116TH CONGRESS  
2D SESSION  

H. R.  

To establish certain employment protections for temporary workers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. KENNEDY introduced the following bill; which was referred to the Committee on

A BILL

To establish certain employment protections for temporary workers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Restoring Worker Power Act of 2020”.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) CONVERSION FEE.—The term “conversion fee” means a fee charged by a temporary staffing
agency to a host employer for hiring or directly employing a temporary worker for whom a contract for work was effected by the temporary agency.

(2) HOST EMPLOYER.—The term “host employer” means any person that contracts with a temporary staffing agency to obtain temporary workers.

(3) NON-COMPETITION AGREEMENT.—The term “non-competition agreement” means an agreement between an employer and an employee or temporary worker or otherwise arising out of an existing or anticipated employment relationship under which the employee, temporary worker, or expected employee agrees that he or she will not engage in certain specified activities that are competitive with such employer during employment relationship or after the employment relationship has ended.

(4) PREDISPUTE ARBITRATION AGREEMENT.—The term “predispute arbitration agreement” means any agreement to arbitrate a dispute that had not yet arisen at the time of the making of the agreement.

(5) SAME OR SUBSTANTIALLY SIMILAR WORK.—The term “same or substantially similar work”, used to compare the work of one individual to the work
of another individual, means that the work of each individual—

(A) requires equivalent skill, effort, responsibility, and authority; and

(B) is performed in similar conditions.

(6) TEMPORARY STAFFING AGENCY.—The term “temporary staffing agency” means any entity engaged in supplying temporary workers to perform work, for a fee, for a host employer pursuant to an agreement between the staffing agency and the host employer.

(7) TEMPORARY WORK ASSIGNMENT.—The term “temporary work assignment” means work arranged by a temporary staffing agency for the benefit of a host employer and performed by a temporary worker.

(8) TEMPORARY WORKER.—The term “temporary worker” means any individual supplied by a temporary staffing agency to perform work for one or more host employers for any amount of time, regardless of whether such individual is an employee or independent contractor with respect to such temporary staffing agency.

SEC. 3. PROTECTIONS FOR TEMPORARY WORKERS.

(a) NOTICE OF WORK TO BE PERFORMED.—
(1) In general.—Not less than 48 hours before the date on which such temporary worker begins a temporary work assignment for a host employer on behalf of the temporary staffing agency, a temporary staffing agency shall provide notice in, the temporary worker’s primary language, in accordance with paragraph (2) to a temporary worker.

(2) Notice.—Notice under paragraph (1) shall include—

(A) a description of the temporary work assignment to be performed by the temporary worker;

(B) the work hours and rate of wages for such assignment;

(C) the name, worksite address, and contact information of the host employer;

(D) any requirements unique to the temporary work assignment that the temporary worker will have to meet to perform the assignment, including required clothing, equipment, training, or licensing;

(E) any fees or charges to workers that may be deducted from the pay of such temporary worker including for transportation,
meals, check cashing, clothing, tools, or safety equipment; and

(F) the rate at which the temporary staffing agency charges the host employer for the labor or services of such temporary worker.

(b) PAYCHECK TRANSPARENCY.—

(1) IN GENERAL.—Not later than the date on which a temporary staffing agency pays a temporary worker, the temporary staffing agency shall provide such temporary worker a statement of wages in accordance with paragraph (2).

(2) STATEMENT OF WAGES.—A statement of wages under paragraph (1) shall include, with respect to the work for which the temporary staffing agency is paying the temporary worker—

(A) an itemized statement of wages, including the wage rate and the number of hours worked for each host employer, and each deduction from such wages and the reason for such deduction; and

(B) the hourly rate at which each host employer pays the temporary staffing agency for the labor or services of such temporary worker.

(c) DRUG TESTING AND BACKGROUND CHECKS.—A temporary staffing agency may not require a temporary
worker to pay for a drug test or background check that is required for the performance of a temporary work assignment or deduct the cost of such drug test or background check from the pay of such temporary worker and affording the temporary worker the opportunity to decline such assignment.

(d) **Travel Time.**—A temporary staffing agency shall pay a temporary laborer, with respect to a temporary labor assignment at a wage rate that is equal to the contracted hourly wage rate for the temporary labor assignment for the time during which the temporary laborer is required to commute between—

(1) the temporary staffing agency and the work site of the host employer; and

(2) work sites of one or more host employers.

