

# ASSEMBLY, No. 1474

## STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

**Sponsored by:**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Assemblyman JOE DANIELSEN**

**District 17 (Middlesex and Somerset)**

**Assemblywoman LINDA S. CARTER**

**District 22 (Middlesex, Somerset and Union)**

**Co-Sponsored by:**

**Assemblywoman Chaparro, Assemblyman Atkins, Assemblywomen Jasey,  
Reynolds-Jackson, Jaffer and Sumter**

**SYNOPSIS**

Provides certain protections and rights for temporary laborers.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 5/19/2022)**

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 help service  
10 firms, sometimes referred to as temp agencies or staffing agencies,  
11 in New Jersey. Approximately 100 temporary help service firms  
12 with several branch offices are licensed throughout the State.  
13 Moreover, there are a large, though unknown, number of unlicensed  
14 temporary help service firms that operate outside the purview of  
15 law enforcement.

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

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

33 d. This act is intended to further protect the labor and  
34 employment rights of these workers.  
35

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

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

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

**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       “Employer” means any person or corporation, partnership,  
2 individual proprietorship, joint venture, firm, company, or other  
3 similar legal entity who engages the services of an employee and  
4 who pays the employee’s wages, salary, or other compensation, or  
5 any person acting directly or indirectly in the interest of an  
6 employer in relation to an employee.

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

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

19       “Temporary laborer” means a person who contracts for  
20 employment with a temporary help service firm.

21       “Temporary labor applicant” means a person who requests a job  
22 assignment through a temporary help service firm, whether in the  
23 presence of the firm, in writing, or through an online application  
24 process.

25       “Temporary labor” means work performed by a temporary  
26 laborer at the business of, or for, a third party client of a temporary  
27 help service firm, the duration of which may be specific or  
28 undefined, pursuant to a contract or understanding between the  
29 temporary help service firm and the third party client.

30       “Temporary help service firm” means any person or entity who  
31 operates a business which consists of employing individuals  
32 directly or indirectly for the purpose of assigning the employed  
33 individuals to assist the firm's customers in the handling of the  
34 customers' temporary, excess or special work loads, and who, in  
35 addition to the payment of wages or salaries to the employed  
36 individuals, pays federal social security taxes and State and federal  
37 unemployment insurance; carries workers’ compensation insurance  
38 as required by State law; and sustains responsibility for the actions  
39 of the employed individuals while they render services to the firm's  
40 customers. A temporary help service firm is required to comply  
41 with the provisions of P.L.1960, c. 39 (C.56:8-1 et seq.).

42       “Third party client” means any person who contracts with a  
43 temporary help service firm for obtaining temporary laborers.

44  
45       3. (New section) a. Whenever a temporary help service firm  
46 agrees to send a person to work as a temporary laborer, the  
47 temporary help service firm shall provide the temporary laborer, at  
48 the time of dispatch, a statement, in writing in English and in the

1 language identified by the employee as the employee's primary  
2 language, containing the following items on a form approved by the  
3 commissioner:

- 4 (1) the name of the temporary laborer;
- 5 (2) the name, address, and telephone number of:
  - 6 (a) the temporary help service firm, or the contact information of  
7 the firm's agent facilitating the placement;
  - 8 (b) its workers' compensation carrier;
  - 9 (c) the worksite employer or third party client; and
  - 10 (d) the Department of Labor and Workforce Development;
- 11 (3) the name and nature of the work to be performed;
- 12 (4) the wages offered;
- 13 (5) the name and address of the assigned worksite of each  
14 temporary laborer;
- 15 (6) the terms of transportation offered to the temporary laborer;
- 16 (7) a description of the position and whether it shall require any  
17 special clothing, protective equipment, and training, and what  
18 training and clothing will be provided by the temporary help service  
19 firm or the third party client; and any licenses and any costs charged  
20 to the employee for supplies or training;
- 21 (8) whether a meal or equipment, or both, are provided, either by  
22 the temporary help service firm or the third party client, and the  
23 cost of the meal and equipment, if any;
- 24 (9) for multi-day assignments, the schedule;
- 25 (10) the length of the assignment; and
- 26 (11) the amount of sick leave to which temporary workers are  
27 entitled under P.L.2018, c.10 (C.34:11D-1 et seq.), and the terms of  
28 its use.

29 In the event of a change in the schedule, shift, or location of an  
30 assignment for a multi-day assignment of a temporary laborer, the  
31 temporary help service firm shall provide written notice of the  
32 change not less than 48 hours in advance to the temporary laborer,  
33 when possible. The temporary help service firm shall bear the  
34 burden of showing that it was not possible to provide the required  
35 notice.

36 If a temporary laborer is assigned to the same assignment for  
37 more than one day, the temporary help service firm shall be  
38 required to provide the employment notice only on the first day of  
39 the assignment and on any day that any of the terms listed on the  
40 employment notice are changed.

41 If the temporary laborer is not placed with a third party client or  
42 otherwise contracted to work for that day, the temporary help  
43 service firm shall, upon request, provide the temporary laborer with  
44 a confirmation that the temporary laborer sought work, signed by an  
45 employee of the temporary help service firm, which shall include  
46 the name of the firm, the name and address of the temporary  
47 laborer, and the date and the time that the temporary laborer  
48 receives the confirmation.

1       b. No temporary help service firm shall send any temporary  
2 laborer to any place where a strike, a lockout, or other labor dispute  
3 exists without providing, at the time of dispatch, a statement, in  
4 writing, informing the temporary laborer of the labor dispute, and  
5 the laborer's right to refuse the assignment.

