

Title 34.
Chapter 8D.
(New)
Temporary Labor
§§1-12,14
C.34:8D-1
to 34:8D-13
§15
Approp.
§16
Note

P.L. 2023, CHAPTER 10, *approved February 6, 2023*
Assembly, No. 1474 (*Second Reprint*)

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted June 16, 2022.

²Assembly amendments adopted in accordance with Governor's recommendations September 22, 2022.

1 pay for meals, transportation, equipment, and other items, as well as
2 discriminatory practices.

3 d. This act is intended to further protect the labor and
4 employment rights of these workers.

5

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

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

10 ¹“Director” means Director of the Division of Consumer Affairs
11 in the Department of Law and Public Safety ², or a designee of the
12 Director.¹

13 “Employ” means to suffer or permit to work for compensation,
14 including by means of ongoing, contractual relationships in which
15 the employer retains substantial direct or indirect control over the
16 employee's employment opportunities or terms and conditions of
17 employment.

18 “Employer” means any person or corporation, partnership,
19 individual proprietorship, joint venture, firm, company, or other
20 similar legal entity who engages the services of an employee and
21 who pays the employee’s wages, salary, or other compensation, or
22 any person acting directly or indirectly in the interest of an
23 employer in relation to an employee.

24 “Hours worked” means all of the time that the employee is
25 required to be at the employee’s place of work or on duty. Nothing
26 in P.L. , c. (C.) (pending before the Legislature as this
27 bill) requires an employer to pay an employee for hours the
28 employee is not required to be at the employee’s place of work
29 because of holidays, vacation, lunch hours, illness, and similar
30 reasons. ²“Designated classification placement” means an

31 assignment of a temporary laborer by a temporary help service firm
32 to perform work in any of the following occupational categories as
33 designated by the Bureau of Labor Statistics of the United States
34 Department of Labor: 33-90000 Other Protective Service Workers;
35 35-0000 Food Preparation and Serving Related Occupations; 37-
36 0000 Building and Grounds Cleaning and Maintenance
37 Occupations; 39-0000 Personal Care and Service Occupations; 47-
38 2060 Construction Laborers; 47-30000 Helpers, Construction
39 Trades; 49-0000 Installation, Maintenance, and Repair Occupations;
40 51-0000 Production Occupations; 53-0000 Transportation and
41 Material Moving Occupations; or any successor categories as the
42 Bureau of Labor Statistics may designate.²

43 “Person” means any natural person or their legal representative,
44 partnership, corporation, company, trust, business entity, or
45 association, and any agent, employee, salesman, partner, officer,
46 director, member, stockholder, associate, trustee, or beneficiary of a
47 trust thereof.

1 “Temporary laborer” means a person who contracts for
2 employment ²in a designated classification placement² with a
3 temporary help service firm. ¹Temporary laborer does not include
4 agricultural crew leaders who are registered under the federal
5 Migrant and Seasonal Agricultural Worker Protection Act, 29
6 U.S.C. s.1801 et seq., P.L.1971, c.192 (C.34:8A-7 et seq.), or
7 P.L.1945, c.71 (C.34:9A-1 et seq.).¹

8 ²“Temporary labor applicant” means a person who requests a
9 job assignment through a temporary help service firm, whether in
10 the presence of the firm, in writing, or through an online application
11 process.

12 “Temporary labor” means work performed by a temporary
13 laborer at the business of, or for, a third party client of a temporary
14 help service firm, the duration of which may be specific or
15 undefined, pursuant to a contract or understanding between the
16 temporary help service firm and the third party client. ¹Temporary
17 labor does not include labor or employment of a professional
18 employee, as defined in 29 U.S.C. s.152; or to employees who are
19 secretaries or administrative assistants whose main or primary
20 duties are described by the bureau of labor statistics of the United
21 States Department of Labor as involving one or more of the
22 following: drafting or revising correspondence, scheduling
23 appointments, creating, organizing, and maintaining paper and
24 electronic files, and providing information to callers or visitors.¹²

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

37 “Third party client” means any person who contracts with a
38 temporary help service firm for obtaining temporary laborers ²in a
39 designated classification placement². ¹Third party client does not
40 include the State or any office, department, division, bureau, board,
41 commission, agency, or political subdivision thereof that utilize the
42 services of temporary help service firms.¹

43

44 3. (New section) a. Whenever a temporary help service firm
45 agrees to send a person to work as a temporary laborer ²in a
46 designated classification placement², the temporary help service
47 firm shall provide the temporary laborer, at the time of dispatch, a

1 statement, in writing in English and in the language identified by
2 the employee as the employee's primary language, containing the
3 following items on a form approved by the commissioner¹, in a
4 manner appropriate to whether the assignment is accepted at the
5 temporary help service firm's office, or remotely by telephone, text,
6 email, or other electronic exchange¹:

- 7 (1) the name of the temporary laborer;
- 8 (2) the name, address, and telephone number of:
 - 9 (a) the temporary help service firm, or the contact information
10 of the firm's agent facilitating the placement;
 - 11 (b) its workers' compensation carrier;
 - 12 (c) the worksite employer or third party client; and
 - 13 (d) the Department of Labor and Workforce Development;
- 14 (3) the name and nature of the work to be performed;
- 15 (4) the wages offered;
- 16 (5) the name and address of the assigned worksite of each
17 temporary laborer;
- 18 (6) the terms of transportation offered to the temporary laborer²,
19 if applicable²;
- 20 (7) a description of the position and whether it shall require any
21 special clothing, protective equipment, and training, and what
22 training and clothing will be provided by the temporary help service
23 firm or the third party client; and any licenses and any costs charged
24 to the employee for supplies or training;
- 25 (8) whether a meal or equipment, or both, are provided, either
26 by the temporary help service firm or the third party client, and the
27 cost of the meal and equipment, if any;
- 28 (9) for multi-day assignments, the schedule;
- 29 (10) the length of the assignment¹, if known¹; and
- 30 (11) the amount of sick leave to which temporary workers are
31 entitled under P.L.2018, c.10 (C.34:11D-1 et seq.), and the terms of
32 its use.

33 In the event of a change in the schedule, shift, or location of an
34 assignment for a multi-day assignment of a temporary laborer ²in a
35 designated classification placement², the temporary help service
36 firm shall provide ¹**["written"]**¹ notice of the change not less than 48
37 hours in advance to the temporary laborer, when possible¹, in a
38 manner appropriate to whether the assignment is accepted at the
39 temporary help service firm's office, or remotely by telephone, text,
40 email, or other electronic exchange¹. The temporary help service
41 firm shall bear the burden of showing that it was not possible to
42 provide the required notice. ²**["If a dispute arises concerning**
43 **whether it was possible for a temporary help service firm to provide**
44 **the required notice, an aggrieved party shall make an application to**
45 **the commissioner, in a manner and form prescribed by the**
46 **commissioner, for a determination on the matter.**¹ **"]** In the event that
47 the commissioner imposes a civil penalty under subsection d. of this

1 section and the temporary help service firm requests a hearing to
2 challenge the penalty, any dispute concerning whether it was
3 possible for the temporary help service firm to provide the required
4 notice shall be adjudicated during that hearing.²

5 If a temporary laborer ²in a designated classification placement²
6 is assigned to the same assignment for more than one day, the
7 temporary help service firm shall be required to provide the
8 employment notice only on the first day of the assignment and on
9 any day that any of the terms listed on the employment notice are
10 changed.

