

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1594

S.P. 507

In Senate, March 13, 2001

An Act to Provide Disclosure and Financial Protections to Temporary Workers.

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator TREAT of Kennebec.
Cosponsored by Representative DUPLESSIE of Westbrook and
Senators: BROMLEY of Cumberland, EDMONDS of Cumberland, President MICHAUD of
Penobscot, RAND of Cumberland, Representatives: MATTHEWS of Winslow, MICHAUD
of Fort Kent, STANLEY of Medway.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 26 MRSA c. 7, sub-c. X is enacted to read:**

6 **SUBCHAPTER X**

8 **TEMPORARY WORKERS**

10 **§872. Definitions**

12 As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

14 1. Client company or client. "Client company" or "client" means a person, including a natural person, corporation, partnership, sole proprietorship, limited partnership, limited liability company or joint venture, for which a temporary services company procures or provides temporary workers.

20 2. Temporary services company. "Temporary services company" means a person, including a natural person, corporation, partnership, sole proprietorship, limited partnership, limited liability company or joint venture that regularly undertakes, with or without compensation:

26 A. To procure temporary workers for other persons; or

28 B. To procure temporary work for persons.

30 3. Temporary worker. "Temporary worker" means a worker whose job placement is not intended to be permanent.

32 **§873. Notice and disclosure**

34 1. Notice. A temporary services company shall provide to a person seeking employment through that company a notice listing all client companies at which work is available through the temporary services company. The notice must also include for each available job opportunity:

40 A. The name and address of the client, the exact address of the work site, directions to the work site and the telephone number at which a temporary worker working for the client can be reached in the event of an emergency;

46 B. The type of job opportunity available for a temporary worker;

48

2 C. A detailed description of the work to be performed by
3 the temporary worker and any requirement for special attire,
4 accessories, tools or safety equipment;

5
6 D. The method of computing compensation, the amount of
7 compensation and benefits to be provided for the work and
8 the rate of pay for overtime work;

9
10 E. The hourly rate and any fees or charges paid or payable
11 to the temporary services company by or on behalf of the
12 client with respect to the work to be performed;

13
14 F. If transportation is to be provided to the work site,
15 whether by the temporary services company or its client, the
16 cost of the transportation, if any, whether the work site is
17 accessible by public or personal transportation and the
18 approximate commute time to and from the pick up site to the
19 work site;

20 G. The duration of the work to be performed by the
21 temporary worker, including the time of day the work begins
22 and ends, the schedule of days on which work is performed,
23 the end date of the work and whether overtime work or an
24 extension of the termination date is possible;

25
26 H. A complete and accurate description of hazards to which
27 the temporary worker may become exposed at the work site,
28 including any hazardous materials the worker may be required
29 to use or handle and any physical conditions or work
30 practices that do not comply with applicable occupational
31 health and safety standards;

32
33 I. Whether a meal is provided by the temporary services
34 company or the client and the cost of the meal, if any, to
35 the temporary worker; and

36
37 J. Whether the temporary worker will be charged for use of
38 special attire, accessories, tools or safety equipment and,
39 if so, how much.

40
41 **2. Manner and timing of notice.** The temporary services
42 company shall provide the notice required in subsection 1 by
43 posting it in the office where temporary workers are required to
44 appear for assignment to work or for payment of compensation. If
45 there is no such office, the company shall provide a copy of the
46 notice to each temporary worker seeking work.

47
48 **3. Information about specific job assignment.** The
49 information specified in subsection 1 regarding a specific job
50 assignment must be given to each temporary worker for each job

2 assignment, even if the assignment is with the same client as a
3 prior job assignment of that worker.

4 4. Form of notice. The notice required under this section
5 must be written in English and in any other language or languages
6 that are generally used in the locale of the temporary services
7 company or its clients. The temporary services company must keep
8 copies of the notices required in this section on file for a
9 period of one year and these copies must be made available for
10 inspection by any affected temporary worker. The temporary
11 services company shall provide a copy of the notice, without
12 charge, to a temporary worker who requests a copy, within 10 days
13 of the worker's request for the copy.

14 §874. Compensation

15
16 1. Form of compensation. A temporary services company
17 shall compensate temporary workers for work performed in the form
18 of cash or commonly accepted negotiable instruments payable in
19 cash on demand at a financial institution, without discount,
20 regardless of the form or manner of payment.

21
22 2. Amount of compensation. Except as provided in
23 subsection 3, a temporary services company shall pay to a
24 temporary worker at least the greater of the state minimum wage
25 and the federal minimum wage.

26
27 A. At the time of each payment of wages, the temporary
28 services company shall furnish each worker a written
29 itemized statement showing each deduction made from the
30 wages. The statement must also specify the hourly rate and
31 any other fees or charges paid or payable to the temporary
32 services company or by or on behalf of the client with
33 respect to the hours compensated by that wage payment.