6       c. The commissioner shall require temporary help service firms  
7 to employ personnel who can effectively communicate the  
8 information required in subsections a. and b. of this section to  
9 temporary laborers in Spanish or in any other language that is  
10 generally understood in the locale of the temporary help service  
11 firm.

12       d. Any temporary help service firm that violates this section  
13 shall be subject to a civil penalty of not less than \$500 and not to  
14 exceed \$1,000 for each violation found by the commissioner. That  
15 penalty shall be collected by the commissioner in a summary  
16 proceeding in accordance with the "Penalty Enforcement Law of  
17 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

18       e. The commissioner shall develop and implement a  
19 multilingual outreach program to inform temporary laborers about  
20 their rights pursuant to P.L.     , c.     (C.     ) (pending before the  
21 Legislature as this bill). The program shall include the distribution  
22 of written materials in English, Spanish and any other language that  
23 is the primary language of 10 percent or more of the registered  
24 voters in the State to community-based organizations and worker  
25 centers who work with temporary workers, and regular outreach to  
26 these organizations to determine how the commissioner can better  
27 inform temporary laborers of their rights.

28

29       4. (New Section) a. Whenever a temporary help service firm  
30 sends one or more persons to work as temporary laborers, the  
31 temporary help service firm shall keep the following records  
32 relating to that transaction:

33       (1) the name, address, and telephone number of the third party  
34 client, including each worksite, to which temporary laborers were  
35 sent by the temporary help service firm and the date of the  
36 transaction;

37       (2) for each temporary laborer: the name and address, the  
38 specific location sent to work, the type of work performed, the  
39 number of hours worked, the hourly rate of pay, and the date sent.  
40 The third party client shall be required to remit all information  
41 required under this paragraph to the temporary help service firm no  
42 later than seven days following the last day of the work week  
43 worked by the temporary laborer;

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

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

- 1 (5) copies of all contracts, if any, with the third party client and  
2 copies of all invoices for the third party client;
  - 3 (6) copies of all employment notices provided in accordance  
4 with subsection a. of section 3 of P.L. , c. (C. ) (pending  
5 before the Legislature as this bill);
  - 6 (7) the amounts of any deductions to be made from each  
7 temporary laborer's compensation by either the third party client or  
8 by the temporary help service firm for the temporary laborer's food,  
9 equipment, withheld income tax, withheld Social Security  
10 deductions, and every other deduction;
  - 11 (8) verification of the actual cost of any equipment or meal  
12 charged to a temporary laborer;
  - 13 (9) the race, ethnicity, and gender of each temporary laborer or  
14 applicant, as provided by that laborer or applicant, who requests  
15 employment with, or is contracted by, the temporary help service  
16 firm. For each applicant, the temporary help service firm shall  
17 provide the applicant with and retain a copy of a written notice  
18 specifying the date, time, and location at which the applicant  
19 requested employment, signed by an employee of the temporary  
20 help service firm; and
  - 21 (10) any additional information required by the commissioner.
- 22 b. The temporary help service firm shall maintain all records  
23 under this section for a period of six years from their creation. The  
24 records shall be open to inspection by the commissioner during  
25 normal business hours. Records described in paragraphs (1), (2),  
26 (3), (6), (7), and (8) of subsection a. of this section shall be  
27 available for review or copying by that temporary laborer or an  
28 authorized representative of the temporary laborer during normal  
29 business hours within five days following a written request.
- 30 In addition, a temporary help service firm shall make records  
31 related to the number of hours billed to a third party client for that  
32 individual temporary laborer's hours of work available for review or  
33 copying during normal business hours within five days following a  
34 written request. The temporary help service firm shall make forms,  
35 in duplicate, for those requests available to temporary laborers at  
36 the dispatch office. The temporary laborer shall be given a copy of  
37 the request form. It shall be a violation of this section to make any  
38 false, inaccurate, or incomplete entry into, or to delete required  
39 information from, any record required by this section.
- 40 c. (1) Failure by the third party client to maintain and remit  
41 accurate time records to the temporary help service firm as provided  
42 in paragraph (2) of subsection a. of this section shall constitute a  
43 violation by a third party client under section 11 of  
44 P.L. , c. (C. ) (pending before the Legislature as this bill),  
45 unless the third party client has been precluded from submitting  
46 those time records for reasons beyond its control. A third party  
47 client that violates paragraph (2) of subsection a. of this section  
48 shall be subject to a civil penalty not to exceed \$500 for each

1 violation found by the commissioner. The penalty shall be  
2 collected in a summary proceeding in accordance with the "Penalty  
3 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

4 (2) A failure by the third party client to provide time records in  
5 accordance with subsection b. of this section shall not be a violation  
6 and shall not be the basis for a suit or other action under section 11  
7 of P.L. , c. (C. ) (pending before the Legislature as this  
8 bill), against the temporary help service firm.

9 (3) Failure of a third party client to remit any information  
10 required by this section to a temporary help service firm shall not be  
11 a defense to the temporary help service firm recordkeeping  
12 requirements of this section.

13

14 5. (New section) a. A temporary help service firm or a third  
15 party client, or a contractor or agent of either, shall charge no fee to  
16 a temporary laborer to transport a temporary laborer to or from the  
17 designated work site.

18 b. A temporary help service firm shall be responsible for the  
19 conduct and performance of any person who transports a temporary  
20 laborer from the firm to a work site, unless the transporter is:

21 (1) a public mass transportation system;

22 (2) a common carrier;

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

25 (4) selected exclusively by and at the sole choice of the  
26 temporary laborer for transportation in a vehicle not owned or  
27 operated by the temporary help service firm.

