

SENATE, No. 3182

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED OCTOBER 6, 2022

Sponsored by:

Senator HOLLY T. SCHEPISI

District 39 (Bergen and Passaic)

SYNOPSIS

Provides certain protections for employees of temporary help service firms.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning temporary help service firms and
2 supplementing Title 34 of the Revised Statutes

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. As used in this act:

8 "Commissioner" means the Commissioner of Labor and
9 Workforce Development."

10 "Department" means the Department of Labor and Workforce
11 Development.

12 "Employee" means a person employed directly by a temporary
13 help service firm to provide temporary or part-time employment
14 services to a worksite employer or a person for whom a temporary
15 help service firm procures or arranges temporary or part-time
16 employment with a worksite employer. "Employee" includes
17 persons under 18 years of age engaged in domestic service in the
18 home of the employer or persons engaged in agricultural service.

19 "Employer" means an individual, company, corporation or
20 partnership acting in the interest of an employer directly or
21 indirectly.

22 "Employment" means a trade, occupation or branch of industry,
23 any particular method or process used therein, and the service of
24 any particular employer by an employee as defined in this section,
25 which shall include, but not be limited to, private domestic service
26 by persons under 18 years of age or service as a farm laborer,
27 including all practices connected with agriculture, the tillage of the
28 soil, the preparation and marketing of crops and the construction
29 and maintenance of farm property and equipment, customarily
30 performed by a farmer on a farm.

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

43 "Worksite employer" means an individual, company, corporation
44 or partnership with which a temporary help service firm contracts or
45 otherwise agrees to furnish persons for temporary or part-time
46 employment.

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1 2. a. A temporary help service firm shall provide to each
2 employee for new assignment or employment notice of the
3 following:

4 (1) the name, address and telephone number of:

5 (a) the temporary help service firm, or the contact information of
6 the temporary help service firm agent facilitating the placement;

7 (b) its workers compensation carrier;

8 (c) the worksite employer; and

9 (d) the department;

10 (2) a description of the position and whether it shall require any
11 special clothing, equipment, training or licenses and any costs
12 charged to the employee for supplies or training;

13 (3) the designated pay day, the hourly rate of pay and whether
14 overtime pay may occur;

15 (4) the daily starting time and anticipated end time and, when
16 known, the expected duration of employment;

17 (5) whether any meals shall be provided by the temporary help
18 service firm or worksite employer and the charge, if any, to the
19 employee; and

20 (6) details of the means of transportation to the worksite and any
21 fees charged to the employee by the temporary help service firm or
22 worksite employer for any transportation services.

23 b. Nothing in this section shall be construed to prohibit a
24 temporary help service firm from directing an employee to
25 employment by telephone; provided, that the telephone message
26 shall disclose the information in this subsection. If a temporary
27 help service firm directs an employee to employment by telephone,
28 the information concerning the employee's assignment shall be
29 confirmed in writing and sent to the employee, in a method
30 designated by the employee, before the end of the first pay period;
31 and any change to the initial terms of employment shall be
32 immediately provided to the employee and the employee shall
33 acknowledge the change in terms.

34 c. This section shall not apply to a professional employee, as
35 defined in 29 U.S.C. s.152; or to employees who are secretaries or
36 administrative assistants whose main or primary duties are
37 described by the Bureau of Labor Statistics of the United States
38 Department of Labor as involving one or more of the following:
39 drafting or revising correspondence, scheduling appointments,
40 creating, organizing, and maintaining paper and electronic files, and
41 providing information to callers or visitors.

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43 3. a. No temporary help service firm or worksite employer shall
44 charge or accept a fee from an employee for:

45 (1) the cost of registration of the temporary help service firm or
46 the cost of procuring employment;

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1 (2) any good or service unless under the terms of a written
2 contract with an employee, which clearly states in a language that
3 the employee understands, that the purchase is voluntary and which
4 provides that the temporary help service firm will not gain a profit
5 from any cost or fee charged to the employee;

6 (3) the provision of any of the following that exceed the actual
7 cost per applicant or employee: bank card, debit card, payroll card,
8 voucher, draft, money order or similar form of payment or wages,
9 or any drug screen;

10 (4) a criminal record offender information request;

11 (5) transportation, except as provided in section 4 of this act; or

12 (6) any good or service the payment of which would cause the
13 employee to earn less than the applicable minimum wage.

14 b. No temporary help service firm or worksite employer or a
15 person acting directly or indirectly in either's interest shall deduct
16 any costs or fees from the wages of an employee without the
17 express written authorization of the employee. A temporary help
18 service firm or worksite employer shall furnish to the employee a
19 copy of the signed authorization in a language that the employee
20 can understand.