(e) **Right to Refuse Strikebreaking Assignments.**—No temporary staffing agency may assign a temporary worker a temporary work assignment with a host employer whose employees are, on the date of assignment, engaged in a strike, a lockout, or other work stoppage of any kind without notifying the temporary work of this fact and affording the temporary worker the opportunity to decline such assignment.
(f) LIABILITY.—Any temporary staffing agency who violates this section shall be liable to any temporary worker for damages equal to the sum of—

(1) lost wages of the temporary worker;

(2) liquidated damages, equal to the amount that is 2 times the amount described in paragraph (1); and

(3) an amount equal to—

(A) $100 for each of the first 10 violations of this section with respect to an temporary worker; and

(B) $250 for each such violation thereafter.

SEC. 4. EQUAL PAY FOR EQUAL WORK.

(a) EQUAL PAY.—A temporary staff agency or host employer, whichever is responsible for payment of the temporary worker, shall pay the temporary worker at a rate that is not less than the same average starting wage rate of a permanent employee of the host employer who performs the same or substantially similar work as the temporary worker.

(b) PROHIBITION.—No temporary staffing agency or host employer may lower the wage of any individual in order to comply with this section.
(c) **Penalty.**—Any temporary staffing agency that violates this section with respect to a temporary worker shall be liable to such temporary worker for an amount equal to the sum of—

(1) the amount that equal to the difference between—

(A) the amount that such temporary worker was entitled to under subsection (a) during the period with respect to which the violation occurred; and

(B) the amount that such temporary worker was paid for such period; and

(2)(A) $100 for the first 10 violations of this section with respect to such temporary worker; or

(B) $250 for each such violation thereafter.

(d) **Communication Requirement.**—The temporary staffing agency and host employer shall communicate as necessary in order to implement this section.

**Sec. 5. Prohibition on Forced Arbitration.**

Notwithstanding any provision of title 9 of the United States Code, no predispute arbitration agreement shall be valid or enforceable with respect to an employment dispute between a temporary worker and a temporary staffing agency or a host employer.
SEC. 6. SAFETY AND HEALTH PROVISIONS.

(a) Training; Documentation; Hazard Analysis.—Not later than 24 hours before the date on which a temporary worker begins a temporary work assignment for a host employer on behalf of a temporary staffing agency, the temporary staffing agency shall provide—

(1) to the temporary worker—

(A) general safety training and training with respect to the job-specific hazards based upon the job hazards analysis under subparagraph (B)(ii) if such agency possesses or should possess such expertise;

(B) a document, signed by the temporary staffing agency and the host employer, containing—

(i) description of the safety and health responsibilities of each the temporary staffing agency and the host employer, with respect to protecting the safety and health of the temporary worker, including—

(I) the party responsible for providing and maintaining protective equipment;

(II) the process by which the temporary worker should report an injury;
(III) the party responsible for providing first aid and medical treatment to injured workers; and

(IV) the name, address, and phone number of the workers’ compensation insurance carrier that provides coverage to the temporary worker; and

(ii) the results of a job hazard analysis, conducted by the host employer;

(2) to the host employer a document containing a description of the training and competencies of the temporary worker that are related to the temporary work assignment.

(b) RESPONSIBILITIES OF HOST EMPLOYERS.—Each host employer shall do the following:

(1) Not later than 48 hours before a temporary worker begins a temporary work assignment with the host employer, perform a job hazard analysis for each job that the temporary worker may foreseeably perform which shall include a review of—

(A) all foreseeable hazards to the temporary worker;

(B) the safety equipment required to prevent injury or illness;
(C) the training required to prevent injury or illness; and

(D) the results of the job hazard analysis under subsection (b)(1).

(2) Not later than 48 hours after a temporary worker begins a temporary work assignment for the host employer, provide the same mandatory training health and safety training to temporary workers as an employee of the host employer performing the same or substantially similar work.

(3) Include temporary workers in all health and safety meetings, evaluations, and distributions for information pertaining to health and safety as made available to employees of the employer during the period of the temporary work assignment.

(4) Inform the temporary staffing agency of any job-related injuries or illnesses sustained by the temporary worker not later than 24 hours after such injury or illness is made known to the host employer.

SEC. 7. PERMANENT WORK OPPORTUNITIES.

(a) Prohibition on non-compete agreements.—No temporary staffing agency shall enter into, enforce, or threaten to enforce a non-competition agreement for a temporary worker with a temporary worker or
any third party that limits the temporary worker’s ability to seek other job opportunities.

(b) PROHIBITION ON CONVERSION FEES.—No temporary staffing agency may charge a conversion fee with respect to a temporary worker if such temporary worker, before being hired by the host employer, worked for such host employer for a period of 60 days or more.

SEC. 8. TEMPORARY STAFFING AGENCY RECORDKEEPING.

(a) IN GENERAL.—Upon assigning a temporary worker to a host employer for a temporary work assignment, a temporary staffing agency shall keep the following records relating to such assignment:

(1) HOST EMPLOYER INFORMATION.—

(A) The name, address, and telephone number of the host employer.