11 If the temporary laborer is not placed with a third party client or
12 otherwise contracted to work for that day, the temporary help
13 service firm shall, upon request, provide the temporary laborer with
14 a confirmation that the temporary laborer sought work, signed by an
15 employee of the temporary help service firm, which shall include
16 the name of the firm, the name and address of the temporary
17 laborer, and the date and the time that the temporary laborer
18 receives the confirmation.

19 b. No temporary help service firm shall send any temporary
20 laborer to any ²[place] designated classification placement² where
21 a strike, a lockout, or other labor dispute exists without providing,
22 at the time of dispatch, a statement, in writing, informing the
23 temporary laborer of the labor dispute, and the laborer's right to
24 refuse the assignment.

25 c. ²[The commissioner shall require temporary] Temporary²
26 help service firms ²[to employ] that make designated classification
27 placements shall make available, whether through its own
28 employees or the service of a vendor,² personnel ²[who can] to²
29 effectively communicate the information required in subsections a.
30 and b. of this section to temporary laborers in Spanish or in any
31 other language that is generally understood in the locale of the
32 temporary help service firm.

33 d. Any temporary help service firm ²that makes designated
34 classification placements and² that violates this section shall be
35 subject to a civil penalty of not less than \$500 and not to exceed
36 \$1,000 for each violation found by the commissioner. That penalty
37 shall be collected by the commissioner in a summary proceeding in
38 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
39 c.274 (C.2A:58-10 et seq.).

40 e. The commissioner², in consultation with the Office of the
41 New Americans within the Department of Human Services,² shall
42 develop and implement a multilingual outreach program to inform
43 temporary laborers ²in a designated classification placement² about
44 their rights pursuant to P.L. , c. (C.) (pending before the
45 Legislature as this bill). The program shall ²develop written
46 materials in various languages based on the 10 most prevalent
47 language access needs in the State, and may periodically reevaluate

1 the language access needs and adjust translation efforts accordingly.
2 The program shall² include the distribution of written materials ²[in
3 English, Spanish and any other language that is the primary
4 language of 10 percent or more of the registered voters in the State
5 to community-based organizations and worker centers] to
6 qualifying organizations² who work with temporary workers ²in a
7 designated classification placement², and ²shall engage in² regular
8 outreach to these organizations to determine how the commissioner
9 can better inform temporary laborers of their rights. ²For purposes
10 of this subsection, qualifying organizations are organizations that
11 have a minimum of five years of experience working with
12 temporary laborers or hiring entities, and organizations that work
13 with nonprofit organizations that have a minimum of five years of
14 experience working with temporary laborers or hiring entities.²
15

16 4. (New Section) a. Whenever a temporary help service firm
17 sends one or more persons to work as temporary laborers ²in
18 designated classification placements², the temporary help service
19 firm shall keep the following records relating to that transaction:

20 (1) the name, address, and telephone number of the third party
21 client, including each worksite, to which temporary laborers were
22 sent by the temporary help service firm and the date of the
23 transaction;

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

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

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

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

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

40 (7) the amounts of any deductions to be made from each
41 temporary laborer's compensation by either the third party client or
42 by the temporary help service firm for the temporary laborer's food,
43 equipment, withheld income tax, ²withheld contributions to the
44 state unemployment compensation trust fund and the state disability
45 benefits trust fund² withheld Social Security deductions, and every
46 other deduction;

1 (8) verification of the actual cost of any equipment or meal
2 charged to a temporary laborer; ¹and¹

3 (9) ¹the race, ethnicity, and gender of each temporary laborer
4 or applicant, as provided by that laborer or applicant, who requests
5 employment with, or is contracted by, the temporary help service
6 firm. For each applicant, the temporary help service firm shall
7 provide the applicant with and retain a copy of a written notice
8 specifying the date, time, and location at which the applicant
9 requested employment, signed by an employee of the temporary
10 help service firm; and

11 (10)¹ any additional information required by the commissioner.

12 b. The temporary help service firm shall maintain all records
13 under this section for a period of six years from their creation. The
14 records shall be open to inspection by the commissioner during
15 normal business hours. Records described in paragraphs (1), (2),
16 (3), (6), (7), and (8) of subsection a. of this section shall be
17 available for review ²or² and² copying by that temporary laborer
18 ²at no cost² or an authorized representative of the temporary laborer
19 during normal business hours within five days following a written
20 request. ²For purposes of this subsection, an authorized
21 representative of the temporary laborer is a person as to whom the
22 temporary laborer has presented to the temporary help service firm
23 an authorization signed by the temporary laborer that expressly
24 permits the person to review and copy the subject records.²

25 In addition, a temporary help service firm ²that makes designated
26 classification placements² shall make records related to the number
27 of hours billed to a third party client for that individual temporary
28 laborer's hours of work available for review or copying ², at no
29 cost,² during normal business hours within five days following a
30 written request. The temporary help service firm shall make forms,
31 in duplicate, for those requests available ²at no cost² to temporary
32 laborers at the dispatch office. The temporary laborer shall be given
33 a copy of the request form. It shall be a violation of this section to
34 make any false, inaccurate, or incomplete entry into, or to delete
35 required information from, any record required by this section.

36 c. (1) Failure by the third party client to maintain and remit
37 accurate time records to the temporary help service firm as provided
38 in paragraph (2) of subsection a. of this section shall constitute a
39 violation by a third party client under section 11 of
40 P.L. , c. (C.) (pending before the Legislature as this bill),
41 unless the third party client has been precluded from submitting
42 those time records for reasons beyond its control. A third party
43 client that violates paragraph (2) of subsection a. of this section
44 shall be subject to a civil penalty not to exceed \$500 for each
45 violation found by the commissioner. The penalty shall be
46 collected in a summary proceeding in accordance with the "Penalty
47 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

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

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

10

11 5. (New section) a. A temporary help service firm or a third
12 party client, or a contractor or agent of either, shall charge no fee to
13 a temporary laborer ²in a designated classification placement² to
14 transport a temporary laborer to or from the designated work site.

15 b. A temporary help service firm shall be ²**[responsible]**
16 jointly and severally liable² for the conduct and performance of any
17 person who transports a temporary laborer ²in a designated
18 classification placement² from the firm to a work site, unless the
19 transporter is:

20 (1) a public mass transportation system;

21 (2) a common carrier;

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

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

27 If any temporary help service firm provides transportation to a
28 temporary laborer ²in a designated classification placement² or
29 refers a temporary laborer ²in a designated classification placement²
30 as provided in subsection ²**[c.] d.**² of this section, the temporary
31 help service firm shall not allow a motor vehicle to be used for the
32 transporting of temporary laborers if the temporary help service
33 firm knows or should know that the motor vehicle used for the
34 transportation of temporary laborers is unsafe or not equipped as
35 required by P.L. , c. (C.) (pending before the Legislature as
36 this bill), unless 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 ²c. A temporary help service firm shall not require a temporary
44 laborer in a designated classification placement to use
45 transportation provided by the firm or by another provider of
46 transportation services.²

1 ²[c.]d.² A temporary help service firm shall not refer a
2 temporary laborer ²in a designated classification placement² to any
3 person for transportation to a work site unless that person is:

4 (1) a public mass transportation system; or

5 (2) providing the transportation at no fee to the temporary
6 laborer.

