

First Notice

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

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75 SOURCE: Adopted at 24 Ill. Reg. 6901, effective April 17, 2000; amended at 25 Ill. Reg. 856,
76 effective January 5, 2001; amended at 30 Ill. Reg. 11557, effective June 22, 2006; amended at 32
77 Ill. Reg. 8736, effective May 29, 2008; emergency amendment at 47 Ill. Reg. 12457, effective
78 August 7, 2023, for a maximum of 150 days; amended at 50 Ill. Reg. 7177, effective April 28,
79 2026; amended at 50 Ill. Reg. _____, effective _____.

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81 SUBPART A: GENERAL PROVISIONS

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83 **Section 260.100 Definitions**

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

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"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".

"Clerical" means, for purposes of the Day and Temporary Labor Services Act [820 ILCS 175], administrative work in an office or office-like setting and may include a combination of answering telephones, bookkeeping, typing or word processing, office machine operations, processing e-mail and other correspondence, and filing.

"Comparator Employee" means, solely for the purposes of subsection (a) of Section 42 of the Act, an employee of the third party client with the same or substantially similar level of seniority at the company and performing the same or substantially similar work on jobs the performance of which requires substantially similar skill, effort, and responsibility, and that are performed under similar working conditions, as the day or temporary laborer.

"Comparator Classification" means, solely for the purposes of subsection (b) of Section 42 of the Act, the job classification of employees of the third party client performing the same or substantially similar work on jobs and performed under similar working conditions as the day or temporary laborer.

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

"Cure" means to correct, remedy, or alleviate an alleged violation to the satisfaction of the Director.

"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.* [820 ILCS 175/5]

"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.* [820 ILCS 175/5]

"Day and Temporary Labor Service Agency" or "Agency" means *any person or entity engaged in the business of employing day or 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 that employment through a day and temporary labor service agency.

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

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

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

"In-kind Benefits" means, solely for the purposes of this Act, health insurance, vision benefits, dental benefits, disability insurance, group life insurance, educational benefits, retirement benefits, and paid time off, regardless of whether such benefits are provided by a practice or written policy of an employer.

"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. [820 ILCS 175/5]

"Paid Time Off" means, solely for the purposes of this Act, wage replacement, in excess of what is required by law, paid to employees when they take time off from work including but not limited to vacation, holidays, personal leave, and sick leave.

"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 and 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 541.300 through 304 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.

"Retaliate" means to reprimand, discharge, suspend, demote, deny an assignment, make a materially adverse change to the terms or conditions of the laborer's work, or take any other adverse action against the laborer because of the laborer's involvement in protected activities under the Act or this Part.

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

"Same or Substantially Similar Work" means jobs substantially similar in skill, effort, and responsibility, and which are performed under similar working conditions for the third party client at the time the temporary labor is assigned to work at the third party client.

"Seniority" means the number of calendar months in which a day or temporary laborer has been assigned to and worked at the third party client compared to the number of calendar months a directly hired comparator employee has been employed by the third party client. [820 ILCS 175/42]

"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 50 Ill. Reg. _____, effective _____)

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

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 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 the Act and this Part;*
- 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;*
- 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;
- n) records related to any notice of a strike, lockout, or work stoppage due to a labor dispute provided to a day and temporary labor service agency, and documentation signed by each day or temporary laborer who is assigned to the site of a strike, lockout, or work stoppage due to a labor dispute acknowledging that the day or temporary laborer was informed about the dispute and their right to refuse the assignment without prejudice to receiving another assignment; ~~and~~;
- o) all records used to determine the type, amount, and form of In-kind Benefits or cash equivalent provided to day or temporary laborers, and records of benefits or cash equivalent provided to day or temporary laborers in accordance with Section 260.447.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 260.447 Substantially Similar Benefits

- a) A day and temporary labor service agency shall provide In-kind Benefits or their cash equivalent to qualifying day or temporary laborers according to the provisions of this Section.
- b) A day or temporary laborer is entitled to benefits or their cash equivalent under Section 42(b) of the Act and this Section if:
 - 1) The laborer is assigned to and performs work at third party client's worksite; and
 - 2) The laborer has worked for the same third party client for more than 720 hours within a 12-month period or 4,160 hours within a 48-month period, counting work performed on or after April 1, 2024.
- c) The In-kind Benefits which a day and temporary labor service agency provides to the qualifying day or temporary laborer shall be substantially similar to the benefits that the third party client provides to the job classification of employees performing the same or substantially similar work on jobs and performed under similar working conditions as the day or temporary laborer, defined above as the Comparator Classification, notwithstanding whether any member of the Comparator Classification accepts or declines some or all of the benefits provided.

