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DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
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SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

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DAY AND TEMPORARY LABOR SERVICES ACT

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AUTHORITY: Implementing and authorized by Section 45 of the Day and Temporary Labor Services Act [820 ILCS 175/45].

SOURCE: Adopted at 24 Ill. Reg. 6901, effective April 17, 2000; amended at 25 Ill. Reg. 856, effective January 5, 2001; amended at 30 Ill. Reg. 11557, effective June 22, 2006; amended at 32 Ill. Reg. 8736, effective May 29, 2008; amended at 47 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 260.100 Definitions

"Act" means the Day and Temporary Labor Services Act [820 ILCS 175].

"Benefits" means health care, vision, dental, life insurance, retirement, leave (paid and unpaid), other similar employee benefits, and other employee benefits as required by

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State and federal law.

"Certificate of Registration" means a document issued by the Department to a day or temporary labor service agency authorizing that agency to transact business in Illinois. A "Certificate of Registration" is also known as a "license".

"Contract" means an agreement, written, oral or otherwise as agreed to between the parties.

"Day" means a calendar day.

"Day or Temporary Laborer" means *a natural person who contracts for employment with a day and temporary labor service agency.*

"Day and Temporary Labor" means *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. "Day and temporary labor" does not include labor or employment of a professional or clerical nature.*

"Day and Temporary Labor Service Agency" or "Agency" means *any person or entity engaged in the business of employing day and temporary laborers to provide services, for a fee, to or for any third party client pursuant to a contract with the day and temporary labor service agency and the third party client, and which is located, operates, or transacts business within the State of Illinois. [820 ILCS 175/5]*

"Department" means the Illinois Department of Labor.

"Directly Hired Employee" means an individual who works directly for a third party client as an employee and does not contract for employment through a day and temporary labor service agency.

"Director" means the Director of Labor or a duly authorized representative.

"Effort" means the physical or mental exertion needed for the performance of a job. Job factors that cause mental fatigue and stress, as well as those factors that alleviate fatigue, are to be considered in determining the effort required for the job. Effort encompasses the total requirements of the job. Occasional or sporadic performance of an activity that may require extra physical or mental exertion is not alone sufficient to justify a finding of unequal or equal effort.

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"Hazard" means any source of potential for damage, harm, or adverse health effect that, if left uncontrolled, could result in an injury or illness of a worker.

"Hours ~~Worked~~worked" has the meaning ascribed to that term in 56 Ill. Adm. Code 210.110. [820 ILCS 175/30(a)(2)]

"Interested Party" means an organization that monitors or is attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements. [820 ILCS 175/5]

"Labor Dispute" means any controversy concerning wages, hours, terms or conditions of employment.

"Person" means every natural person, firm, partnership, co-partnership, limited liability company, corporation, association, business trust, or other legal entity, or its legal representatives, agents, or assigns.

"Placement Fee" means a fee that a third party client pays to a day or temporary labor service agency in order for the third party client to directly hire a day or temporary laborer as an employee of the third party client, also known as a "conversion fee".

"Professional" means, for purposes of the Day and Temporary Labor Services Act [820 ILCS 175], any person who meets the duties test of a professional under 29 CFR 541.3 as of March 30, 2003 (no later dates or editions). Specifically, this means any employee engaged in work predominantly intellectual and varied in character, rather than routine mental, manual, mechanical or physical work.

"Responsibility" means the degree of accountability required in the performance of a job. Minor or occasional responsibility added to an employee's duties that are not of significant consequence or importance will not justify a finding of unequal or equal responsibility.

"Retaliate" means to reprimand, discharge, suspend, demote, deny a work assignment, or change the terms or conditions of the laborer's assignment with a third party client because of the laborer's involvement in protected activities under the Act or this Part.

"Right to Sue Letter" means a letter notifying a party of its right to file an action in civil court under the Act.

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"Seniority" means the number of days a directly hired employee has been working for the third party client.

"Similar Working Conditions" means the surroundings and hazards, including the frequency and intensity of such conditions. Surroundings measure the elements, such as toxic chemicals or fumes, regularly encountered by an employee. Hazards take into account the physical hazards regularly encountered by an employee. Slight or inconsequential differences in working conditions that are not usually taken into account by employers or in collective bargaining in setting wage rates do not justify a differential in pay. The method used for testing this requirement is flexible. The mere fact that jobs are in different departments of a workplace or performed in different locations will not necessarily mean that the jobs are performed under dissimilar working conditions.