7 Directing ²[the]a² temporary laborer ²in a designated
8 classification placement² to accept a specific car pool as a condition
9 of work shall be considered a referral by the temporary help service
10 firm. Any mention or discussion of the cost of a car pool shall be
11 considered a referral by the temporary help service firm. Informing
12 a temporary laborer ²in a designated classification placement² of the
13 availability of a car pool driven by another temporary laborer shall
14 not be considered a referral by the temporary help service firm.

15 The temporary help service firm shall obtain, and keep on file,
16 documentation that any provider of transportation to ²[the] a²
17 temporary laborer ²in a designated classification placement² that the
18 temporary help service firm makes referrals to or contracts with is
19 in compliance with the requirements of subsections ²[d., e., and f.]
20 e., f., and g.² of this section. ²The commissioner may randomly
21 audit a temporary help service firm to ensure that the firm is
22 maintaining the documentation required by this subsection.²

23 ²[d.]e.² Any motor vehicle that is owned or operated by ²[the]
24 a² temporary help service firm ²that makes designated classification
25 placements² or a third party client ²of such a firm², or a contractor
26 or agent of either, or to which a temporary help service firm refers a
27 temporary laborer ²in a designated classification², which is used for
28 the transportation of temporary laborers ²in a designated
29 classification placement² shall comply with minimum insurance
30 requirements set by the State of New Jersey. The driver of the
31 vehicle shall hold a valid license to operate motor vehicles in the
32 correct classification and shall be required to produce the license
33 immediately upon demand by the commissioner or any other person
34 authorized to enforce P.L. , c. (C.) (pending before the
35 Legislature as this bill). The commissioner shall forward a violation
36 of this subsection to the appropriate law enforcement authority or
37 regulatory agency.

38 ²[e.] f.² A motor vehicle that is owned or operated by the
39 temporary help service firm ²that makes designated classification
40 placements² or a third party client ²of such a firm², or a contractor
41 or agent of either, or to which a temporary help service firm refers a
42 temporary laborer ²in a designated classification placement², which
43 is used for the transportation of temporary laborers ²in a designated
44 classification placement² shall have a seat and a safety belt for each
45 passenger. The commissioner shall forward a violation of this

1 subsection to the appropriate law enforcement authority or
2 regulatory agency.

3 ²[f.] g.² Unless the temporary laborer ²in a designated
4 classification placement² requests otherwise, when a temporary
5 laborer ²in a designated classification placement² has been
6 transported to a work site, the temporary help service firm or a third
7 party client, or a contractor or agent of either, shall provide
8 transportation back to the point of hire at the end of each work day.

9 ²h. The obligations imposed by this section shall be in addition
10 to those set forth in subsection d. of section 14 of P.L.1981, c.1
11 (C.56:8-1.1) and any rules or regulations promulgated thereunder.

12 i. The commissioner may promulgate regulations under this
13 section in accordance with the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.)

15 j. The commissioner may assess a penalty against a temporary
16 help service firm that violates this section or any rules or
17 regulations adopted pursuant to this section of up to \$5,000 for each
18 violation, except that the penalty for a violation of the
19 recordkeeping requirements of this section shall not exceed \$500
20 for each violation. Each day that a temporary help service firm fails
21 to comply with this section shall constitute a separate offense. Any
22 penalty assessed under this section shall be collected by the
23 commissioner in a summary proceeding in accordance with the
24 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
25 et seq.).²
26

27 6. (New section) a. At the time of payment of wages, a
28 temporary help service firm shall provide each temporary laborer
29 ²in a designated classification placement² with a detailed itemized
30 statement, on the temporary laborer's paycheck stub or on a form
31 approved by the commissioner, listing the following:

32 (1) the name, address, and telephone number of each third party
33 client at which the temporary laborer worked. If this information is
34 provided on the temporary laborer's paycheck stub, a code for each
35 third party client may be used so long as the required information
36 for each coded third party client is made available to the temporary
37 laborer;

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

45 (3) the rate of payment for each hour worked, including any
46 premium rate or bonus. Overtime pay shall be paid in accordance

1 with the provisions of subsection b. of section 5 of P.L.1966, c.113
2 (C.34:11-56a4);

3 (4) the total pay period earnings;

4 (5) the amount of each deduction made from the temporary
5 laborer's compensation made ²[either by the third party client or]²
6 by the temporary help service firm, and the purpose for which each
7 deduction was made, including for the temporary laborer's food,
8 equipment, withheld income tax, withheld Social Security
9 deductions, ²withheld contributions to the state unemployment
10 compensation trust fund and the state disability benefits trust fund,²
11 and every other deduction; the current maximum amount of a
12 placement fee which the temporary help service firm may charge to
13 a third party client to directly hire the temporary laborer pursuant to
14 subsection a. of section 7 of P.L. , c. (C.) (pending before
15 the Legislature as this bill); and

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

17 For each temporary laborer ²in a designated classification
18 placement² who is contracted to work a single day, the third party
19 client shall, at the end of the work day, provide such temporary
20 laborer with a work verification form, approved by the
21 commissioner, which shall contain the date, the temporary laborer's
22 name, the work location, and the hours worked on that day. Any
23 third party client who violates this section shall be subject to a civil
24 penalty not to exceed \$500 for each violation found by the
25 commissioner. The maximum civil penalty shall increase to \$2,500
26 for a second or subsequent violation. Each violation of paragraph 1
27 of this subsection for each temporary laborer and for each day the
28 violation continues shall constitute a separate and distinct violation.
29 That penalty shall be collected by the commissioner in a summary
30 proceeding in accordance with the "Penalty Enforcement Law of
31 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

32 b. ²A third party client shall not withhold or divert the wages
33 of a temporary laborer in a designated classification placement for
34 any reason. Except as otherwise authorized pursuant to this section,
35 a temporary help service firm shall not withhold or divert the wages
36 of a temporary laborer in a designated classification placement for
37 any reason.² A temporary help service firm shall provide each
38 temporary laborer ²with² an annual earnings summary within a
39 reasonable time after the preceding calendar year, but in no case
40 later than February 1 of each year. A temporary help service firm
41 shall, at the time of each wage payment, give notice to temporary
42 laborers ²in a designated classification placement² of the
43 availability of the annual earnings summary or post such a notice in
44 a conspicuous place in the public reception area.