28 If any temporary help service firm provides transportation to a  
29 temporary laborer or refers a temporary laborer as provided in  
30 subsection c. of this section, the temporary help service firm shall  
31 not allow a motor vehicle to be used for the transporting of  
32 temporary laborers if the temporary help service firm knows or  
33 should know that the motor vehicle used for the transportation of  
34 temporary laborers is unsafe or not equipped as required by P.L. ,  
35 c. (C. ) (pending before the Legislature as this bill), unless  
36 the vehicle is:

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

38 (2) the property of a common carrier;

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

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

43 c. A temporary help service firm shall not refer a temporary  
44 laborer to any person for transportation to a work site unless that  
45 person is:

46 (1) a public mass transportation system; or

47 (2) providing the transportation at no fee to the temporary  
48 laborer.

1 Directing the temporary laborer to accept a specific car pool as a  
2 condition of work shall be considered a referral by the temporary  
3 help service firm. Any mention or discussion of the cost of a car  
4 pool shall be considered a referral by the temporary help service  
5 firm. Informing a temporary laborer of the availability of a car pool  
6 driven by another temporary laborer shall not be considered a  
7 referral by the temporary help service firm.

8 The temporary help service firm shall obtain, and keep on file,  
9 documentation that any provider of transportation to the temporary  
10 laborer that the temporary help service firm makes referrals to or  
11 contracts with is in compliance with the requirements of subsections  
12 d., e., and f. of this section.

13 d. Any motor vehicle that is owned or operated by the temporary  
14 help service firm or a third party client, or a contractor or agent of  
15 either, or to which a temporary help service firm refers a temporary  
16 laborer, which is used for the transportation of temporary laborers  
17 shall comply with minimum insurance requirements set by the State  
18 of New Jersey. The driver of the vehicle shall hold a valid license  
19 to operate motor vehicles in the correct classification and shall be  
20 required to produce the license immediately upon demand by the  
21 commissioner or any other person authorized to enforce  
22 P.L. , c. (C. ) (pending before the Legislature as this bill).  
23 The commissioner shall forward a violation of this subsection to the  
24 appropriate law enforcement authority or regulatory agency.

25 e. A motor vehicle that is owned or operated by the temporary  
26 help service firm or a third party client, or a contractor or agent of  
27 either, or to which a temporary help service firm refers a temporary  
28 laborer, which is used for the transportation of temporary laborers  
29 shall have a seat and a safety belt for each passenger. The  
30 commissioner shall forward a violation of this subsection to the  
31 appropriate law enforcement authority or regulatory agency.

32 f. Unless the temporary laborer requests otherwise, when a  
33 temporary laborer has been transported to a work site, the  
34 temporary help service firm or a third party client, or a contractor or  
35 agent of either, shall provide transportation back to the point of hire  
36 at the end of each work day.

37

38 6. (New section) a. At the time of payment of wages, a  
39 temporary help service firm shall provide each temporary laborer  
40 with a detailed itemized statement, on the temporary laborer's  
41 paycheck stub or on a form approved by the commissioner, listing  
42 the following:

43 (1) the name, address, and telephone number of each third party  
44 client at which the temporary laborer worked. If this information is  
45 provided on the temporary laborer's paycheck stub, a code for each  
46 third party client may be used so long as the required information  
47 for each coded third party client is made available to the temporary  
48 laborer;



1 (2) the number of hours worked by the temporary laborer at each  
2 third party client each day during the pay period. If the temporary  
3 laborer is assigned to work at the same work site of the same third  
4 party client for multiple days in the same work week, the temporary  
5 help service firm may record a summary of hours worked at that  
6 third party client's worksite so long as the first and last day of that  
7 work week are identified as well;

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

12 (4) the total pay period earnings;

13 (5) the amount of each deduction made from the temporary  
14 laborer's compensation made either by the third party client or by  
15 the temporary help service firm, and the purpose for which each  
16 deduction was made, including for the temporary laborer's food,  
17 equipment, withheld income tax, withheld Social Security  
18 deductions, and every other deduction; the current maximum  
19 amount of a placement fee which the temporary help service firm  
20 may charge to a third party client to directly hire the temporary  
21 laborer pursuant to subsection a. of section 7 of P.L. ,  
22 c. (C. ) (pending before the Legislature as this bill); and

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

24 For each temporary laborer who is contracted to work a single  
25 day, the third party client shall, at the end of the work day, provide  
26 such temporary laborer with a work verification form, approved by  
27 the commissioner, which shall contain the date, the temporary  
28 laborer's name, the work location, and the hours worked on that  
29 day. Any third party client who violates this section shall be subject  
30 to a civil penalty not to exceed \$500 for each violation found by the  
31 commissioner. The maximum civil penalty shall increase to \$2,500  
32 for a second or subsequent violation. Each violation of paragraph 1  
33 of this subsection for each temporary laborer and for each day the  
34 violation continues shall constitute a separate and distinct violation.  
35 That penalty shall be collected by the commissioner in a summary  
36 proceeding in accordance with the "Penalty Enforcement Law of  
37 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

38 b. A temporary help service firm shall provide each temporary  
39 laborer an annual earnings summary within a reasonable time after  
40 the preceding calendar year, but in no case later than February 1 of  
41 each year. A temporary help service firm shall, at the time of each  
42 wage payment, give notice to temporary laborers of the availability  
43 of the annual earnings summary or post such a notice in a  
44 conspicuous place in the public reception area.