"Skill" means experience, training, education and ability. Possession of a skill not needed to meet the requirements of the job cannot be considered in making a determination regarding equality of skill.

"Substantially Similar Work" means comparable work on jobs with comparable requirements. Substantially similar is not dependent on a job classification or title but depends rather on actual job requirements and genuine differences in how work is performed.

"Third Party Client" or "Client" means any person that contracts with a day and temporary labor service agency for obtaining day or temporary laborers. [820 ILCS 175/5]

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART B: COMPLAINT AND INVESTIGATION

Section 260.200 Complaint

~~The Department may investigate any alleged violations of the Act or this Part.~~

- a) A day or temporary laborer may file a complaint with the Department alleging a violation of the Act or this Part.
- b) An interested party may file a complaint with the Department alleging a violation of the Act or this Part consistent with the procedures in Section 260.210 and Section 260.220.

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(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 260.210 Investigation

The Department may initiate an investigation upon receipt of a complaint under Section 260.200 or at the discretion of the Director.

- a) The investigation may be made by written or oral inquiry, field visit, conference, or any method or combination of methods deemed suitable in the discretion of the Department. The Director may examine a day and temporary labor agency's books and records, including electronic records, as well as any other documents reasonably related to the investigation, to determine whether a violation of the Act or this Part has occurred.
- b) The Director shall notify all parties of the results of the investigation and shall issue a violation notice when the investigation has established that a violation of the Act or this Part occurred or is occurring.
- c) If the Director issues a written decision, a party shall have the right to appeal a violation in accordance with the procedures set forth in Section 260.610 ~~of this Part~~.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 260.220 Complaints by Interested Parties

- a) Before an interested party may initiate a civil action in the county where an alleged violation of the Act occurred or where any party to the civil action resides, the interested party shall follow the procedural steps below:
 - 1) The interested party shall file a complaint with the Department.
 - 2) The Department, in response to the complaint filed by the interested party, shall send a notice of complaint to the named parties indicating that the named party may contest or cure the allegations in the complaint within 30 days.
 - 3) If the named parties do not cure or respond to the notice within 30 days, then Department shall issue a Right to Sue letter to the interested party.

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- b) In addition to subsection (a), the Department shall issue a Right to Sue letter if the Director determines:
- 1) The complaint or allegations are unjustified;
 - 2) The Department does not have jurisdiction;
 - 3) The Department will not exercise jurisdiction; or
 - 4) The administrative enforcement proceeding has concluded.
- c) An interested party may initiate a civil action 180 days after service of the notice of complaint to the parties if any of the following circumstances exist:
- 1) The contested complaint is not cured;
 - 2) The parties have not come to a mutual agreement to extend the time period to cure the complaint pursuant to subsection (d); or
 - 3) The Department has not issued a Right to Sue letter.
- d) The Parties may extend the 180-day waiting period by mutual agreement. However, the limitations period for the interested party to bring such an action shall be tolled for the 180-day waiting period and the for the time of any mutually agreed extensions of such time period.
- e) A complaint must be filed within three years after the alleged violations of the Act or this Part.

(Source: Added at 47 Ill. Reg. _____, effective _____)

Section 260.230 Penalties

- a) A day and temporary labor service agency or third party client found to have violated any provision of the Act or this Part is subject to a civil penalty of not less than \$100 and not more than \$18,000 for the first violation.
- b) Any subsequent violation is subject to a civil penalty of not less than \$250 and not more than \$7,500.

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- c) The Department may issue a separate violation to an agency or third party client for each day or temporary laborer that is found to be affected by a violation of the Act.
- d) When determining the amount of a penalty, the Director shall consider the following factors:
 - 1) The seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation, including probability that death or serious physical or mental harm to a laborer will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of the applicable statutes or regulations were violated;
 - 2) The economic harm to the laborer caused by the violation;
 - 3) The history of previous violations;
 - 4) The amount necessary to deter a future violation;
 - 5) Efforts by the day and temporary labor service agency or third party client to correct the violation; and
 - 6) Any other matter that justice may require.