45 c. At the request of a temporary laborer ²in a designated
46 classification placement², a temporary help service firm shall hold
47 the daily wages of the temporary laborer and make ²[either

1 weekly,² bi-weekly²], or semi-monthly² payments. The wages
 2 shall be paid in a single check, or, at the temporary laborer's sole
 3 option, by direct deposit or other manner approved by the
 4 commissioner, representing the wages earned during the period²],
 5 either weekly, bi-weekly, or semi-monthly, designated by the
 6 temporary laborer² in accordance with P.L.1965, c.173 (C.34:11-
 7 4.1 et seq.).

8 Vouchers or any other method of payment which are not
 9 negotiable shall be prohibited as a method of payment of wages.
 10 Temporary help service firms that make daily wage payments shall
 11 provide written notification to all temporary laborers ²in a
 12 designated classification placement² of the right to request
 13 ²weekly,² bi-weekly²], or semi-monthly² checks. The
 14 temporary help service firm may provide this notice by
 15 conspicuously posting the notice at the location where the wages
 16 are received by the temporary laborers.

17 d. No temporary help service firm shall charge any temporary
 18 laborer ²in a designated classification placement² for cashing a
 19 check issued by the temporary help service firm for wages earned
 20 by a temporary laborer who performed work through that temporary
 21 help service firm. No temporary help service firm or third party
 22 client shall charge any temporary laborer ²in a designated
 23 classification placement² for the expense of conducting any
 24 consumer report, as that term is defined in the "Fair Credit
 25 Reporting Act," (15 U.S.C. s.1681 et seq.), any criminal
 26 background check of any kind, or any drug test of any kind.

27 e. Temporary laborers ²in a designated classification placement²
 28 shall be paid no less than the wage rate stated in the notice as
 29 provided in section 3 of P.L. , c. (C.) (pending before the
 30 Legislature as this bill), for all the work performed on behalf of the
 31 third party client in addition to the work listed in the written
 32 description.

33 f. ¹(1)¹The total amount deducted for meals and equipment shall
 34 not cause ²[a temporary laborer's] the² hourly wage ²of a
 35 temporary laborer in a designated classification placement² to fall
 36 below the State or federal minimum wage, whichever is greater.
 37 ¹[However, a]

38 ⁽²⁾A¹ temporary help service firm may deduct the actual market
 39 value of reusable equipment provided to ²[the] a² temporary
 40 laborer ²in a designated classification placement² by the temporary
 41 help service firm which the temporary laborer fails to return, if the
 42 temporary laborer provides a written authorization for that
 43 deduction at the time the deduction is made. ¹For any additional
 44 equipment, clothing, accessories, or other items which are not
 45 required by the nature of the work, either by law, custom, or as a
 46 requirement of the third party client that ²[the] a² temporary help

1 service firm makes available ²to temporary laborers in designated
 2 classification placements² for purchase, the temporary help service
 3 firm shall charge no more than actual market value.

4 (3) A temporary help service firm shall not charge ²a² temporary
 5 laborer ²in a designated classification placement² for any meal not
 6 consumed by the temporary laborer and, if consumed, no more than
 7 the actual cost of a meal. The purchase of a meal shall not be a
 8 condition of employment for a temporary laborer ²in a designated
 9 classification placement².¹

10 g. A temporary laborer who is contracted by a temporary help
 11 service firm to work at a third party client's worksite ²[but] in a
 12 designated classification placement but who² is not utilized by the
 13 third party client², ² shall be paid by the temporary help service firm
 14 for a minimum of four hours of pay at the agreed upon rate of pay.
 15 However, in the event the temporary help service firm contracts the
 16 temporary laborer to work at another location during the same shift,
 17 the temporary laborer shall be paid by the temporary help service
 18 firm for a minimum of two hours of pay at the agreed upon rate of
 19 pay.

20 h. A third party client is required to reimburse a temporary help
 21 service firm wages and related payroll taxes for services performed
 22 ²for a third party client² by ²[the] a² temporary laborer ²[for the
 23 third party client] in a designated classification placement²
 24 according to payment terms outlined on invoices, service
 25 agreements, or stated terms provided by the temporary help service
 26 firm. A third party client who fails to comply with this subsection is
 27 subject to the penalties provided in section 11 of
 28 P.L. , c. (C.) (pending before the Legislature as this bill).

29 The commissioner shall review a complaint filed by a
 30 ²[licensed]² temporary help service firm ²that makes designated
 31 classification placements² against a third party client. The
 32 commissioner shall review the payroll and accounting records of the
 33 temporary help service firm and the third party client for the period
 34 in which the violation of P.L. , c. (C.) (pending before the
 35 Legislature as this bill) is alleged to have occurred to determine if
 36 wages and payroll taxes have been paid to the temporary help
 37 service firm and that the temporary laborer has been paid the wages
 38 owed.

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

45
 46 7. (New section) a. (1) No temporary help service firm shall
 47 restrict the right of a temporary laborer ²in a designated

1 classification placement² to accept a permanent position with a
2 third party client to whom the temporary laborer has been referred
3 for work, restrict the right of a third party client to offer
4 employment to a temporary laborer, or restrict the right of a
5 temporary laborer to accept a permanent position for any other
6 employment. A temporary help service firm may charge a
7 placement fee to a third party client for employing a temporary
8 laborer ²in a designated classification placement² for whom a
9 contract for work was effected by the temporary help service firm
10 not to exceed the equivalent of the total daily commission rate the
11 temporary help service firm would have received over a 60-day
12 period, reduced by the equivalent of the daily commission rate the
13 temporary help service firm would have received for each day the
14 temporary laborer has performed work for the temporary help
15 service firm in the preceding 12 months.

16 (2) Any temporary help service firm which charges a placement
17 fee to a third party client for employing a temporary laborer ²in a
18 designated classification placement² shall include on the wage
19 payment and notice form of each affected temporary laborer the
20 maximum amount of a fee that shall be charged to a third party
21 client by the temporary help service firm, and the total amount of
22 actual charges to the third party client for the temporary laborer
23 during each pay period compared to the total compensation cost for
24 the temporary laborer, including costs of any benefits provided.
25 Failure to provide the required information shall constitute a
26 separate violation for each day the temporary help service firm fails
27 to provide the required information. No fee provided for under this
28 section shall be assessed or collected by the temporary help service
29 firm when ²**[the]** ²a temporary laborer ²in a designated
30 classification placement² is offered permanent work following the
31 suspension ²**[or]**,² revocation², or non-renewal² of the temporary
32 help service firm's ²**[registration]** certification² by the
33 ²**[commissioner]** director².

34 ²**[b.** Each year, at the time of registration with the commissioner
35 as required by section 8 of P.L. , c. (C.) (pending before
36 the Legislature as this bill), each temporary help service firm shall
37 submit to the commissioner, on a form created by the
38 commissioner, the number of temporary laborers the temporary help
39 service firm has placed in a permanent position with a third party
40 client in the preceding 12 months as well as the percentage those
41 permanent placements represent of the total number of temporary
42 laborers contracted by the temporary help service firm during the
43 same period. Each day that the temporary help service firm fails to
44 fully comply with the requirements of this subsection shall
45 constitute a separate notice violation.

