

TEMPORARY WORKERS BILL OF RIGHTS ACT

Summary: The Temporary Workers Bill of Rights Act requires that temporary services companies provide appropriate information to employees about each temporary job, establishes minimum standards for compensation and deductions from pay, and creates realistic enforcement mechanisms for workers to protect their rights.

SECTION 1. SHORT TITLE

This Act shall be called the “Temporary Workers Bill of Rights Act.”

SECTION 2. TEMPORARY WORKERS BILL OF RIGHTS

After section XXXX, the following new section XXXX shall be inserted:

(A) DEFINITIONS—In this section:

1. “Temporary services company” means any person or firm that regularly procures temporary workers for other persons or firms or that finds temporary work for other persons.
2. “Temporary worker” means any worker who is not a permanent employee.
3. “Client company” or “client” means any person, including any natural person, sole proprietorship, partnership, limited partnership, corporation, limited liability company, or joint venture, for which a temporary services company procures or provides temporary workers.

(B) NOTICES AND DISCLOSURES

1. A temporary services company shall post in its office where temporary workers are required to appear for assignment to work, or for payment of compensation, or if it does not have such an office, provide to each person seeking work, a list of all client companies at which work is available through the temporary services company, which shall include the following for each job opportunity posted:
 - a. The name and address of the client and the exact address of the work site, directions to the worksite, and a telephone number at the work site where a temporary worker can be reached for emergency purposes.
 - b. The type of job opportunity for temporary workers.
 - c. A detailed description of the work to be performed by the temporary worker, including any requirements for special attire, accessories, tools or safety equipment.
 - d. The method of computing compensation and the amount of compensation and employee benefits to be paid for the work, and the overtime rate of pay.
 - e. The hourly rate and any other fees or charges paid or payable to the temporary services agency by or on behalf of the client with respect to the work to be performed.
 - f. If transportation is to be provided to the work site, either by the temporary services company or its client, the cost of the transportation, if any, and whether the work site is accessible by public or personal transportation and the approximate commute time to and from the work site from the temporary services company office.

g. The duration of the assignment, including the time of day the work will begin and end, the schedule of days on which the work will be performed, and whether there is any possibility of overtime work, or of extension of the work past the anticipated end date.

h. A complete and accurate description of work site hazards to which the temporary worker may become exposed, including any hazardous materials which the worker may be required to use or handle, and any physical conditions or work practices which do not comply with applicable occupational health and safety standards.

i. Whether a meal is provided, either by the temporary services company or its client, and the cost of the meal, if any.

j. Whether the temporary worker will be charged for using special attire, accessories, tools or safety equipment.

2. Before any temporary worker is given any new job assignment, regardless of whether the assignment is with the same client company, a temporary services company shall provide the temporary worker with a new notice, as described above, for the new assignment.

3. The notices required to be posted under this section shall be written in English and any other languages generally used in the locale or locales of the temporary services company or its clients. Copies of notices required by this section shall be kept on file for a period of one year by the temporary services companies and shall be made available for inspection by any affected temporary workers, who shall be given copies of such notices, without charge, within 10 days of their request.

(C) COMPENSATION—A temporary services company shall:

1. Compensate temporary workers for work performed, in the form of cash, or commonly accepted negotiable instruments that are payable in cash, on demand at a financial institution, and without discount regardless of the form or manner of payment.

2. Pay equal compensation and employee benefits to those temporary workers who are performing substantially equivalent work as employees of the client company where they work. This section shall not apply to a temporary worker who earns more pay than substantially equivalent client company employees, unless such temporary worker has replaced a client company employee who is on strike, or who has been locked out by the client company subject to a labor dispute.

[Alternate 2.] Pay equal compensation and employee benefits to those temporary workers who are performing substantially equivalent work as employees of the client company where they work and who have been employed by the client company for a total of 90 days or more, whether or not continuously. This section shall not apply to a temporary worker who earns more pay than substantially equivalent client company employees, unless such temporary worker has replaced a client company employee who is on strike, or who has been locked out by the client company subject to a labor dispute.

3. Subject to subsection (2), compensate temporary workers at or above the federal or state minimum wage, whichever is higher. In no event shall any deductions, other than those permitted by federal or state law, bring a temporary worker's pay below minimum wage for the hours worked.

4. Compensate each temporary worker using their own motor vehicle for transportation to a jobsite for the fair market value of such use, including the value of transporting other workers to the jobsite in the vehicle.