(Source: Added at 47 Ill. Reg. _____, effective _____)

SUBPART C: REGISTRATION PROCESS

Section 260.300 Registration

- a) No person shall employ day or temporary laborers to provide services to or for any third party client pursuant to a contract with itself and the third party client unless that person or entity is registered with the Department as evidenced by a Department issued non-transferable certificate~~has obtained a non-transferable certificate from the Department evidencing the person is registered with the Department.~~
- b) A day and temporary labor service agency must annually register with the Department each location or branch office ~~with the Department~~ from which it will

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be operated.

- c) A day and temporary labor service agency shall keep, and prominently display, the certificate of registration in the public access area at each location where it operates.
- d) A person that is licensed as a private employment agency must also register with the Department as a day and temporary labor service agency if it engages in the business of employing day ~~or~~ temporary laborers to provide services to or for any third party client pursuant to a contract with the person or entity and the third party client.
- e) A person or entity must register as a day and temporary labor service agency with the Department when, on an isolated or incidental basis, it employs persons to provide professional or clerical services to or for any third party client pursuant to a contract with the person and the third party client, in addition to its primary business of employing day ~~or~~ temporary laborers to provide services to or for any third party client pursuant to a contract with the person and the third party client.
- f) In the case of a day and temporary labor service agency that operates both day and temporary labor locations and separate locations providing professional, clerical or other non-day labor services, the requirements of subsections (c) and (d) ~~of this Section~~ shall apply only to the agency's day and temporary labor locations.
- g) [A day or temporary labor service agency that fails to register with the Department, but is otherwise in compliance with the requirements of the Act and this Part, is subject to a penalty of \\$100 for the first day of operation without a certificate of registration and \\$250 per subsequent days.](#)

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 260.310 Content of Application to Register

An application to register a day and temporary labor service agency, and an application for registration renewal, shall be made on a form provided by the Department. The application shall contain but is not limited to the following:

- a) The name, address, federal employer identification number, ~~and~~ telephone

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number, and email address of the person, including the trade ~~and~~/or assumed name under~~by~~ which the person does business;

- b) If the person is a corporation, a copy of its articles of incorporation, a copy of its current bylaws, and the names and addresses of its officers and directors and the names and addresses of shareholders owning more than 5% of the corporation's stock shall be provided for the initial registration. ~~Applications~~Application for registration renewal shall contain any amendments to the articles of incorporation and bylaws, the names and addresses of any new officers and directors, and the names and addresses of any new shareholders owning more than 5% of the corporation's stock;
- c) If the person is a partnership, the names, business or personal addresses, and telephone numbers of all partners. ~~Applications~~Application for registration renewal shall contain the names, business or personal addresses, and telephone numbers of all new partners;
- d) If the person is a limited liability company, a copy of the articles of organization, the operating agreement, and the names and addresses of all organizers and members owning more than 5% of the membership;
- e) The name, address, federal employer identification number, ~~and~~-telephone number, and email address of the registered agent for the place of business, including the position held by that person or entity ~~with the person~~. ~~Applications~~Application for registration renewal shall contain the name, address, federal employer identification number, email address, and telephone number of any new registered agent for the place of business, including the position held by that person or entity with the day and temporary labor service agency;
- f) The name and locations of premises from which the day and temporary labor service agency will provide services. ~~Applications~~Application for renewal shall contain any new name and locations of premises from which the day and temporary labor service agency will provide services;
- g) The name, ~~and~~ address, telephone number, and email address of the person under whose management or supervision the day and temporary labor service agency will be operated. If, during the period when the registration is effective, the person under whose management or supervision the day and temporary labor service agency operates changes, the day and temporary labor service agency will notify the Department within 30 days after the change. ~~Applications~~Application for

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registration renewal shall include the name, ~~and~~ address, and email address of any new person under whose management or supervision the day labor service agency will be operated;