45 c. At the request of a temporary laborer, a temporary help  
46 service firm shall hold the daily wages of the temporary laborer and  
47 make either weekly, bi-weekly, or semi-monthly payments. The  
48 wages shall be paid in a single check, or, at the temporary laborer's

1 sole option, by direct deposit or other manner approved by the  
2 commissioner, representing the wages earned during the period,  
3 either weekly, bi-weekly, or semi-monthly, designated by the  
4 temporary laborer in accordance with P.L.1965, c.173 (C.34:11-  
5 4.1 et seq.).

6 Vouchers or any other method of payment which are not  
7 negotiable shall be prohibited as a method of payment of wages.  
8 Temporary help service firms that make daily wage payments shall  
9 provide written notification to all temporary laborers of the right to  
10 request weekly, bi-weekly, or semi-monthly checks. The temporary  
11 help service firm may provide this notice by conspicuously posting  
12 the notice at the location where the wages are received by the  
13 temporary laborers.

14 d. No temporary help service firm shall charge any temporary  
15 laborer for cashing a check issued by the temporary help service  
16 firm for wages earned by a temporary laborer who performed work  
17 through that temporary help service firm. No temporary help service  
18 firm or third party client shall charge any temporary laborer for the  
19 expense of conducting any consumer report, as that term is defined  
20 in the "Fair Credit Reporting Act," (15 U.S.C. s.1681 et seq.), any  
21 criminal background check of any kind, or any drug test of any  
22 kind.

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

28 f. The total amount deducted for meals and equipment shall not  
29 cause a temporary laborer's hourly wage to fall below the State or  
30 federal minimum wage, whichever is greater. However, a  
31 temporary help service firm may deduct the actual market value of  
32 reusable equipment provided to the temporary laborer by the  
33 temporary help service firm which the temporary laborer fails to  
34 return, if the temporary laborer provides a written authorization for  
35 that deduction at the time the deduction is made.

36 g. A temporary laborer who is contracted by a temporary help  
37 service firm to work at a third party client's worksite but is not  
38 utilized by the third party client shall be paid by the temporary help  
39 service firm for a minimum of four hours of pay at the agreed upon  
40 rate of pay. However, in the event the temporary help service firm  
41 contracts the temporary laborer to work at another location during  
42 the same shift, the temporary laborer shall be paid by the temporary  
43 help service firm for a minimum of two hours of pay at the agreed  
44 upon rate of pay.

45 h. A third party client is required to reimburse a temporary help  
46 service firm wages and related payroll taxes for services performed  
47 by the temporary laborer for the third party client according to  
48 payment terms outlined on invoices, service agreements, or stated

1 terms provided by the temporary help service firm. A third party  
2 client who fails to comply with this subsection is subject to the  
3 penalties provided in section 11 of P.L. , c. (C. ) (pending  
4 before the Legislature as this bill).

5 The commissioner shall review a complaint filed by a licensed  
6 temporary help service firm against a third party client. The  
7 commissioner shall review the payroll and accounting records of the  
8 temporary help service firm and the third party client for the period  
9 in which the violation of P.L. , c. (C. ) (pending before the  
10 Legislature as this bill) is alleged to have occurred to determine if  
11 wages and payroll taxes have been paid to the temporary help  
12 service firm and that the temporary laborer has been paid the wages  
13 owed.

14 i. Any temporary help service firm that violates this section  
15 shall be subject to a civil penalty not to exceed \$500 for each  
16 violation found by the commissioner. That penalty shall be  
17 collected by the commissioner in a summary proceeding in  
18 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,  
19 c.274 (C.2A:58-10 et seq.).  
20

21 7. (New section) a. (1) No temporary help service firm shall  
22 restrict the right of a temporary laborer to accept a permanent  
23 position with a third party client to whom the temporary laborer has  
24 been referred for work, restrict the right of a third party client to  
25 offer employment to a temporary laborer, or restrict the right of a  
26 temporary laborer to accept a permanent position for any other  
27 employment. A temporary help service firm may charge a  
28 placement fee to a third party client for employing a temporary  
29 laborer for whom a contract for work was effected by the temporary  
30 help service firm not to exceed the equivalent of the total daily  
31 commission rate the temporary help service firm would have  
32 received over a 60-day period, reduced by the equivalent of the  
33 daily commission rate the temporary help service firm would have  
34 received for each day the temporary laborer has performed work for  
35 the temporary help service firm in the preceding 12 months.

36 (2) Any temporary help service firm which charges a placement  
37 fee to a third party client for employing a temporary laborer shall  
38 include on the wage payment and notice form of each affected  
39 temporary laborer the maximum amount of a fee that shall be  
40 charged to a third party client by the temporary help service firm,  
41 and the total amount of actual charges to the third party client for  
42 the temporary laborer during each pay period compared to the total  
43 compensation cost for the temporary laborer, including costs of any  
44 benefits provided. Failure to provide the required information shall  
45 constitute a separate violation for each day the temporary help  
46 service firm fails to provide the required information. No fee  
47 provided for under this section shall be assessed or collected by the  
48 temporary help service firm when the temporary laborer is offered

1 permanent work following the suspension or revocation of the  
2 temporary help service firm's registration by the commissioner.

3 b. Each year, at the time of registration with the commissioner  
4 as required by section 8 of P.L. , c. (C. ) (pending before  
5 the Legislature as this bill), each temporary help service firm shall  
6 submit to the commissioner, on a form created by the  
7 commissioner, the number of temporary laborers the temporary help  
8 service firm has placed in a permanent position with a third party  
9 client in the preceding 12 months as well as the percentage those  
10 permanent placements represent of the total number of temporary  
11 laborers contracted by the temporary help service firm during the  
12 same period. Each day that the temporary help service firm fails to  
13 fully comply with the requirements of this subsection shall  
14 constitute a separate notice violation.