46 **c.]** ²b. Any temporary laborer assigned to work at a third party
47 client ²in a designated classification placement² shall not be paid

1 less than the ²[same]² average rate of pay and ²[equivalent]
 2 average cost of² benefits ²[as a permanent employee], or the cash
 3 equivalent thereof,² of ²employees of² the third party client
 4 performing the same or substantially similar work on jobs the
 5 performance of which requires equal skill, effort, and responsibility,
 6 and which are performed under similar working conditions ²for the
 7 third party client at the time the temporary laborer is assigned to
 8 work at the third party client². Each violation of this subsection for
 9 each affected temporary laborer shall constitute a separate violation
 10 under section 11 of P.L. , c. (C.) (pending before the
 11 Legislature as this bill).

12 ²[d.]² Any temporary help service firm that violates this
 13 section shall be subject to a civil penalty not to exceed ¹[\$500]
 14 \$5,000¹ for each violation found by the commissioner. That penalty
 15 shall be collected by the ¹[director] commissioner¹ 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 ²[¹e.]² d.² If a third party client leases or contracts with a
 19 temporary help service firm for the services of a temporary laborer
 20 ²in a designated classification requirement², the third party client
 21 shall be, with the temporary help service firm, jointly and severally
 22 responsible for any violation of this section, including with respect
 23 to relief provided by section 11 of P.L. , c. (C.) (pending
 24 before the Legislature as this bill) and civil penalties found by the
 25 commissioner.¹

26
 27 8. (New section) a. A temporary help service firm which is
 28 located, operates, or transacts business within this State shall
 29 ²[register with the commissioner] not make any designated
 30 classification placements unless it is certified by the director to do
 31 so,² in accordance with rules adopted by the ²[commissioner for
 32 temporary help service firms] director² and shall be subject to
 33 P.L. , c. (C.) (pending before the Legislature as this bill).
 34 Each temporary help service firm ²seeking certification to make
 35 designated classification placements² shall provide proof of an
 36 employer account number issued by the commissioner for the
 37 payment of unemployment insurance contributions as required
 38 under the "unemployment compensation law," R.S.43:21-1 et seq.,
 39 ²[and];² proof of valid workers' compensation insurance in effect at
 40 the time of ²[registration] certification² covering all of its
 41 employees²; on a form created by the director, the number of
 42 temporary laborers previously in designated classification
 43 placements whom the temporary help service firm has placed in a
 44 permanent position with a third party client in the preceding 12
 45 months as well as the percentage those permanent placements
 46 represent of the total number of temporary laborers in designated

1 classification placements contracted by the temporary help service
 2 firm during the same period; and such other information as the
 3 director may require pursuant to rules adopted under this section².
 4 If, at any time, a ²**[temporary help service firm's]** the² workers'
 5 compensation insurance coverage ²for a temporary help service firm
 6 that makes designated classification placements² lapses, the
 7 temporary help service firm shall have an affirmative duty to report
 8 the lapse of coverage to the ²**[commissioner]** director² and the
 9 temporary help service firm's ²**[registration]** certification² shall be
 10 suspended until the firm's workers' compensation insurance is
 11 reinstated. ²A temporary help service firm shall inform the director
 12 of any change or addition to the information required under this
 13 subsection within 30 days of the change or addition.²

14 The ²**[commissioner]** director² shall assess each temporary help
 15 service firm ²seeking certification to make designated classification
 16 placements² a non-refundable ²**[registration]** certification² fee not
 17 exceeding \$2,000 per year per temporary help service firm and a
 18 non-refundable fee not to exceed \$750 ²per year² for each branch
 19 office or other location where the temporary help service firm
 20 regularly ²**[contracts]** conducts its business, including but not
 21 limited to contracting with and recruiting² with temporary laborers
 22 for ²designated classification placement² services. The fee shall be
 23 paid by check or money order, and the ²**[commissioner]** director²
 24 may not refuse to accept a check on the basis that it is not a certified
 25 check or a cashier's check. The ²**[commissioner]** director² may
 26 charge an additional fee to be paid by a temporary help service firm
 27 ²that makes designated classification placements² if the firm, or any
 28 person on the firm's behalf, issues or delivers a check to the
 29 ²**[commissioner]** director² that is not honored by the financial
 30 institution upon which it is drawn. The ²**[commissioner]** director²
 31 shall adopt rules for violation hearings and penalties for violations
 32 of P.L. , c. (C.) (pending before the Legislature as this
 33 bill). ²The director shall give the commissioner access to any
 34 information that the director receives pursuant to this section.²

35 ²**[At the time of registration with the commissioner each year, a**
 36 temporary help service firm shall provide the commissioner with a
 37 report containing the information identified in paragraph (9) of
 38 subsection a. of section 4 of P.L. , c. (C.) (pending before
 39 the Legislature as this bill), broken down by branch office, in the
 40 aggregate for all temporary laborers assigned within New Jersey in
 41 the prior year to be submitted on a form created by the
 42 commissioner.]²

43 b. It is a violation of P.L. , c. (C.) (pending before the
 44 Legislature as this bill) to operate a temporary help service firm
 45 ²that makes designated classification placements² without being

1 ²**[registered with]** certified by² the ²**[commissioner]** director² in
 2 accordance with subsection a. of this section. The ²**[Commissioner]**
 3 shall share a list of all registered temporary help service firms with
 4 the ²**[**Division of Consumer Affairs in the Department of Law and
 5 Public Safety²**],** and the division² shall create and maintain on its
 6 Internet website, accessible to the public:

7 (1) a list of all ²**[registered]** certified² temporary help service
 8 firms in the State ²that make designated classification placements²
 9 whose ²**[registration]** certification² is in good standing;

10 (2) a list of temporary help service firms in the State ²that make
 11 designated classification placements² whose ²**[registration]**
 12 certification² has been suspended, including the reason for the
 13 suspension, the date that the suspension was initiated, and the date,
 14 if known, that the suspension is to be lifted; and

15 (3) a list of temporary help service firms in the State ²that make
 16 designated classification placements² whose ²**[registration]**
 17 certification² has been revoked, including the reason for the
 18 revocation and the date that the ²**[registration]** certification² was
 19 revoked.

20 The ²**[commissioner]** director² shall assess a penalty against any
 21 temporary help service firm ²that makes designated classification
 22 placements and² that fails to ²**[register with the commissioner]**
 23 obtain a certification from the director² in accordance with P.L. ,
 24 c. (C.) (pending before the Legislature as this bill) or any
 25 rules adopted under P.L. , c. (C.) (pending before the
 26 Legislature as this bill) of ¹**[\$500]** \$5,000¹ for each violation. Each
 27 day during which a person operates as a temporary help service firm
 28 ²that makes designated classification placements² without being
 29 ²**[registered]** certified² as a temporary help service firm with the
 30 ²**[commissioner]** director pursuant to this section² shall be a
 31 separate and distinct violation of P.L. , c. (C.) (pending
 32 before the Legislature as this bill). That penalty shall be collected
 33 by the ²**[commissioner]** director² in a summary proceeding in
 34 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
 35 c.274 (C.2A:58-10 et seq.).