- h) Certification that the applicant, if an individual, is 18 years of age or older;
- i) A bond in due form, to the People of the State of Illinois, for the penal sum of \$5,000 with one or more sureties, to be approved by the Department of Labor and conditioned that the obligor will conform to and not violate any of the duties, terms, conditions, provisions or requirements of the Act or this Part;
- j) A certification that the agency will comply with all applicable State and federal employment laws, including, but not limited to, the Illinois Wage Payment and Collection Act [820 ILCS 115] and ~~Statestate~~ and federal laws relating to employee compensation and overtime compensation (Illinois Minimum Wage Law [820 ILCS 105]), social security taxes, State and federal income taxes, workers' compensation (Workers' Compensation Act [820 ILCS 305]), and unemployment taxes (Unemployment Insurance Act [820 ILCS 405]);
- k) A copy of the form to be used for the employment notice, as required by Section 10 of the Act and Section 260.400 of this Part. The form shall include, but is not limited to, the items listed in Section 260.400;
- l) An oath or affirmation certifying that all information contained within, and attached to, the application is true and complete;
- m) A copy of a government-issued photo identification card of the notarized signature of the individual submitting the application and of the president or owner of the day and temporary labor services agency;
- n) Copies of financial responsibility and liability insurance required under the ~~Illinois Motor~~ Vehicle Code [625 ILCS 5] for any transportation provided by or referred by the day and temporary labor service agency or a third party client, or a contractor or agent of either, to transport day or temporary laborers to a work site;
- o) Proof of an employer account number for payment of unemployment insurance contributions as required by Section 45 of the Act; and
- p) Proof of valid workers' compensation insurance in effect at the time of and for the duration of the registration period covering all of the day and temporary labor

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service agency's employees, as required by Section 45 of the Act.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 260.330 Registration Fees

- a) The initial application to register a day and temporary labor service agency must be accompanied by a ~~\$3,000~~~~\$1,000~~ fee for each agency and a ~~\$750~~~~\$250~~ fee for each branch office or other location where the agency regularly contracts with day or temporary laborers for services.
- b) The application for renewal of registration for a day and temporary labor service agency must be accompanied by a ~~\$3,000~~~~\$1,000~~ fee for each agency and a ~~\$750~~~~\$250~~ fee for each branch office or other location where the agency regularly contracts with day or temporary laborers for services.
- c) The fee to initially apply for, or renew, a registration may be paid by certified check, cashier's check, or money order made payable to the Illinois Department of Labor, or by the State Treasurer's E-Pay program or any successor program.
- d) The fee to initially apply for, or renew, a registration is not refundable.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART D: DUTIES AND RESPONSIBILITIES OF DAY AND
TEMPORARY LABOR SERVICE AGENCIES

Section 260.400 Employment Notice

- a) A day and temporary labor service agency shall provide at the time of dispatch, to each day and temporary laborer who is sent to work as a day and temporary laborer, a statement that contains the following information:
 - 1) *the name of the day or temporary laborer;*
 - 2) *the name and nature of the work to be performed;*
 - 3) *the wages offered;*
 - 4) *the name and address of the destination of each day or temporary laborer;*

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- 5) *the terms of transportation;*
 - 6) *whether a meal or equipment or both is provided by either the day and temporary labor service agency or the third party client and the cost of the meal and equipment, if any; ~~and~~[820 ILCS 175/10(a)(1)-(6)]*
 - 7) *if using codes on the day or temporary laborer's paycheck stub to identify third party clients, the code or codes that correlate to where the day or temporary laborer is being sent to work~~;~~*
 - 8) *information regarding safety hazards and concerns at the third party client company, identifying the representative of the client company to whom laborers should report safety concerns at the workplace to, and a statement that safety hazards and concerns may be reported to the Department by calling the Department's Day and Temporary Labor Services Act toll-free hotline at 1-877-314-7052 or emailing DOL.DayLabor@illinois.gov; and*
 - 9) *if a strike, lockout, or other labor dispute exists, then a written statement in the primary language of the day and temporary laborer notifying them of a strike, lockout, or other labor dispute and the laborer's right to refuse the assignment.*
- b) The statement provided by the day and temporary labor service agency shall be ~~certified and~~ signed by an authorized agent of the agency stating that the information contained in the statement is true and correct. If a day or temporary laborer is not dispatched directly to the work site from the office or other location of the day and temporary labor service agency, the statement shall be provided to the day or temporary laborer by hand, email, ~~text message, facsimile~~ or U.S. mail. If the day or temporary laborer is dispatched by telephone, the day and temporary labor service agency shall send the statement to the day or temporary laborer by hand, email, ~~text message, facsimile~~ or U.S. mail. *If a day or temporary laborer is assigned to the same assignment for more than one day, the day and temporary labor service agency is only required to provide the employment notice on the first day of the assignment and on any day that any of the terms listed on the employment notice are changed [820 ILCS 175/10(a)].*