(B) The specific location of each worksite to which the temporary workers were sent.

(C) The date of the transaction.

(D) The name and title of the individual or individuals at each host employer’s place of business responsible for the transaction.

(E) Any specific qualifications or attributes of the temporary worker, requested by the host employer.
(F) Any deductions to be made from each temporary worker’s compensation made by the temporary staffing agency for the temporary worker’s transportation, food, clothing, equipment, check cashing, or other service or item

(G) Verification of the actual cost of any equipment, transportation or meal charged to a day or temporary worker.

(2) ASSIGNMENT INFORMATION.—

(A) The race and gender of each temporary worker assigned by the temporary staffing agency, as provided by the temporary worker.

(B) The type of work to be performed.

(C) The number of hours to be billed to the host employer.

(D) The number of hours to be worked.

(E) The hourly rate to be billed or charged to the host employer.

(F) Any specific qualifications or attributes of the temporary worker, requested by the host employer.

(G) Copies of all agreements and contracts covering this assignment, if any, between the temporary staffing agency and the host em-
ployer, and copies of all invoices sent to the host employer.

(H) Copies of all employment notices or advertisements used in connection with this job order or assignment.

(I) Any deductions to be made from each temporary worker’s compensation made by the temporary staffing agency for the temporary worker’s transportation, food, clothing, equipment, check cashing, or other service or item.

(3) APPLICANT INFORMATION.—

(A) Information on all individuals who applied for the assignment, including their race, ethnicity, and gender.

(B) Information on when the job was filled.

(C) With respect to any temporary worker assigned to the temporary work assignment, the following:

(i) The temporary worker’s name and address.

(ii) The date assigned to work.

(iii) The hourly rate to be paid.

(iv) The race and gender of each temporary worker assigned by the temporary
staffing agency, as provided by the temporary worker.

(v) When, and under what circumstances termination occurred.

(vi) The date on which the temporary work assignment began.

(b) REQUIREMENTS.—Each temporary staffing agency shall maintain, and make open for inspection by the Secretary of Labor and the Equal Employment Opportunity Commission, and (after removing personally identifiable information) make available for review to temporary worker applicants, all records under this subsection for a period of 3 years beginning on the date on which such records are created.

SEC. 9. AGENCY REGISTRATION.

(a) TEMPORARY STAFFING AGENCY RESPONSIBILITIES.—

(1) IN GENERAL.—Each temporary staffing agency and branch office shall register with the Secretary of Labor in accordance with the rules adopted by the Secretary for temporary staffing agencies annually.

(2) REPORTING.—Not less than once every 6 months, a temporary staffing agency shall submit a report to the Secretary containing, with respect to
temporary workers employed by the temporary staffing agency during the reporting period, the following information:

(A) The number who are on a temporary work assignment.

(B) The percentage who have been injured on a temporary work assignment.

(C) The percentage who worked on a temporary assignment for not less than 60 days.

(D) The percentage who became employees of the host employer after working on a temporary work assignment for such host employer.

(E) Information regarding any violations of title VII of the Civil Rights Act of 1964 (25 U.S.C. 1326 et seq.) by the temporary staffing agency, including information regarding the host employer who made a request for the hire of temporary workers in violation of such title. Such information shall not contain any personally identifiable information with respect to an affected temporary worker, including the name, address, or phone number of such temporary workers.

(3) PUBLICATION.—The Secretary shall make publicly available on the internet website of the De-
partment a list of the temporary staffing agencies
that have registered under this section.

(4) REGISTRATION FEE.—The Secretary may
assess each temporary staffing agency a registration
fee not to exceed $100.

(5) TERMINATION OF REGISTRATION.—The
Secretary may suspend, deny, or terminate the reg-
istration of a temporary staffing agency under this
section due to repeated violations of title VII of the
Civil Rights Act of 1964 (25 U.S.C. 1326 et seq.)
during the hiring or recruiting of temporary work-
ers.

(b) HOST EMPLOYER RESPONSIBILITIES.—

(1) VERIFICATION OF REGISTRATION.—A host
employer, upon contracting for a temporary work as-
signment with a temporary staffing agency, shall
verify that the temporary staffing agency is reg-
istered with the Department of Labor before enter-
ing into a contract with such temporary staffing
agency, and not less than once during each calendar
year for which a host employer has a contract with
such temporary staffing agency. The host employer
may request, and the Secretary shall provide, a list
of registered temporary staffing agencies.

(2) PENALTY.—
(A) HOST EMPLOYER.—A host employer that contracts with a temporary staffing agency that is not registered is subject to a civil penalty of not more than the lesser of—

(i) $100 for each business day such host employer is under contract with an unregistered temporary staffing agency; or

(ii) $5,000.