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

24 d. Any temporary help service firm that violates this section  
25 shall be subject to a civil penalty not to exceed \$500 for each  
26 violation found by the commissioner. That penalty shall be  
27 collected by the director in a summary proceeding in accordance  
28 with the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
29 (C.2A:58-10 et seq.).

30  
31 8. (New section) a. A temporary help service firm which is  
32 located, operates, or transacts business within this State shall  
33 register with the commissioner in accordance with rules adopted by  
34 the commissioner for temporary help service firms and shall be  
35 subject to P.L. , c. (C. ) (pending before the Legislature as  
36 this bill). Each temporary help service firm shall provide proof of  
37 an employer account number issued by the commissioner for the  
38 payment of unemployment insurance contributions as required  
39 under the "unemployment compensation law," R.S.43:21-1 et seq.,  
40 and proof of valid workers' compensation insurance in effect at the  
41 time of registration covering all of its employees. If, at any time, a  
42 temporary help service firm's workers' compensation insurance  
43 coverage lapses, the temporary help service firm shall have an  
44 affirmative duty to report the lapse of coverage to the commissioner  
45 and the temporary help service firm's registration shall be  
46 suspended until the firm's workers' compensation insurance is  
47 reinstated.

1 The commissioner shall assess each temporary help service firm  
2 a non-refundable registration fee not exceeding \$2,000 per year per  
3 temporary help service firm and a non-refundable fee not to exceed  
4 \$750 for each branch office or other location where the temporary  
5 help service firm regularly contracts with temporary laborers for  
6 services. The fee shall be paid by check or money order, and the  
7 commissioner may not refuse to accept a check on the basis that it  
8 is not a certified check or a cashier's check. The commissioner may  
9 charge an additional fee to be paid by a temporary help service firm  
10 if the firm, or any person on the firm's behalf, issues or delivers a  
11 check to the commissioner that is not honored by the financial  
12 institution upon which it is drawn. The commissioner shall adopt  
13 rules for violation hearings and penalties for violations of  
14 P.L. , c. (C. ) (pending before the Legislature as this bill).

15 At the time of registration with the commissioner each year, a  
16 temporary help service firm shall provide the commissioner with a  
17 report containing the information identified in paragraph (9) of  
18 subsection a. of section 4 of P.L. , c. (C. ) (pending before  
19 the Legislature as this bill), broken down by branch office, in the  
20 aggregate for all temporary laborers assigned within New Jersey in  
21 the prior year to be submitted on a form created by the  
22 commissioner.

23 b. It is a violation of P.L. , c. (C. ) (pending before the  
24 Legislature as this bill) to operate a temporary help service firm  
25 without being registered with the commissioner in accordance with  
26 subsection a. of this section. The Commissioner shall share a list of  
27 all registered temporary help service firms with the Division of  
28 Consumer Affairs in the Department of Law and Public Safety, and  
29 the division shall create and maintain on its Internet website,  
30 accessible to the public:

31 (1) a list of all registered temporary help service firms in the  
32 State whose registration is in good standing;

33 (2) a list of temporary help service firms in the State whose  
34 registration has been suspended, including the reason for the  
35 suspension, the date that the suspension was initiated, and the date,  
36 if known, that the suspension is to be lifted; and

37 (3) a list of temporary help service firms in the State whose  
38 registration has been revoked, including the reason for the  
39 revocation and the date that the registration was revoked.

40 The commissioner shall assess a penalty against any temporary  
41 help service firm that fails to register with the commissioner in  
42 accordance with P.L. , c. (C. ) (pending before the  
43 Legislature as this bill) or any rules adopted under  
44 P.L. , c. (C. ) (pending before the Legislature as this bill) of  
45 \$500 for each violation. Each day during which a person operates as  
46 a temporary help service firm without being registered as a  
47 temporary help service firm with the commissioner shall be a  
48 separate and distinct violation of P.L. , c. (C. ) (pending

1 before the Legislature as this bill). That penalty shall be collected  
2 by the commissioner in a summary proceeding in accordance with  
3 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-  
4 10 et seq.).

5 A temporary help service firm shall obtain a surety bond issued  
6 by a surety company admitted to do business in this State. The  
7 principal sum of the bond shall not be less than \$200,000. A copy of  
8 the bond shall be filed with the commissioner.

9 The bond required by this section shall be in favor of, and  
10 payable to, the people of the State of New Jersey, and shall be for  
11 the benefit of any temporary laborer damaged by the temporary help  
12 service firm's failure to pay wages, interest on wages, or fringe  
13 benefits, or damaged by violation of this section.

14 Thirty days prior to the cancellation or termination of any surety  
15 bond required by this section, the surety shall send written notice to  
16 both the temporary help service firm and the commissioner  
17 identifying the bond and the date of the cancellation or termination.

18 A temporary help service firm shall not conduct any business  
19 until it obtains a new surety bond and files a copy of it with the  
20 commissioner.

21 This subsection shall not apply to a temporary help service firm  
22 whose temporary laborers are covered by a valid collective  
23 bargaining agreement, if the agreement expressly provides for:

- 24 (1) Wages;
- 25 (2) Hours of work;
- 26 (3) Working conditions;
- 27 (4) An expeditious process to resolve disputes concerning  
28 nonpayment of wages;
- 29 (5) Documentation of its current workers' compensation  
30 insurance policy in effect for the temporary laborers; and
- 31 (6) Compliance with all provisions of this section.

