amount:</b>	
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
<b>I hereby authorize the employer listed above to deduct the amounts from the paycheck listed.</b>		
<b>Day or Temporary Laborer Signature:</b>	<b>Date:</b>	



# Recordkeeping Requirements and Enforcement

- Day and temporary labor services agencies must keep and maintain detailed records relating to every day laborer's work, including the name, address and specific work location, along with:
  - ▶ The date sent;
  - ▶ Type of work performed;
  - ▶ Number of hours worked;
  - ▶ Hourly rate of pay;
  - ▶ Name and title of individuals responsible for the transaction;
  - ▶ Copies of all contracts and invoices with third party clients;
  - ▶ Copies of all employment notices required to be produced to workers;
  - ▶ All deductions made by third party clients or agencies for food, equipment, tax or social security withholdings; and
  - ▶ Verification of the actual costs of equipment and meals provided to day laborers.
- Records must be kept for three years.



## Other Requirements:

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- Cannot charge for transportation between the agency and third party clients.
- Day and temporary labor agencies cannot restrict the right of a laborer to accept a permanent position with a third party client to whom they have been referred work.
- Day and temporary labor agencies may charge limited placement fees to third party clients who offer employment to day laborers.
- A day and temporary labor service agency cannot send any day or temporary laborer to any place where a strike, a lockout, or other labor trouble exists.



# The Acts Requirements As To Third-Party Clients

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- Cannot enter into a contract with an unregistered day and temporary labor service agency.
- Has a duty to verify a day and temporary labor service agency's status.
- The penalty for contracting with an unregistered agency is up to \$500 per day of the contract.
- Third party clients share all legal responsibility and liability for the payment of wages under the Illinois Wage Payment and Collection Act and the Minimum Wage Law for work performed by a day and temporary labor leased or contracted to the client.



# Additional Requirements As To Third-Party Clients

- No later than 7 days following the last day of the work week worked by a day and temporary laborer, the third party client must provide the day and temporary labor agency the following information as to the laborer:
  - ▶ name and address;
  - ▶ specific location sent to work;
  - ▶ type of work performed;
  - ▶ hours worked;
  - ▶ rate of pay; and
  - ▶ date sent.
- The failure to remit time records to the day and temporary labor service agency is a notice violation by the third party client under, unless the third party client has been precluded from submitting such time records for reasons beyond its control.
- For single days of work, third-party clients must provide a work verification form at the end of each work day. The verification form must contain:
  - ▶ The worker's name;
  - ▶ work location; and
  - ▶ Hours worked.





# Sample Work Verification Form

Work Verification Sample Form	
<b>Third Party Client Name:</b> Jones Mfg Corp 1234 Illinois Street Chicago, IL 60601 312-555-1234	
<b>Name of Day or Temporary Laborer:</b>	<b>Last Name:</b> <input type="text"/>
	<b>First Name:</b> <input type="text"/>
<b>Work Location:</b>	<b>Destination Company Name:</b>
	<b>Address Line 1:</b>
	<b>Address Line 2:</b>
	<b>City:</b>
	<b>State:</b>
	<b>Zip Code:</b>
<b>Hours worked:</b>	
<b>Signature of Company Representative:</b>	<b>Date:</b>



**THANK YOU!**

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