(B) TEMPORARY STAFFING AGENCY.—A temporary staffing agency that violates this section is subject to a civil penalty of not more than the lesser of—

(i) $100 for each day such agency operates without registering under this section; or

(ii) $5,000.

SEC. 10. PENALTIES AND ENFORCEMENT.

(a) REGULATORY AUTHORITY.—Secretary of Labor is authorized to issue regulations to ensure compliance with this Act.

(b) CIVIL PENALTIES.—Any temporary staffing agency or host employer who violates section 6 or 7 shall be imposed a civil fine not to exceed $1,500 per violation
for each week the temporary staffing agency or host em-
ployer is in violation.

(c) RELIEF.—A temporary worker shall be entitled
to wages, salary, employment benefits, or other compensa-
tion denied or lost due to a violation of any provision
under this Act, or reinstatement if terminated in violation
of subsection (g). Days during which such worker would
have worked if such had not been wrongfully suspended
or terminated in violation of subsection (g) shall count to-
wards the numbers of days worked by such temporary
worker for the purposes of section 7(b).

(d) RIGHT OF ACTION.—An action to recover the
damages or equitable relief under this Act may be main-
tained against any employer (including a public agency)
in any Federal or State court of competent jurisdiction
by any one or more temporary workers for and in behalf
of—

(1) the temporary workers; or

(2) the temporary workers and other temporary
workers similarly situated.

(e) FEES AND COSTS.—The court in such an action
shall, in addition to any judgment awarded to the plaintiff,
allow a reasonable attorney’s fee, reasonable expert wit-
ness fees, and other costs of the action to be paid by the
defendant.
(f) LIMITATIONS.—The right provided by subsection (d) to bring an action by or on behalf of any temporary worker shall terminate on the filing of a complaint by the Secretary in an action under subsection (b) in which a recovery is sought of the damages described in subsection (e) owing to a temporary worker by an employer, unless the action is dismissed without prejudice on motion of the Secretary.

(g) RETALIATION FOR CERTAIN CONDUCT.—

(1) IN GENERAL.—No temporary staffing agency or host employer may take adverse action against a temporary worker for—

(A) making a complaint regarding a violation of any provision under this Act or the amendments made by this Act;

(B) causing to be instituted any proceeding under or related to this Act;

(C) testifying or preparing to testify in an investigation or proceeding under this Act; or

(D) refusing an assignment pursuant to section 3(e).

(2) PRESUMPTION.—The termination or adverse action by a temporary staffing agency against a temporary worker within 30 days of an individual claiming a protection under this Act or reporting a
violation under this section shall create a presumption of a violation of the prohibitions in paragraph (1) in any proceeding brought against the temporary staffing agency or host employer under this Act.

SEC. 11. COVID–19 PAID SICK LEAVE.

(a) FAMILY AND MEDICAL LEAVE ACT OF 1993.—

Section 110(a)(1)(B) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2620(a)(1)(B)) is amended—

(1) by striking “Section 101(4)(A)(i)” and inserting “(i) Section 101(4)(A)(i)”;

(2) by inserting at the end the following:

“(ii) The 500 employee threshold under section 101(4)(A)(i) shall not apply with respect to a temporary staffing agency (as defined in the Restoring Worker Power Act of 2020).”.

(b) EMERGENCY PAID SICK LEAVE ACT.—Section 5110(2)(B)(i) of the Families First Coronavirus Response Act (29 U.S.C. 2601 note) is amended—

(1) in item (aa)—

(A) by inserting “subject to item (bb)” before “in the case”; and

(B) by striking “and” after the semicolon; and
(2) in item (bb), by inserting “, a temporary staffing agency (as defined in section the Restoring Worker Power Act of 2020),” after “public agency”.

SEC. 12. GAO STUDY.

(a) STUDY.—Not later than 10 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress the results of a study on the use of temporary and staffing agencies by the entities described in subsection (b), including a description of—

(1) the change in spending by such entities on temporary workers from fiscal year 2009 to fiscal year 2019;

(2) the total number of temporary workers at each agency, and their total hours worked;

(3) the type of services or care delivered by temporary workers; and

(4) the effect of such rates on—

(A) quality of service or care and the efficiency of such agency; and

(B) the wages and benefits received by temporary workers in comparison to the cost of their employment and in comparison to directly hired employees performing the same or similar work, and the rates of injury and illness of em-
ployees and of temporary workers at such agencies.

(b) COVERED ENTITIES.—The entities described in this subsection are the following:

(1) The Department of Veterans Affairs

(2) The Indian Health Service.

(3) The Department of Defense.

(4) The Bureau of Prisons.