36 A temporary help service firm ²that makes designated
 37 classification placements² shall obtain a surety bond issued by a
 38 surety company admitted to do business in this State. The principal
 39 sum of the bond shall not be less than \$200,000. A copy of the bond
 40 shall be filed with the ²**[commissioner]** director².

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

1 Thirty days prior to the cancellation or termination of any surety
2 bond required by this section, the surety shall send written notice to
3 both the temporary help service firm and the ²[commissioner]
4 director² identifying the bond and the date of the cancellation or
5 termination.

6 A temporary help service firm ²that makes designated
7 classification placements² shall not conduct any business until it
8 obtains a new surety bond and files a copy of it with the
9 ²[commissioner] director².

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

- 13 (1) Wages;
- 14 (2) Hours of work;
- 15 (3) Working conditions;
- 16 (4) An expeditious process to resolve disputes concerning
17 nonpayment of wages;
- 18 (5) Documentation of its current workers' compensation
19 insurance policy in effect for the temporary laborers; and
- 20 (6) Compliance with all provisions of this section.

21 c. The principal executive officer of a temporary help service
22 firm ²that makes designated classification placements² shall certify
23 under oath at the time of ²[registration] certification² of the
24 temporary help service firm each year on a form created by the
25 ²[commissioner] director² that:

26 (1) the signing officer has reviewed the ²[registration]
27 certification² form of the temporary help service firm and
28 confirmed the information is true and accurate to the best of the
29 officer's knowledge;

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

35 (3) the signing officer has reviewed the temporary help service
36 firm's filing as required by subsection ²[b.]a.² of section ²[7]8² of
37 P.L. , c. (C.) (pending before the Legislature as this bill),
38 related to the placement of temporary laborers in permanent
39 positions with third party clients and has confirmed that those
40 practices comply with the requirements of section 7 of
41 P.L. , c. (C.) (pending before the Legislature as this bill)
42 ²and section 14 of P.L.1981, c.1 (C.56:8-1.1).² to the best of the
43 officer's knowledge;

44 (4) the signing officer has reviewed the temporary help service
45 firm's practices related to the transportation of temporary laborers
46 and has confirmed that those practices comply with the

- 1 requirements of section 5 of P.L. , c. (C.) (pending before
2 the Legislature as this bill) to the best of the officer's knowledge;
- 3 (5) the signing officer has reviewed and is responsible for the
4 surety bond posted by the temporary help service firm and its
5 renewals; and
- 6 (6) the signing officer:
- 7 (a) is responsible for establishing and maintaining internal
8 controls to comply with the recordkeeping requirements; and
- 9 (b) has evaluated the effectiveness of the internal controls.
- 10 d. An applicant is not eligible to ²**[register]** obtain or renew a
11 certification² to operate a temporary help service firm ²that makes
12 designated classification placements² under P.L. , c. (C.)
13 (pending before the Legislature as this bill) if the applicant or any
14 of its officers, directors, partners, or managers or any owner having
15 25 percent or greater beneficial interest:
- 16 (1) has been involved, as owner, officer, director, partner, or
17 manager, of a temporary help service firm the registration ²or
18 certification² of which has been revoked or suspended without
19 being reinstated within the five years immediately preceding the
20 filing of the application; or (2) is under the age of 18.
- 21 e. Every temporary help service firm ²that makes designated
22 classification placements² shall post and keep posted at each
23 location, in a position easily accessible to all employees, notices as
24 supplied and required by the commissioner containing a copy or
25 summary of the provisions of P.L. , c. (C.) (pending before
26 the Legislature as this bill), and a notice which informs the public
27 of a toll-free telephone number operated by the commissioner for
28 temporary laborers ²in designated classification placements² and the
29 public to file wage dispute complaints and other alleged violations
30 by temporary help service firms ²that make designated
31 classification placements². The notices shall be in English or any
32 other language generally understood in the locale of the temporary
33 help service firm.
- 34 f. No temporary help service firm shall be permitted to
35 ²**[register]** obtain or renew a certification² to ²**[operate]** make
36 designated classification placements² in New Jersey until it has
37 complied with the requirements of this section.
- 38 ²g. Notwithstanding any law, rule, or regulation to the contrary,
39 any person or entity that meets the definition of temporary help
40 service firm and that makes designated classification placements as
41 those terms are defined in section 2 of P.L. , c. (C.)
42 (pending before the Legislature as this bill), shall obtain a
43 certification pursuant to this section and otherwise comply with the
44 provisions of P.L. , c. (C.) (pending before the Legislature
45 as this bill), regardless of whether the person or entity is licensed or
46 registered as one or more of the entities identified in section 1 of
47 P.L.1989, c.331 (C.34:8-43).

1 h. The requirements of this section shall be in addition to those
 2 imposed by any other applicable law, rule, or regulation, including
 3 section 14 of P.L.1981, c.1 (C.56:8-1.1) and any rules or regulations
 4 promulgated thereunder. A temporary help service firm shall not
 5 receive a certification under this section unless it is either registered
 6 as a temporary help service firm pursuant to section 14 of P.L.1981,
 7 c.1 (C.56:8-1.1) and any rules or regulations promulgated
 8 thereunder, or licensed or registered as an entity authorized by any
 9 other law, rule, or regulation to provide temporary help services.²

10
 11 9. (New section) ¹**[a.]**¹ It is a violation of P.L. ,
 12 c. (C.) (pending before the Legislature as this bill) for a third
 13 party client to enter into a contract ²with a temporary help service
 14 firm not certified under section 8 of P.L. , c. (C.) (pending
 15 before the Legislature as this bill),² for the ²**[employment]**
 16 **assignment**² of a temporary laborer ²**[with a temporary help service**
 17 **firm not registered under section 8 of P.L. , c. (C.)**
 18 **(pending before the Legislature as this bill)]** to a designated
 19 **classification placement**². A third party client shall verify a
 20 temporary help service firm's status with the ²**[commissioner]**
 21 **director**² before entering into a contract with the temporary help
 22 service firm ²for the assignment of a temporary laborer to a
 23 **designated classification placement**², and on March 1 and
 24 September 1 of each year.

25 A temporary help service firm shall provide each of its third
 26 party clients with proof of valid ²**[registration]** **certification**² issued
 27 by the ²**[commissioner]** **director**² at the time of entering into a
 28 contract ²for the assignment of a temporary laborer to a designated
 29 **classification placement**². A temporary help service firm shall be
 30 required to notify, both by telephone and in writing, each temporary
 31 laborer it ²**[employs]** **assigns to a designated classification**
 32 **placement**² and each third party client with whom it has a contract
 33 ²for the assignment of a temporary laborer to a designated
 34 **classification placement**² within 24 hours of any denial, suspension,
 35 ²**[or]** ²revocation², or non-renewal² of its ²**[registration]**
 36 **certification**² by the ²**[commissioner]** **director**². All contracts
 37 between any temporary help service firm and any third party client
 38 ²for the assignment of a temporary laborer to a designated
 39 **classification placement**² shall be considered null and void from the
 40 date any denial, suspension, ²**[or]**², revocation², or non-renewal² of
 41 ²**[registration]** **certification**² becomes effective and until such time
 42 as the temporary help service firm becomes ²**[registered]** **certified**²
 43 and considered in good standing by the ²**[commissioner]** **director**²
 44 as provided in section 8 of P.L. , c. (C.) (pending before
 45 the Legislature as this bill).