- d) A day and temporary labor service agency may provide to all qualifying day or temporary laborers the hourly cash equivalent of the actual cost of the benefits the third party client provides to the Comparator Classification in lieu of providing one or more categories of In-kind Benefits. This cash equivalent may be paid in the form of a stipend each pay period or by increasing a qualifying day or temporary laborer's hourly wage by an amount equal to the hourly average cash expenditure for that category of benefit by the third party client.
- e) A day and temporary labor service agency need not choose a single method for payment across all categories of In-kind Benefits and has the following options:
- 1) A day and temporary labor service agency may aggregate the hourly cash equivalent of all categories of In-kind Benefits provided to the Comparator Classification and pay that cost to the qualifying day or temporary laborer;
 - 2) A day and temporary labor service agency may provide some categories of In-kind Benefits in hourly average cash equivalent and others as In-kind Benefits; or
 - 3) A day and temporary labor service agency may also use the pay-period stipend method for some categories of In-kind Benefits and the hourly average cash expenditure method for other categories of In-kind Benefits.
- f) The provision of such In-kind Benefits or cash equivalent shall begin no later than the second pay period after the date that the day or temporary laborer became qualified for benefits under this Section, and shall be retroactive to the date the day or temporary laborer qualified.
- g) If the day and temporary labor service agency chooses to provide In-kind Benefits, the benefit package offered by the agency shall be considered substantially similar to the benefit package offered by the third party client to the Comparator Classification if one of the following is true:
- 1) The total cash expenditure by the day and temporary labor service agency for all benefits is equal to or greater than the total cost of the benefits offered by the third party client to employees in the Comparator Classification for all benefits; or
 - 2) The day and temporary labor service agency provides substantially similar In-kind Benefits in all categories that the third party client provides In-kind Benefits to the Comparator Classification, as follows: For health insurance, vision benefits, and dental benefits, the benefits provided by the day and temporary labor service agency are in the same federal Affordable

Care Act category as the benefits provided by the third party client to the Comparator Classification. As used in this provision, "category" refers to Gold, Silver, Bronze, Platinum, and Catastrophic tiers, or successor tiers established by the United States Department of Health and Human Services. For retirement benefits, the benefits provided by the day and temporary labor service agency are the same type of product as the retirement benefit provided by the third party client to the Comparator Classification, such as a pension, 401k, Individual Retirement Account, or other form of retirement benefit. For paid time off benefits, the benefits provided by the day and temporary labor service agency are provided on an equal basis, in equivalent amounts, and able to be used for the same purposes as the paid time off benefits the third party client provides to the Comparator Classification. Any other types of In-kind Benefits provided by the day and temporary labor service agency shall be the same type of product or coverage as provided by the third party client to the Comparator Classification.

- h) If a day or temporary laborer declines the day and temporary labor service agency's offer of one or more categories of In-kind Benefits, then the day and temporary labor service agency must offer the cash equivalent of the benefits being declined.
- i) If a day or temporary laborer becomes entitled to substantially similar benefits under Section 42(b) of the Act and this Section with regard to more than one third party client, the day and temporary labor service agency may provide benefits, or a cash equivalent, based on any third party client in accordance with the requirements of this Section.
- j) Duties of third party clients
 - 1) Upon request, a third party client to which a day or temporary laborer has been assigned to work and performed work for more than 720 hours within a 12-month period or 4,160 hours within a 48-month period shall be obligated to timely provide the day and temporary labor service agency with all necessary information related to job duties, working conditions, seniority, and benefits it provides to the applicable classification of directly hired employees necessary for the day and temporary labor service agency to comply with this Section. As used in this subsection, "timely" means within 14 calendar days of a day or temporary laborer working more than 720 hours within a 12-month period or 4,160 hours within a 48-month period. [820 ILCS 175/42(b)]

- 2) When assessing what benefits-related information to provide to the day and temporary labor service agency under this subsection, the third party client must identify and disclose either:
- A) An hourly average of the actual cost of the In-kind Benefits the third party client provides to the Comparator Classification; or
 - B) Information about the In-kind Benefits that the third party client provides to the Comparator Classification.
 - C) The information that the third party client provides pursuant to subsection (B) shall be in writing and shall include:
 - i) For health insurance, the Affordable Care Act-designated category for the plan;
 - ii) For vision and dental coverage, a description of what services are covered and what the employee's share of the cost is;
 - iii) For retirement, the type of retirement product, such as pension, 401k, Individual Retirement Account or other form of retirement benefit;
 - iv) For paid time off, the amount of time provided (such as an accrual schedule) and how the paid time off may be used (such as identifying whether the paid time off is a vacation benefit, sick leave benefit, etc.); and
 - v) Any other specific products provided to the Comparator Classification that are In-kind Benefits as defined above.
 - D) The information that the third party client provides pursuant to subsection (A) shall be in writing and shall be either the actual cost of benefits offered to the Comparator Classification; or an average of the actual cost of benefits of all employees in the Comparator Classification.
- 3) In either case, a third party client that is self-insured may provide the amount of their premium cost for health care continuation coverage under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, minus the additional 2% for administrative costs.

k) Example:
Client A informs Agency B that its total average hourly cost of benefits for employees who are comparable to Laborer B is \$5.85 per hour. Agency B already pays a total average hourly cost of benefits to Laborer B of \$1 per hour. Agency B decides to add \$4.85 per hour to Laborer B's paycheck. Agency B has satisfied its obligations under Section 42(b) of the Act.

(Source: Added at 50 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, in a language that the day and temporary laborer understands:
- 1) *the name, address, and telephone number of each third party client at which the day or 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 or temporary laborer's food, equipment, withheld income tax, withheld social security payments, and every other deduction [820 ILCS 175/30(a)]; ~~and~~*
 - 6) *if the day and temporary labor service agency uses codes or other abbreviations to identify third party clients on the day or temporary laborer's paycheck stub, the agency shall make a legend or explanation of*

any such abbreviations immediately available to the day or temporary laborer upon request and during normal business hours; and.

7) the value of the cash equivalent of each In-kind Benefit that the day and temporary laborer declined pursuant to Section 260.447(h).

- 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 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 at the agreed upon rate of pay for all hours worked on the shift but no less than 2 hours. [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.

(Source: Amended at 50 Ill. Reg. _____, effective _____)