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22 4. a. If a temporary help service firm or worksite employer or a
23 person acting directly or indirectly in either's interest offers
24 transportation services that temporary or part-time workers may
25 utilize, the temporary help service firm or worksite employer or a
26 person acting directly or indirectly in either's interest is prohibited
27 from charging more than the actual cost of each employee's
28 transportation or 10 percent of the employee's daily wages,
29 whichever is less. If a temporary help service firm or worksite
30 employer or a person acting directly or indirectly in either's interest
31 requires the use of transportation services, there shall be no charge
32 or cost to the job applicant or employee. Any temporary help
33 service firm that sends a job applicant or employee to a worksite
34 employer to work where, in fact, no work exists, shall fully refund
35 any reasonable costs of transportation expended by the job applicant
36 or employee to the job applicant or employee within seven calendar
37 days of the date the job applicant or employee was sent to the
38 worksite.

39 b. This section shall not apply to a temporary help service firm
40 that arranges for transportation for employees through an
41 independent van pool operator that operates its vehicles pursuant to
42 a certificate of public convenience and necessity issued by the Chief
43 Administrator of the New Jersey Motor Vehicle Commission
44 authorizing the operation under R.S.48:4-3. Under this limited
45 exception, the temporary help service firm and employee may
46 utilize a payroll deduction to provide the pre-tax transit benefit

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1 under subsection a. of section 1 of P.L.1993, c108 (C.54A:6-23)
2 only when the employee has voluntarily authorized the deduction in
3 writing pursuant to N.J.A.C.12:55-2.2.

4
5 5. a. A temporary help service firm shall not:

6 (1) knowingly issue, distribute, circulate or provide any false,
7 fraudulent or misleading information, representation, promise,
8 notice or advertisement to any applicant or employee;

9 (2) use any name that has not been registered with the
10 department in the advertisement of its services;

11 (3) assign or place an employee in employment by force or fraud,
12 for illegal purposes, or where the employment is in violation of
13 State or federal laws governing minimum wage, child labor,
14 compulsory school attendance, required licensure or certification, or
15 at any location that is on strike or lockout without notifying the
16 employee of this fact; or

17 (4) refuse to return on demand any personal property belonging
18 to an employee or any fee or cost that is charged or accepted by a
19 temporary help service firm or worksite employer in excess of the
20 amounts allowable under this section.

21 b. The commissioner shall promulgate rules and regulations
22 and all inspections and investigations necessary for the enforcement
23 of this section.

24 c. Any penalty imposed pursuant to this section may be
25 recovered with costs in a summary proceeding commenced by the
26 commissioner pursuant to the "Penalty Enforcement Law of 1999,"
27 P.L.1999, c.274 (C.2A:58-10 et seq.). Any sum collected as a fine
28 or penalty pursuant to this section shall be applied toward
29 enforcement and administration costs of the Division of Workplace
30 Standards in the Department of Labor and Workforce Development.

31
32 6. The commissioner may adopt regulations pursuant to the
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.) to carry out the purposes of this act.

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36 7. This act shall take effect on the first day of the third month
37 next following enactment.

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STATEMENT

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42 This bill provides certain protections for employees of temporary
43 help service firms. This bill requires temporary help service firms,
44 or "temp agencies," to provide notice of certain terms and working
45 conditions to their employees. A temporary help service firm is

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1 permitted to provide the required notice over the phone and send a
2 written confirmation of the notice to the employee.

3 Under the bill, a temporary help service firm or worksite
4 employer is prohibited from charging or accepting a fee from an
5 employee for:

6 (1) the cost of registration of the temporary help service firm or
7 the cost of procuring employment;

8 (2) any good or service unless under the terms of a written
9 contract with an employee, which clearly states in a language that
10 the employee understands, that the purchase is voluntary and which
11 provides that the temporary help service firm will not gain a profit
12 from any cost or fee charged to the employee;

13 (3) the provision of any of the following that exceed the actual
14 cost per applicant or employee: bank card, debit card, payroll card,
15 voucher, draft, money order or similar form of payment or wages,
16 or any drug screen;

17 (4) a criminal record offender information request;

18 (5) transportation, except as otherwise provided in the bill; or

19 (6) any good or service the payment of which would cause the
20 employee to earn less than the applicable minimum wage.

21 The bill prohibits a temporary help service from:

22 (1) knowingly issuing, distributing, circulating or providing any
23 false, fraudulent or misleading information, representation, promise,
24 notice or advertisement to any applicant or employee;

25 (2) using any name that has not been registered with the
26 department in the advertisement of its services;

27 (3) assigning or placing an employee in employment by force or
28 fraud, for illegal purposes, or where the employment is in violation
29 of State or federal laws governing minimum wage, child labor,
30 compulsory school attendance, required licensure or certification, or
31 at any location that is on strike or lockout without notifying the
32 employee of this fact; or

33 (4) refusing to return on demand any personal property
34 belonging to an employee or any fee or cost that is charged or
35 accepted by a temporary help service firm or worksite employer in
36 excess of the amounts allowable under the bill.