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 260.401 Right to Refuse Assignment Due to Labor Dispute

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- a) A day and temporary labor service agency must inquire whether a strike, lockout, or other labor dispute exists at a third party client before sending a day or temporary laborer to work there.
- b) A day or temporary laborer shall have the right to refuse assignment to a place where a strike, lockout, other labor dispute exists without prejudice, and to receive another assignment.
- c) A day and temporary labor service agency shall not send a day or temporary laborer to a place where a strike, a lockout, or other labor dispute exists unless it has complied with Section 260.400(a)(9).
- d) If a day and temporary labor service agency fails to provide the information to the day or temporary laborer as required by Section 260.400(a)(9), then it shall constitute a notice violation subject to a private right of action under Section 95 of the Act.
- e) If a day or temporary laborer refuses assignment to location where a strike, lockout, or other labor dispute exists, then it shall be illegal for the day and temporary labor service agency or the third party client to retaliate against the day or temporary laborer under Section 90 of the Act.

(Source: Added at 47 Ill. Reg. _____, effective _____)

Section 260.405 Training

- a) On or before a day or temporary laborer's first day working at a client company each year, the day and temporary labor service agency shall provide general safety training to each day or temporary laborer for each client company that the day or temporary laborer is dispatched to.
- b) This training shall be provided at no expense to the day or temporary laborer, or the day or temporary laborer must be compensated for time spent in training.
- c) The training shall reflect all existing job hazards known to the client company or the agency, including hazards that have been reported to the client or the agency by a day or temporary laborer. This must include, but is not limited to, any of the following types of hazards which are present on the job site:

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- 1) hazards which necessitate the use of personal protective equipment;
 - 2) fall hazards;
 - 3) electrocution hazards;
 - 4) hazards of being struck by objects;
 - 5) getting caught or between hazards;
 - 6) machinery-related hazards;
 - 7) chemical or other substance-related hazards;
 - 8) repetitive-motion hazards; and
 - 9) emergency action plans.
- d) The training shall include information regarding actions taken by the third party client to eliminate, control, or otherwise mitigate or protect workers from the hazards, as well as what steps workers should take to avoid or control the hazards. This must include emergency evacuation and shelter-in-place procedures.

(Source: Added at 47 Ill. Reg. _____, effective _____)

Section 260.410 Recordkeeping

Pursuant to Section 12 of the Act, day and temporary labor service agencies shall keep the following records available for inspection by the Department during regular business hours at the place the records are kept:

- a) *the name, address and telephone number of each third party client, including each work site, to which day or temporary laborers were sent by the agency and the date of the transaction;*
- b) *the name and address, the specific location sent to work, the type of work performed, the number of hours worked, the hourly rate of pay and the date sent, for each day or temporary laborer;*
- c) *the name and title of the individual or individuals at each third party client's*

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place of business responsible for the transaction;

- d) *any specific qualifications or attributes of a day or temporary laborer requested by each third party client;*
- e) *copies of all contracts, if any, with the third party client and copies of all invoices for the third party client;*
- f) *copies of all employment notices provided in accordance with ~~Section 10~~ of the Act and this ~~Part~~Subpart;*
- g) *deductions to be made from each day or temporary laborer's compensation made by either the third party client or by the day and temporary labor service agency for the day or temporary laborer's food, equipment, withheld income tax, withheld social security payments and every other deduction;*
- h) *verification of the actual cost of any equipment or meal charged to a day or temporary laborer; [820 ILCS 175/12]*
- i) *the race and gender of each day or temporary laborer sent by the day and temporary labor service agency, as provided by the day or temporary laborer;*
- j) *number of hours billed by the day and temporary labor service agency to each third party client for each day or temporary laborer; ~~and~~*
- k) *a legend or explanation sheet for the code or codes used on a day or temporary laborer's paycheck stub that identifies the third party client or third party clients for whom the day or temporary laborer worked;:-*
- l) *all records pertaining to the safety hazard training and disclosure required by the Act, including documentation signed by each day or temporary laborer indicating that the day or temporary laborer has received the training required by the Act, including dates, and any reports of hazards received from day or temporary laborers;*
- m) *all records, including information provided by third party clients, used to determine compensation and benefits; and*
- n) *records related to any notice of a labor dispute provided to a day and temporary labor service agency, and documentation signed by each day or temporary laborer*