5. At the time of each payment of wages, furnish each temporary worker with a written, itemized statement showing in detail each deduction made from such wages, and a written notification, which may be included on the worker's statement of earnings and deductions, specifying the hourly rate and any other fees or charges paid or payable to the temporary employment agency by or on behalf of the recipient of the worker's services, with respect to the hours compensated by that wage payment.

6. Provide each temporary worker with an annual earnings summary within a reasonable period of time after the end of the preceding calendar year, but no later than February 1.

(D) PROHIBITED CHARGES AND DEDUCTIONS—No temporary services company shall charge a temporary worker:

1. For safety equipment, clothing, tools, accessories or any other items required by the nature of the work, either by law, custom, or as a requirement of the client company.

a. This subsection shall not preclude the temporary services company from charging the temporary worker the market value of items temporarily provided to the worker by the temporary services company, in the event that the worker willfully fails to return such items to the company, but no charge may be made for items damaged through ordinary use or lost through no fault of the temporary worker.

b. For items other than those referenced in this subsection, which the temporary services company makes available for purchase, the day laborer shall be charged no more than the actual cost of the item to the labor pool, or market value, whichever is less.

2. More than a reasonable amount to transport a worker to or from the designated worksite, but in no event shall the amount exceed the prevailing rate for public transportation in the geographic area.

3. For directly or indirectly cashing a worker's paycheck.

4. More than the actual cost of providing lunch, if lunch is provided at the worksite by the temporary services company, but in no case shall the purchase of lunch be a condition of employment.

(E) PROTECTIONS FOR TEMPORARY WORKERS

1. A temporary services company that operates an office where temporary workers are required to appear for assignment to work or for payment of compensation shall provide

facilities for temp workers, including restroom facilities, drinking water, and sufficient seating.

2. A temporary services company shall insure any motor vehicle it owns or operates and uses to transport temporary workers.

3. No temporary services company shall restrict the right of a temporary worker to accept a permanent position with a client company to whom the worker was referred for temporary work, or to restrict the right of such a client to offer such employment to a temporary worker of the temporary services company. However, nothing shall restrict the temporary services company from receiving a reasonable placement fee from the client.

4. A temporary services company's workers' compensation insurance premiums shall be determined and paid based on the experience rating of the client company for which the temporary worker performs services, provided the client company has sufficient workers' compensation premium volume to be experience rated, otherwise the premiums shall be the rate approved for an employer that cannot be experience rated.

5. No temporary services company shall make or give, or cause to be made or given, any false, misleading, or deceptive advertisements, information, or representations concerning the services, compensation, benefits or work opportunities that the company will provide to temporary workers.

6. All advertisements of a temporary services company shall contain the correct name of the temporary services company and one of the following:

a. The street address of the company's place of business.

b. The correct telephone number of the company at its place of business.

7. A temporary services company or a client company shall not discharge, reduce the compensation of, or otherwise discriminate against any employee for making a complaint of a violation of this section, participating in any of its proceedings under this section, using any civil remedies to enforce his or her rights, or otherwise asserting his or her rights under this section.

(F) ENFORCEMENT

1. Any person who violates any provision of this section is guilty of a misdemeanor. The Attorney General, any district attorney, or any city attorney may prosecute misdemeanor actions.

2. Actions for violation of this section, including, but not limited to, equity proceedings to restrain and enjoin such a violation, may be instituted by the Attorney General, any district attorney, or any city attorney. This section shall not be deemed to prohibit the enforcement by any person of any right provided by this or any other law.

3. Any person who is injured by any violation of this section may bring an action for the recovery of damages, an equity proceeding to restrain and enjoin those violations, or both. The amount awarded may be up to three times the damages actually incurred. If the plaintiff prevails, the plaintiff shall be awarded a reasonable attorney's fee and costs. If the court determines that the breach or violation was willful, by clear and

convincing evidence, the court, in its discretion, may award punitive damages in addition to the amounts set forth above.

4. The provisions of this section are not exclusive, and do not relieve the parties subject to this section from the duty to comply with all other applicable laws.

5. The remedies provided in this section are not exclusive, and shall be in addition to any other remedies or procedures provided in any other law.

6. Any waiver by a temporary worker of the provisions of this section shall be deemed contrary to public policy and shall be void and unenforceable. Any attempt by a temporary services company or its client company to have a temporary worker waive rights given by this section shall constitute a violation of this section.

SECTION 3. SEVERABILITY

If any section or any portion of a section of this Act is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining sections and all portions not declared illegal, invalid or inoperative shall remain in full force or effect, and no such determination shall invalidate the remaining sections or portions of the sections of this Act.

SECTION 4. EFFECTIVE DATE

This Act shall take effect on July 1, 20XX.