32 c. The principal executive officer of a temporary help service  
33 firm shall certify under oath at the time of registration of the  
34 temporary help service firm each year on a form created by the  
35 commissioner that:

36 (1) the signing officer has reviewed the registration form of the  
37 temporary help service firm and confirmed the information is true  
38 and accurate to the best of the officer's knowledge;

39 (2) the signing officer has reviewed the recordkeeping practices  
40 of the temporary help service firm and confirmed that the  
41 recordkeeping practices comply with the requirements of section 4  
42 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
43 to the best of his or her knowledge;

44 (3) the signing officer has reviewed the temporary help service  
45 firm's filing as required by subsection b. of section 7 of  
46 P.L. , c. (C. ) (pending before the Legislature as this bill),  
47 related to the placement of temporary laborers in permanent  
48 positions with third party clients and has confirmed that those

1 practices comply with the requirements of section 7 of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill) to  
3 the best of the officer's knowledge;

4 (4) the signing officer has reviewed the temporary help service  
5 firm's practices related to the transportation of temporary laborers  
6 and has confirmed that those practices comply with the  
7 requirements of section 5 of P.L. , c. (C. ) (pending before  
8 the Legislature as this bill) to the best of the officer's knowledge;

9 (5) the signing officer has reviewed and is responsible for the  
10 surety bond posted by the temporary help service firm and its  
11 renewals; and

12 (6) the signing officer:

13 (a) is responsible for establishing and maintaining internal  
14 controls to comply with the recordkeeping requirements; and  
15 (b) has evaluated the effectiveness of the internal controls.

16 d. An applicant is not eligible to register to operate a temporary  
17 help service firm under P.L. , c. (C. ) (pending before the  
18 Legislature as this bill) if the applicant or any of its officers,  
19 directors, partners, or managers or any owner having 25 percent or  
20 greater beneficial interest:

21 (1) has been involved, as owner, officer, director, partner, or  
22 manager, of a temporary help service firm the registration of which  
23 has been revoked or suspended without being reinstated within the  
24 five years immediately preceding the filing of the application; or  
25 (2) is under the age of 18.

26 e. Every temporary help service firm shall post and keep  
27 posted at each location, in a position easily accessible to all  
28 employees, notices as supplied and required by the commissioner  
29 containing a copy or summary of the provisions of  
30 P.L. , c. (C. ) (pending before the Legislature as this bill),  
31 and a notice which informs the public of a toll-free telephone  
32 number operated by the commissioner for temporary laborers and  
33 the public to file wage dispute complaints and other alleged  
34 violations by temporary help service firms. The notices shall be in  
35 English or any other language generally understood in the locale of  
36 the temporary help service firm.

37 f. No temporary help service firm shall be permitted to register  
38 to operate in New Jersey until it has complied with the requirements  
39 of this section.

40

41 9. (New section) a. It is a violation of P.L. , c. (C. )  
42 (pending before the Legislature as this bill) for a third party client  
43 to enter into a contract for the employment of a temporary laborer  
44 with a temporary help service firm not registered under section 8 of  
45 P.L. , c. (C. ) (pending before the Legislature as this bill). A  
46 third party client shall verify a temporary help service firm's status  
47 with the commissioner before entering into a contract with the

1 temporary help service firm, and on March 1 and September 1 of  
2 each year.

3 A temporary help service firm shall provide each of its third  
4 party clients with proof of valid registration issued by the  
5 commissioner at the time of entering into a contract. A temporary  
6 help service firm shall be required to notify, both by telephone and  
7 in writing, each temporary laborer it employs and each third party  
8 client with whom it has a contract within 24 hours of any denial,  
9 suspension, or revocation of its registration by the commissioner.  
10 All contracts between any temporary help service firm and any third  
11 party client shall be considered null and void from the date any  
12 denial, suspension, or revocation of registration becomes effective  
13 and until such time as the temporary help service firm becomes  
14 registered and considered in good standing by the commissioner as  
15 provided in section 8 of P.L. , c. (C. ) (pending before the  
16 Legislature as this bill).

17 Upon request, the commissioner shall provide to a third party  
18 client a list of entities registered as temporary help service firms.  
19 The commissioner shall share a list of all registered temporary help  
20 service firms with the Division of Consumer Affairs, and the  
21 division shall provide on its Internet website a list of entities  
22 registered as temporary help service firms. A third party client may  
23 rely on information provided by the commissioner or maintained on  
24 the division's website pursuant to section 8 of P.L. , c. (C. )  
25 (pending before the Legislature as this bill), and shall be held  
26 harmless if such information maintained or provided by the  
27 commissioner or the division was inaccurate. Any third party client  
28 that violates this section shall be subject to a civil penalty not to  
29 exceed \$500. Each day during which a third party client contracts  
30 with a person operating as a temporary help service firm but not  
31 registered as a temporary help service firm under section 8 of  
32 P.L. , c. (C. ) (pending before the Legislature as this bill),  
33 shall constitute a separate and distinct offense.

34 b. If a third party client leases or contracts with a temporary  
35 help service firm for the services of a temporary laborer, the third  
36 party client shall be, with the temporary help service firm, jointly  
37 and severally responsible for:

38 (1) the payment of wages under the "New Jersey State Wage and  
39 Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.), P.L.1965, c.173  
40 (C.34:11-4.1 et seq.), R.S.34:11-57, and P.L.1952, c.9 (C.34:11-  
41 56.1 et seq.); and

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

44

45 10. (New section) a. It is a violation of P.L...., c....(C. )  
46 (pending before the Legislature as this bill) for a temporary help  
47 service firm or third party client, or any agent of a temporary help  
48 service firm or third party client, to retaliate through discharge or in



1 any other manner against any temporary laborer for exercising any  
2 rights granted under P.L. , c. (C. ) (pending before the  
3 Legislature as this bill). The termination or disciplinary action by a  
4 temporary help service firm against a temporary laborer within 90  
5 days of the person's exercise of rights protected under P.L. ,  
6 c. (C. ) (pending before the Legislature as this bill) shall raise a  
7 rebuttable presumption of having done so in retaliation for the  
8 exercise of those rights. Such retaliation shall subject a temporary  
9 help service firm or third party client, or both, to civil penalties  
10 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
11 this bill) or a private cause of action.