1 Upon request, the ²**[commissioner]** director² shall provide to a
 2 third party client a list of entities ²**[registered]** certified² as
 3 temporary help service firms ²pursuant to section 8 of P.L. ,
 4 c. (C.) (pending before the Legislature as this bill)². ²**[The**
 5 commissioner shall share a list of all registered temporary help
 6 service firms with the Division of Consumer Affairs, and the
 7 division shall provide on its Internet website a list of entities
 8 registered as temporary help service firms. **]² A third party client
 9 may rely on information provided by the ²**[commissioner]** director²
 10 or maintained on the ²**[division's]** Division of Consumer Affairs²
 11 website pursuant to section 8 of P.L. , c. (C.) (pending
 12 before the Legislature as this bill), and shall be held harmless if
 13 such information maintained or provided by the ²**[commissioner]**
 14 director² or the division was inaccurate. Any third party client that
 15 violates this section shall be subject to a civil penalty not to exceed
 16 \$500. Each day during which a third party client contracts with a
 17 person operating as a temporary help service firm but not
 18 ²**[registered]** certified² as a temporary help service firm under
 19 section 8 of P.L. , c. (C.) (pending before the Legislature
 20 as this bill), shall constitute a separate and distinct offense.**

21 ¹**[b.** If a third party client leases or contracts with a temporary
 22 help service firm for the services of a temporary laborer, the third
 23 party client shall be, with the temporary help service firm, jointly
 24 and severally responsible for:

25 (1) the payment of wages under the “New Jersey State Wage and
 26 Hour Law,” P.L.1966, c.113 (C.34:11-56a et seq.), P.L.1965, c.173
 27 (C.34:11-4.1 et seq.), R.S.34:11-57, and P.L.1952, c.9 (C.34:11-
 28 56.1 et seq.); and

29 (2) any violation of P.L. , c. (C.) (pending before the
 30 Legislature as this bill). **]¹**

31
 32 10. (New section) a. It is a violation of P.L...., c....(C.)
 33 (pending before the Legislature as this bill) for a temporary help
 34 service firm or third party client, or any agent of a temporary help
 35 service firm or third party client, to retaliate through discharge or in
 36 any other manner against any temporary laborer ²in a designated
 37 classification placement² for exercising any rights granted under
 38 P.L. , c. (C.) (pending before the Legislature as this bill). The
 39 termination or disciplinary action by a temporary help service firm
 40 against a temporary laborer ²in a designated classification
 41 placement² within 90 days of the person's exercise of rights
 42 protected under P.L. , c. (C.) (pending before the Legislature
 43 as this bill) shall raise a rebuttable presumption of having done so
 44 in retaliation for the exercise of those rights. Such retaliation shall
 45 subject a temporary help service firm or third party client, or both,

1 to civil penalties pursuant to P.L. , c. (C.) (pending before
2 the Legislature as this bill) or a private cause of action.

3 b. It is a violation of P.L. , c. (C.) (pending before the
4 Legislature as this bill) for a temporary help service firm or third
5 party client to retaliate against a temporary laborer ²in a designated
6 classification placement² for:

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

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

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

18 c. When the commissioner finds that a temporary help service
19 firm or third party client has violated this section, the commissioner
20 is authorized to assess and collect administrative penalties, up to a
21 maximum of \$250 for a first violation and up to a maximum of
22 \$500 for each subsequent violation, specified in a schedule of
23 penalties to be promulgated as a rule or regulation by the
24 commissioner in accordance with the "Administrative Procedure
25 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). When determining the
26 amount of the penalty imposed because of a violation, the
27 commissioner shall consider factors which include the history of
28 previous violations by the employer, the seriousness of the
29 violation, the good faith of the employer and the size of the
30 employer's business. No administrative penalty shall be levied
31 pursuant to this section unless the commissioner provides the
32 alleged violator with notification of the violation and of the amount
33 of the penalty by certified mail and an opportunity to request a
34 hearing before the commissioner or his designee within 15 days
35 following the receipt of the notice. If a hearing is requested, the
36 commissioner shall issue a final order upon such hearing and a
37 finding that a violation has occurred. If no hearing is requested, the
38 notice shall become a final order upon expiration of the 15-day
39 period. Payment of the penalty is due when a final order is issued
40 or when the notice becomes a final order. Any penalty imposed
41 pursuant to this section may be recovered with costs in a summary
42 proceeding commenced by the commissioner pursuant to "the
43 penalty enforcement law" (N.J.S. 2A:58-1 et seq.). Any sum
44 collected as a fine or penalty pursuant to this section shall be
45 applied toward enforcement and administration costs of the
46 Department of Labor and Workforce Development.

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

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

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

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

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

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

39 (3) attorney's fees and costs.

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

46
47 12. (New section) a. The ²**[commissioner]** director² shall have
48 the authority to deny, ²suspend,² revoke, or refuse to renew any

1 ²**[registration]** certification² issued under section 8 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill).

3 b. The ²**[commissioner]** director² shall notify a temporary help
4 service firm in writing by mail of the denial, ²suspension
5 of,² revocation of, or refusal to renew the ²**[registration]**
6 certification² and the reason for the denial, ²suspension of,²
7 revocation, or refusal. The ²**[commissioner shall also notify the]**²
8 Division of Consumer Affairs ²**[of]** shall update the list of
9 temporary help service firms certified to make designated
10 classification placements on its website to reflect² any denial,
11 ²suspension,² revocation or refusal to renew the ²**[registration]**
12 certification² of a temporary help service firm²**],** and the division
13 shall update its list of registered temporary help service firms on the
14 Division of Consumer Affairs' website to reflect these changes².
15 The ²**[commissioner]** director² may deny, ²suspend,² revoke, or
16 refuse to renew any ²**[registration]** certification² issued under
17 section 8 of P.L. , c. (C.) (pending before the Legislature
18 as this bill) on the following grounds:

19 (1) The temporary help service firm is in default of payment of
20 the ²**[registration]** certification² fee required under section 8 of
21 P.L. , c. (C.) (pending before the Legislature as this bill),
22 fails to obtain ²or maintain² or terminates the surety bond required
23 under section 8 of P.L. , c. (C.) (pending before the
24 Legislature as this bill), or otherwise fails to comply with the
25 requirements under section 8 of P.L. , c. (C.) (pending
26 before the Legislature as this bill);

27 (2) The ²**[registration]** certification² required under section 8 of
28 P.L. , c. (C.) (pending before the Legislature as this bill)
29 was procured by fraud or false representation of fact;

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

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

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

40 (4) The temporary help service firm has failed to comply with
41 the terms of an administrative penalty or final order, within 30 days
42 of issuance of that penalty or order, issued by the commissioner ²or
43 the director² pursuant to P.L. , c. (C.) (pending before the
44 Legislature as this bill) or ²issued by the commissioner pursuant to²
45 P.L.1966, c.113 (C.34:11-56a et seq.) for which all appeal rights
46 have been exhausted; ²**[or]**²

1 (5) The temporary help service firm has been determined
 2 through a separate enforcement process to be operating in violation
 3 of any law²; or

4 (6) The temporary help service firm has committed one or more
 5 violations of P.L. , c. (C.) (pending before the Legislature as
 6 this bill), that have jeopardized the public health, safety, or welfare,
 7 or that call into question the firm's ability to operate as a temporary
 8 help service firm in compliance with P.L. , c. (C.) (pending
 9 before the Legislature as this bill).