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who is assigned to the site of a labor dispute acknowledging that the day or temporary laborer was informed about the dispute and their right to refuse the assignment.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 260.420 Inspection and Maintenance of Records

- a) The Department is authorized to inspect and copy any records or notices required to be kept under the Act and this Part during regular business hours at the place where the records are maintained. ~~The records or notices required to be kept under the Act and this Part shall be kept within the State of Illinois at an office of the day and temporary labor service agency.~~ The refusal of an agency to produce for inspection or copying of the records will be considered grounds to revoke the agency's registration.
- b) Upon request from the Department, the day and temporary labor agency shall produce paper or machine-readable electronic records to the Department within five calendar days in a format approved by the Department.
- c) Records required under this Section shall be maintained for a period of three years from their creation. However, records shall be maintained for a longer period while there is an open case pending against the agency.
- de) Day and temporary labor service agencies shall make the records described in Section 260.410, ~~except for subsections (e) and (m), (a), (b), (c), (f), (g), and (h) of this Part~~ available to a day or temporary laborer during normal business hours within ~~five~~5 days following a written request. In addition, during normal business hours and within ~~five~~5 days following a written request, day and temporary labor service agencies shall make available to the individual making the request records relating to the number of hours billed to a third party client for that individual day or temporary laborer's hours of work.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 260.445 Equal Pay for Equal Work

- a) If a day or temporary laborer is assigned to work for a third party client, then the day or temporary laborer shall be paid at the same, or greater, rate of pay and

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receive the equivalent benefits as a directly hired employee of the third party client, under the following conditions:

- 1) After August 4, 2023, the effective date of House Bill 2862 of the 103rd General Assembly, the day or temporary laborer is assigned to work for the third party client for more than 90 calendar days within any 12-month period, whether consecutively or intermittently; and
- 2) The rate of pay and equivalent benefits shall be the same, or greater, than the lowest paid directly hired employee with the same level of seniority at the third party client and performing the same or substantially similar work on jobs, the performance of which requires substantially similar skill, effort, and responsibility, and which are performed under similar working conditions.
- b) If there is not a comparative directly hired employee of the third party client, the day or temporary laborer shall be paid not less than the rate of pay and equivalent benefits of the lowest paid directly hired employee of the third party client with the closest level of seniority at the third party client.
- c) A day and temporary labor service agency may pay the hourly cash equivalent of the actual cost benefits in lieu of benefits required under this Section unless prohibited by State or federal law.
- d) If a day or temporary laborer's compensation rate must be increased due to the requirements of this Section, that compensation increase shall be effective as of the day or temporary laborer's 91st day of performing work for the third party client.
- e) A day or temporary laborer may file a complaint with the Department, consistent with procedures outlined in Section 260.210, if a day and temporary labor agency or third party client violates this Part or Section 42 of the Act.

(Source: Added at 47 Ill. Reg. _____, effective _____)

Section 260.450 Wage Payment and Notice

- a) At the time of payment of wages, a day and temporary labor service agency shall provide the following information on the day or temporary laborer's paycheck or on a form approved by the Department:

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- 1) *the name, address, and telephone number of each third party client at which the day and temporary laborer worked;*
 - 2) *the number of hours worked by the day or temporary laborer at each third party client each day during the pay period. If the day or temporary laborer is assigned to work at the same work site of the same third party client for multiple days in the same work week, the day and temporary laborer service agency may record a summary of hours worked at that third party client's worksite so long as the first and last day of that work week are identified as well;*
 - 3) *the rate of payment for each hour worked, including any premium rate or bonus;*
 - 4) *the total pay period earnings;*
 - 5) *all deductions made from the day or temporary laborer's compensation made either by the third party client or by the day and temporary labor service agency, and the purpose for which deductions were made, including the day and temporary laborer's food, equipment, withheld income tax, withheld social security payments, and every other deduction [820 ILCS 175/30(a)]; ~~and~~*
 - 6) *if using codes on the day or temporary laborer's paycheck stub to identify third party clients, the legend or explanation sheet for the code or codes that correlate to where the day or temporary laborer worked shall be made immediately available to the day or temporary laborer upon request and during normal business hours; ~~and-~~*
 - 7) *the calculation of the placement fee that could be charged in order for the third party client to hire the day or temporary laborer, if the agency charges such a placement fee, as provided for in Section 260.470, and the number of work days remaining before the agency cannot charge any client a placement fee to hire that day or temporary laborer.*
- b) *A day or temporary laborer who is contracted by a day and temporary labor service agency to work at a third party client's work site, but is not utilized by the third party client for a minimum of 4 hours, shall be paid by the day and temporary labor service agency for a minimum of 4 hours of pay at the agreed*

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upon rate of pay. However, if the day and temporary labor service agency is able to place the day or temporary laborer at another work site during that same shift, the day or temporary laborer shall be paid by the agency a minimum of 2 hours of pay, at the agreed upon rate of pay, in addition to all hours worked by the day or temporary laborer during that shift. [820 ILCS 175/30]

- c) All wage payments must be in compliance with all laws relating to wages contained in [Chapter 820 of the Illinois Compiled Statutes](#)~~ILCS~~.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 260.470 Placement Fees

- a) A day and temporary labor service agency may charge a placement fee to a third party client who employs a day ~~or~~ temporary laborer for whom a contract for work was effected by the agency. The fee shall not exceed the total daily commission rate the agency would have received over a 60 day period reduced by the total amount of the daily commission rate the agency has received each day the day or temporary laborer has performed work for the agency in the preceding 12 months (i.e., (daily commission rate times 60) minus (daily commission rate times number of days worked for the agency in the prior 12 months)).
- b) Days worked at the agency in the 12 months prior to January 1, 2006 shall be included for purposes of calculating the maximum placement fee.
- c) A day or temporary laborer, third party client, or interested party may file a complaint with the Department if they have knowledge that a day and temporary labor service agency has charged a placement fee or threatened to charge a placement fee in violation of this Section or Section 40 of the Act. However, nothing in this Section or Section 40 of the Act requires a third party client to directly hire a day or temporary laborer who has performed work beyond the time period in which a placement fee may be charged.
- d) Example: Worker A is employed by Temp Agency A since February 1, 2024. Temp Agency A dispatches Worker A to Client B or Client C as needed on different days, and charges that Client a \$50 commission per day on top of the worker's compensation. Between February 1 and April 1, 2024, Worker A works 25 days for Client B and 15 days for Client C. Client B wishes to hire Worker A directly as an employee. Temp Agency A may charge Client B no more than \$1,000 as a placement fee according to the following calculation:

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\$50 daily commission rate multiplied by 60 = \$3,000.

\$50 daily commission rate multiplied by 40 days of work = \$2,000.

\$3,000 minus \$2,000 = \$1,000 allowable placement fee.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

SUBPART E: DUTIES AND RESPONSIBILITIES OF THIRD PARTY CLIENTS

Section 260.505 Responsibility to Provide Compensation Information

- a) Upon request, a third party client to which a day or temporary laborer has been assigned for more than 90 calendar days shall be obligated to timely provide the day and temporary labor service agency with all necessary information related to job duties, pay, and benefits of directly hired employees necessary for the day and temporary labor service agency to comply with the equal pay provisions of Section 260.445.
- b) For purposes of this Section, "timely" means before the beginning of the day or temporary laborer's next pay period.
- c) The failure by a third party client to timely provide any of the information required under this Section shall constitute a notice violation subject to a private right of action under Section 95 of the Act. For purposes of this Section, the day and temporary labor service agency shall be considered a person aggrieved as described in Section 95 of the Act. [820 ILCS 175/42]

(Source: Added at 47 Ill. Reg. _____, effective _____)