34
35 B. In no event may deductions other than those permitted by
36 federal or state law result in payment below the minimum
37 wage for the hours worked.

38
39 3. Equivalent pay for equivalent services. If a temporary
40 worker has been employed by a client company for 90 days or more,
41 continuously or not, the temporary services company shall pay to
42 the temporary worker compensation and benefits that are equal to
43 the compensation and benefits paid to employees of the client
44 company who are performing substantially equivalent work. This
45 subsection does not apply to a temporary worker who earns more
46 than employees of the client, unless the temporary employee has
47 replaced a client company employee who is on strike or who has
48 been locked out by the client company during a labor dispute.

50

2 4. Statement of earnings. A temporary services company
shall provide each worker with an annual earnings summary within
4 a reasonable period of time after the end of the preceding
calendar year, but no later than February 1st.

6 **§875. Protections for temporary workers**

8 1. Facilities. If a temporary services company operates an
office at which temporary workers are required to appear for job
10 assignments, the company shall provide restroom facilities,
drinking water and sufficient seating to accommodate workers
12 waiting at the office for job assignments.

14 2. Insurance for transportation vehicles. A temporary
services company shall insure any motor vehicle owned or operated
16 by the company and used for the transportation of temporary
workers.

18 3. Permanent placements. A temporary services company may
20 not restrict the right of a temporary worker to accept a
permanent position with a client company or restrict the right of
22 a client to offer permanent employment to a temporary services
worker. This subsection does not restrict a temporary services
24 company from receiving a reasonable placement fee from the client.

26 4. Advertisements and representations. A temporary
services company may not make or give, or cause to be made or
28 given, a false, misleading, or deceptive advertisement,
information or representation concerning services, compensation
30 or benefits or job opportunities that the company will provide to
temporary workers. An advertisement of a temporary services
32 company must contain the correct name of the company and either
the street address of the company's place of business or the
34 correct telephone number of the company at its place of business.

36 5. Discrimination against workers for asserting rights. A
temporary services company or a client company may not discharge,
38 reduce compensation of or otherwise discriminate against any
employee for making a complaint of a violation of this
40 subchapter, participating in proceedings under this subchapter,
using remedies to enforce the worker's rights, or otherwise
42 asserting rights under this subchapter.

44 **§876. Limitations on charges and deductions**

46 1. Prohibitions. A temporary services company may not
charge a temporary worker for safety equipment, clothing, tools,
48 accessories or other item required for the work by law, custom or
company requirements. A temporary services company may not

2 charge a temporary worker for cashing the worker's paycheck,
3 directly or indirectly.

4 **2. Limitations on permitted charges.** A temporary services
5 company may impose charges under the conditions specified in this
6 subsection.

7 A. A temporary services company may charge a reasonable
8 amount for transporting the worker to or from the designated
9 work site, but the amount charged may not exceed the
10 prevailing rate for public transportation in the area of the
11 work site.

12 B. If a meal is provided at the work site, the temporary
13 services company may charge the actual cost of providing a
14 meal to the worker. The temporary services company may not
15 require the purchase of a meal as a condition of employment.

16 C. Notwithstanding subsection 1, a temporary services
17 company may charge a temporary worker for items temporarily
18 provided to the worker if the worker willfully fails to
19 return the items to the company. The charge may not exceed
20 the market value of the item. A charge may not be imposed
21 for items damaged through ordinary use or lost through no
22 fault of the temporary worker.

23 D. A temporary services company may charge a temporary
24 worker for items provided other than those specified in
25 subsection 1. The charge may not exceed the actual cost of
26 the item to the company or the market value, whichever is
27 less.

28 **§877. Enforcement penalty**

29 1. Violation. A temporary services company that violates
30 this subchapter commits a civil violation for which a forfeiture
31 of not less than \$100 nor more than \$500 for each violation may
32 be adjudged.

33 2. Civil action. An action may be brought by the injured
34 party, the Attorney General or the Department of Labor.

35 3. Waivers unenforceable; attempt to obtain waiver
36 prohibited. A waiver by a temporary worker of the provisions of
37 this subchapter is contrary to public policy and is void and
38 unenforceable. An attempt by a temporary services company or its
39 client company to have a temporary worker waive rights provided
40 by this subchapter constitutes a violation of this subchapter.

41

SUMMARY

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4 This bill protects temporary workers by regulating practices
of temporary services companies and by requiring full disclosure
6 of wages, charges, work hours and other work conditions prior to
assigning temporary workers to a job. The bill requires that a
temporary worker who has worked for a client employer for 90 days
8 or more be provided the same compensation and benefits as
permanent employees of the client employer.