12 b. It is a violation of P.L. , c. (C. ) (pending before the  
13 Legislature as this bill) for a temporary help service firm or third  
14 party client to retaliate against a temporary laborer for:

15 (1) making a complaint to a temporary help service firm, to a  
16 third party client, to a co-worker, to a community organization,  
17 before a public hearing, or to a State or federal agency that rights  
18 guaranteed under P.L. , c. (C. ) (pending before the Legislature  
19 as this bill) have been violated;

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

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

26 c. When the commissioner finds that a temporary help service  
27 firm or third party client has violated this section, the commissioner  
28 is authorized to assess and collect administrative penalties, up to a  
29 maximum of \$250 for a first violation and up to a maximum of  
30 \$500 for each subsequent violation, specified in a schedule of  
31 penalties to be promulgated as a rule or regulation by the  
32 commissioner in accordance with the "Administrative Procedure  
33 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). When determining the  
34 amount of the penalty imposed because of a violation, the  
35 commissioner shall consider factors which include the history of  
36 previous violations by the employer, the seriousness of the  
37 violation, the good faith of the employer and the size of the  
38 employer's business. No administrative penalty shall be levied  
39 pursuant to this section unless the commissioner provides the  
40 alleged violator with notification of the violation and of the amount  
41 of the penalty by certified mail and an opportunity to request a  
42 hearing before the commissioner or his designee within 15 days  
43 following the receipt of the notice. If a hearing is requested, the  
44 commissioner shall issue a final order upon such hearing and a  
45 finding that a violation has occurred. If no hearing is requested, the  
46 notice shall become a final order upon expiration of the 15-day  
47 period. Payment of the penalty is due when a final order is issued  
48 or when the notice becomes a final order. Any penalty imposed

1 pursuant to this section may be recovered with costs in a summary  
2 proceeding commenced by the commissioner pursuant to "the  
3 penalty enforcement law" (N.J.S. 2A:58-1 et seq.). Any sum  
4 collected as a fine or penalty pursuant to this section shall be  
5 applied toward enforcement and administration costs of the  
6 Department of Labor and Workforce Development.

7  
8 11. (New section) a. A person aggrieved by a violation of  
9 P.L. , c. (C. ) (pending before the Legislature as this bill) by  
10 a temporary help service firm or a third party client may institute a  
11 civil action in the Superior Court, in the county where the alleged  
12 offense occurred or where any temporary laborer who is party to the  
13 action resides, without regard to exhaustion of any alternative  
14 administrative remedies provided in P.L. , c. (C. ) (pending  
15 before the Legislature as this bill).

16 A temporary help service firm aggrieved by a violation of  
17 P.L. , c. (C. ) (pending before the Legislature as this bill) by  
18 a third party client may institute a civil action in the Superior Court,  
19 in the county where the alleged offense occurred or where the  
20 temporary help service firm which is party to the action is located.

21 An action may be brought by one or more temporary laborers  
22 employed by the temporary help service firm for and on behalf of  
23 themselves and other temporary laborers similarly situated against  
24 the temporary help service firm or a third party client.

25 Notwithstanding any other relief provided under any other  
26 provision of law, a temporary laborer whose rights have been  
27 violated under P.L. , c. (C. ) (pending before the  
28 Legislature as this bill) by a temporary help service firm or a third  
29 party client or a temporary help service firm whose rights have been  
30 violated under P.L. , c. (C. ) (pending before the  
31 Legislature as this bill) by a third party client is entitled to the  
32 following relief:

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

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

46 (3) attorney's fees and costs.

47 b. The right of an aggrieved person to bring an action under  
48 this section terminates upon the passing of six years from the final

1 date of employment by the temporary help service firm or the third  
2 party client or upon the passing of six years from the date of  
3 termination of the contract between the temporary help service firm  
4 and the third party client.

5

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

10 b. The commissioner shall notify a temporary help service firm  
11 in writing by mail of the denial, revocation of, or refusal to renew  
12 the registration and the reason for the denial, revocation, or refusal.  
13 The commissioner shall also notify the Division of Consumer  
14 Affairs of any denial, revocation or refusal to renew the registration  
15 of a temporary help service firm, and the division shall update its  
16 list of registered temporary help service firms on the Division of  
17 Consumer Affairs' website to reflect these changes. The  
18 commissioner may deny, revoke, or refuse to renew any registration  
19 issued under section 8 of P.L. , c. (C. ) (pending before the  
20 Legislature as this bill) on the following grounds:

21 (1) The temporary help service firm is in default of payment of  
22 the registration fee required under section 8 of  
23 P.L. , c. (C. ) (pending before the Legislature as this bill),  
24 fails to obtain or terminates the surety bond required under section  
25 8 of P.L. , c. (C. ) (pending before the Legislature as this  
26 bill), or otherwise fails to comply with the requirements under  
27 section 8 of P.L. , c. (C. ) (pending before the Legislature  
28 as this bill);

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

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

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

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

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

1 (5) The temporary help service firm has been determined  
2 through a separate enforcement process to be operating in violation  
3 of any law.