Section 260.530 Safety Hazard Disclosure to Agency

- a) Prior to a day and temporary labor service agency assigning or dispatching a day or temporary laborer to a worksite, the third-party company must notify the agency of all of the client's safety and health practices and disclose all known hazards at the actual location where the day or temporary laborer will be working in order for the day and temporary labor service agency to assess the safety conditions, worker's tasks, and the company's safety program; [820 ILCS 175/85]

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- b) *If the day and temporary labor service agency becomes aware of an additional safety or health practice, or hazard at the actual worksite, then the agency shall notify the third-party company as soon as possible.*
- c) *No day or temporary laborer shall be asked to work at a worksite with a job hazard known by the day and temporary labor service agency unless the job hazard has been fixed or addressed by the third party client prior to assignment.*

(Source: Added at 47 Ill. Reg. _____, effective _____)

Section 260.540 Labor Dispute Disclosure to Agency

A third party client must notify a day and temporary labor service agency if a strike, lockout, or other labor dispute exists at the location where the agency is dispatching day or temporary laborers.

(Source: Added at 47 Ill. Reg. _____, effective _____)

Section 260.550 Recordkeeping Responsibilities for Third Party Clients

Pursuant to the Act, third party clients shall keep the following records available for inspection by the Department during regular business hours at every location where day or temporary laborers are sent to work:

- a) contracts for the employment of day or temporary laborers, including documentation that all contracted agencies hold a valid **certificate of registration** issued by the Department;
- b) personnel records for each day or temporary laborer sent to work for that third party client, including hours worked, type of work performed, and any deductions charged to the **day or temporary** laborer;
- c) all records related to all known safety hazards, including documentation of steps taken to mitigate or control the hazards; **and**
- d) records relating to compensation of directly hired employees for comparison purposes necessary for compliance with Sections 260.445 and 260.505.

(Source: Added at 47 Ill. Reg. _____, effective _____)

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SUBPART F: SUSPENSION, REVOCATION,
DENIAL OF REGISTRATION, AND HEARINGS

Section 260.600 Suspension, Revocation, or Denial

- a) The registration of a day and temporary labor service agency with the Department ~~may~~shall be suspended, revoked or denied for, but not limited to, any of the following reasons:
- 1a) A violation of, or failure to comply with, any provision of the Act or of this Part;
 - 2b) Knowingly making any misrepresentation or false statement in connection with an application for, or renewal of, a registration of a day and temporary labor service agency with the Department; ~~or~~
 - 3e) For any conduct or practice found, as a result of an administrative hearing conducted by the Department and evidenced by a final administrative decision; ~~or~~ upon order of a circuit court.
- b) When determining whether to suspend, revoke, or deny a registration, the Director shall consider the following factors:
- 1) The seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation, including probability that death or serious physical or mental harm to a laborer will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of the applicable statutes or regulations were violated;
 - 2) The economic harm to the laborer caused by the violation;
 - 3) The history of previous violations;
 - 4) The amount necessary to deter a future violation;
 - 5) Efforts by the day and temporary labor service agency or third party client to correct the violation; and

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- 6) Any other matter that justice may require.
- c) A day or temporary labor service agency whose registration has been suspended, revoked, or denied may submit a new application for registration after paying any penalties associated with the suspension, revocation, or denial, and correcting any related violations to the satisfaction of the Director.

(Source: Amended at 47 Ill. Reg. _____, effective _____)

Section 260.610 Initiation of Hearing

- a) A hearing ~~may~~shall be initiated upon the valid request of a party after the party has received a written decision ~~regarding an alleged~~of a violation of the Act or this Part, or a written denial, suspension, or revocation of a certificate of registration. The request must be made in writing and emailed to DOL.Hearings@illinois.gov with the subject line "DTLSA Appeal" or~~and~~ mailed by certified mail or delivered in person to the Chief Administrative Law Judge at the Department's Chicago office, 160 North LaSalle Street, Suite C-1300, Chicago, Illinois 60602, within 10 business days after receipt of the written decision of notice of suspension or revocation. The request shall be marked "REQUEST FOR DTLISA APPEAL" on both the letter and the envelope.~~Department within 10 working days after receipt after the written decision of a violation.~~
- b) Hearings shall be conducted pursuant to the provisions of Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and the Department's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).

(Source: Amended at 47 Ill. Reg. _____, effective _____)