10 c. If a temporary help service firm's application for initial
 11 registration or renewal is denied pursuant to section 14 of P.L.1981,
 12 c.1 (C.56:8-1.1) or any rules or regulations promulgated thereunder,
 13 or if a temporary help service firm's registration is suspended,
 14 revoked, or not renewed for any reason, the director shall take the
 15 same action against the temporary help service firm with respect to
 16 an application or a certification under section 8 of P.L. ,
 17 c. (C.) (pending before the Legislature as this bill). If a
 18 person or entity that holds or seeks a license or registration that
 19 authorizes the person or entity to provide temporary help services
 20 pursuant to any other law, rule, or regulation is denied such license
 21 or registration, or if such license or registration is suspended,
 22 revoked, or not renewed for any reason, the director shall take the
 23 same action against the temporary help service firm with respect to
 24 an application or a certification under section 8 of P.L. ,
 25 c. (C.) (pending before the Legislature as this bill).

26 d. The director shall not deny, revoke, or refuse to renew a
 27 certification under this section except upon reasonable notice to,
 28 and opportunity to be heard by, the applicant or certification-holder.
 29 The director may, if the director finds it to be in the public interest,
 30 suspend a certification for any period of time that the director
 31 determines to be proper, or assess a penalty in lieu of suspension, or
 32 both, and may issue a new certification, notwithstanding the
 33 revocation of a prior certification, provided the director finds the
 34 applicant to have become entitled to a new certification².

35
 36 13. Section 1 of P.L.1989, c.331 (C.34:8-43) is amended to read
 37 as follows:

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

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

41 (1) The terms and conditions of employment;

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

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

45 "A career consulting or outplacement organization" means any
 46 person, required to be registered under section 24 of **【this act】**
 47 P.L.1989, c.331 (C.34:8-65), providing or rendering services, with
 48 or without related products, in connection with advice, instruction,

1 analysis, recommendation or assistance concerning past, present, or
2 future employment or compensation for an individual's time, labor
3 or effort.

4 "Agent" means any individual who performs any function or
5 activity for or on behalf of any person, the purpose of which is to
6 provide services or products to individuals seeking employment,
7 career guidance or counseling, or employment related services or
8 products.

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

11 "Attorney General" means the Attorney General of this State or a
12 designee.

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

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

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

30 "Career counseling service" means any business that, through its
31 agents or otherwise, procures or represents itself as procuring
32 employment or employment assistance or advertises in any manner
33 the following services for a fee: career counseling; vocational
34 guidance; aptitude, achievement or vocational testing; executive
35 consulting; personnel consulting; career management, evaluation, or
36 planning; the development of resumes and other promotional
37 materials relating to the preparation for employment; or referral
38 services relating to employment or employment qualifications. A
39 career counseling service shall be licensed as an employment
40 agency pursuant to the provisions of **[this act]** P.L.1989, c.331
41 (C.34:8-43 et al.). A career counseling service shall not include
42 career consulting or outplacement organizations required to be
43 registered under section 24 of **[this act]** P.L.1989, c.331 (C.34:8-
44 65).

45 "Chief" means the Chief of the Bureau of Employment and
46 Personnel Services.

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

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

5 (2) Is compensated for services solely by payments from the
6 employer and is not, in any instance, compensated, directly or
7 indirectly, by an individual who is identified, appraised, referred or
8 recommended.

9 "Director" means the Director of the Division of Consumer
10 Affairs in the Department of Law and Public Safety, or his
11 designee.

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

15 "Employment agency" means any person who, for a fee, charge
16 or commission:

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

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

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

27 (4) Acts as a placement firm, career counseling service, or
28 resume service; or

29 (5) Acts as a nurses' registry.

30 ²**[“Employment agency” does not mean “temporary help service**
31 **firm” as that term is defined and used in sections 1 through 12 of**
32 **P.L. , c. (C.) (pending before the Legislature as this bill).]**²

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

39 "Fee, charge or commission" means any payment of money, or
40 promise to pay money to a person in consideration for performance
41 of any service for which licensure or registration is required by
42 **[this act]** P.L.1989, c.331 (C.34:8-43 et al.), or the excess of money
43 received by a person furnishing employment or job seekers over
44 what he has paid for transportation, transfer of baggage or lodging
45 for a job seeker. "Fee, charge or commission" shall also include the
46 difference between the amount of money received by any person
47 who either furnishes job seekers or performers for any

1 entertainment, exhibition or performance, or who furnishes baby
2 sitters for any occasion, and the amount paid by the person to the
3 job seekers, performers or baby sitters.

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

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

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

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

25 "License" means a license issued by the director to any person
26 to:

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

30 "Performing artist" means a model, musical, theatrical or other
31 entertainment performer employed or engaged individually or in a
32 group.

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

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

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

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

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

8 "Temporary help service firm" means any person who operates a
9 business which consists of employing individuals directly or
10 indirectly for the purpose of assigning the employed individuals to
11 assist the firm's customers in the handling of the customers'
12 temporary, excess or special work loads, and who, in addition to the
13 payment of wages or salaries to the employed individuals, pays
14 federal social security taxes and State and federal unemployment
15 insurance; carries worker's compensation insurance as required by
16 State law; and sustains responsibility for the actions of the
17 employed individuals while they render services to the firm's
18 customers. A temporary help service firm is required to comply
19 with the provisions of P.L.1960, c.39 (C.56:8-1 et seq.).

20 (cf: P.L.1989, c.331, s.1)

21
22 ²14. The rights and obligations established by P.L. _____,
23 c. (C. _____) (pending before the Legislature as this bill) shall be in
24 addition to those set forth in P.L.1960, c.39 (C.56:8-1 et seq.) and
25 any rules or regulations promulgated thereunder; P.L.1989, c.331
26 (C.34:8-43 et seq.) and any rules or regulations promulgated
27 thereunder; and any other applicable law, rule, or regulation.²

28
29 ²15. There is appropriated from the General Fund to the
30 Department of Labor and Workforce Development the sum of
31 \$1,000,000 for the purpose of funding the Department's activities
32 under P.L. _____, c. (C. _____) (pending before the Legislature as this
33 bill).²

34
35 ²[14.]16.² This act shall take effect ¹[immediately] on the
36 ²[90th] 180th² day after the date of enactment^{1 2}, except that
37 sections 3 and 10 shall take effect on the 90th day after the date of
38 enactment, provided however that the commissioner and director
39 may take such anticipatory action as deemed necessary prior to the
40 effective date².

41
42
43
44
45 _____
Provides certain protections and rights for temporary laborers.