4  
5 13. Section 1 of P.L.1989, c.331 (C.34:8-43) is amended to read  
6 as follows:

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

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

10 (1) The terms and conditions of employment;

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

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

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

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

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

28 "Attorney General" means the Attorney General of this State or a  
29 designee.

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

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

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

47 "Career counseling service" means any business that, through its  
48 agents or otherwise, procures or represents itself as procuring

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

14 "Chief" means the Chief of the Bureau of Employment and  
15 Personnel Services.

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

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

20 (2) Is compensated for services solely by payments from the  
21 employer and is not, in any instance, compensated, directly or  
22 indirectly, by an individual who is identified, appraised, referred or  
23 recommended.

24 "Director" means the Director of the Division of Consumer  
25 Affairs in the Department of Law and Public Safety, or his  
26 designee.

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

30 "Employment agency" means any person who, for a fee, charge  
31 or commission:

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

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

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

42 (4) Acts as a placement firm, career counseling service, or  
43 resume service; or

44 (5) Acts as a nurses' registry.

45 "Employment agency" does not mean "temporary help service  
46 firm" as that term is defined and used in sections 1 through 12 of  
47 P.L. , c. (C. ) (pending before the Legislature as this bill).

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

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

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

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

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

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

40       "License" means a license issued by the director to any person  
41 to:

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

45       "Performing artist" means a model, musical, theatrical or other  
46 entertainment performer employed or engaged individually or in a  
47 group.

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

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

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

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

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

24 "Temporary help service firm" means any person who operates a  
25 business which consists of employing individuals directly or  
26 indirectly for the purpose of assigning the employed individuals to  
27 assist the firm's customers in the handling of the customers'  
28 temporary, excess or special work loads, and who, in addition to the  
29 payment of wages or salaries to the employed individuals, pays  
30 federal social security taxes and State and federal unemployment  
31 insurance; carries worker's compensation insurance as required by  
32 State law; and sustains responsibility for the actions of the  
33 employed individuals while they render services to the firm's  
34 customers. A temporary help service firm is required to comply  
35 with the provisions of P.L.1960, c.39 (C.56:8-1 et seq.).  
36 (cf: P.L.1989, c.331, s.1)

37

38 14. This act shall take effect immediately.

39

40

41

## STATEMENT

42

43 This bill provides certain protections to temporary laborers and  
44 imposes requirements on temporary help service firms and third  
45 party clients of those entities. Additionally, the bill provides that  
46 the Department of Labor and Workforce Development will be  
47 responsible for the oversight of temporary help service firms and  
48 third party clients. Specifically, under the bill, a temporary help

1 service firm is required to provide a statement to temporary laborers  
2 with the following information:

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

24 Additionally, under the bill, a temporary help service firm is  
25 required to keep certain records relating to its transactions with  
26 temporary laborers, and to maintain the records for six years from  
27 their creation. The Commissioner of Labor and Workforce  
28 Development (commissioner) may inspect the records during  
29 normal business hours.

30 Moreover, the bill provides that a temporary help service firm or  
31 a third party client is prohibited from charging a fee to transport a  
32 temporary laborer to or from the designated work site, and that a  
33 temporary help service firm is responsible for the performance of  
34 any person who transports a temporary laborer from the temporary  
35 help service firm to a work site, unless the transporter is:

- 36 (1) a public mass transportation system;
- 37 (2) a common carrier;
- 38 (3) the temporary laborer providing his or her own  
39 transportation; or
- 40 (4) selected exclusively by the temporary laborer for  
41 transportation in a vehicle not owned or operated by the temporary  
42 help service firm.

43 The bill also requires that, at the time of payment of wages, a  
44 temporary help service firm is required to provide each temporary  
45 laborer with a detailed itemized statement on the temporary  
46 laborer's paycheck stub.

47 Further, under the bill, a temporary help service firm is  
48 prohibited from restricting the right of a temporary laborer to accept



1 a permanent position with a third party client to whom the  
2 temporary laborer has been referred for work, restricting the right of  
3 a temporary laborer to accept a permanent position with another  
4 employer, or restricting the right of that third party client to offer  
5 employment to a temporary laborer.

6 In addition, the bill provides that a temporary help service firm  
7 operating in the State is required to register with the commissioner  
8 and is required to provide proof of an employer account number for  
9 the payment of unemployment insurance contributions and valid  
10 workers' compensation insurance. Under the bill, the commissioner  
11 has the authority to deny, revoke, or refuse to renew any  
12 registration for certain specified reasons.

13 Moreover, under the bill, a third party client is prohibited from  
14 entering into a contract for the employment of temporary laborers  
15 with any temporary help service firm that is not registered. The bill  
16 also imposes a duty on the third party client to verify a temporary  
17 help service firm's status with the commissioner.

18 The bill also makes it a violation for a temporary help service  
19 firm or third party client to retaliate through discharge or in any  
20 other manner against any temporary laborer for exercising any  
21 rights granted under the bill. Under the bill, the termination or  
22 disciplinary action by a temporary help service firm against a  
23 temporary laborer within 90 days of the person's exercise of rights  
24 under the bill raises a rebuttable presumption of having done so in  
25 retaliation for the exercise of those rights.

26 In addition, a person aggrieved by a violation under the bill by a  
27 temporary help service firm or a third party client may institute a  
28 civil action in the Superior Court, and a temporary help service firm  
29 aggrieved by a violation under the bill by a third party client may  
30 institute a civil action in the Superior Court. The bill also provides  
31 that actions may be brought by one or more temporary laborers for  
32 and on behalf of themselves and other temporary laborers similarly  
33 situated.

34 The bill amends existing law to distinguish between the terms  
35 employment agency and temporary help service firm.