

106TH CONGRESS
1ST SESSION

H. R. 2298

To provide certain temporary employees with the same benefits as permanent employees.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 1999

Mr. EVANS introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To provide certain temporary employees with the same benefits as permanent employees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equity for Temporary
5 Workers Act of 1999”.

6 **SEC. 2. TEMPORARY WORKER RIGHTS.**

7 (a) DISCRIMINATION.— No employer shall discrimi-
8 nate with respect to wages, hours, and other terms and
9 conditions of employment against any temporary em-
10 ployee.

1 (b) BENEFITS.—After a temporary employee works
2 for an employer for 1,000 hours during a 12-month pe-
3 riod, whether placed in the employ of such employer by
4 the employer, by a temporary help agency or staffing firm,
5 or under a leasing arrangement by a third party, such
6 temporary employee shall be eligible to receive any benefit
7 offered by the employer to other permanent employees.

8 **SEC. 3. EQUAL PAY FOR TEMPORARY EMPLOYEES.**

9 (a) GENERAL RULE.—An employer having employees
10 subject to section 6 of the Fair Labor Standards Act of
11 1938 shall not discriminate, within any establishment in
12 which such employees are employed, between employees on
13 the basis of employment status by paying wages to tem-
14 porary employees in such establishment at a rate less than
15 the rate at which the employer pays wages to full-time
16 employees in such establishment for equal work on jobs
17 the performance of which requires equal skill, effort, and
18 responsibility, and which are performed under similar
19 working conditions, except where such payment is made
20 pursuant to—

- 21 (1) a seniority system;
22 (2) a merit system;
23 (3) a system that measures earning by quantity
24 or quality of production; or

1 (4) a differential based on any other factor
2 other than employment status.

3 (b) WAGE REDUCTION.—An employer who is paying
4 a wage rate differential in violation of this section shall
5 not, in order to comply with the provisions of this section,
6 reduce the wage rate of any employee.

7 (c) LABOR ORGANIZATION.—No labor organization,
8 or its agents, representing the employees of an employer
9 having employees subject to section 6 of the Fair Labor
10 Standards Act of 1938 shall cause or attempt to cause
11 such an employer to discriminate against an employee in
12 violation of this section.

13 (d) UNPAID WAGES.—For purposes of administra-
14 tion and enforcement, any amounts owing to any employee
15 that have been withheld in violation of this section shall
16 be deemed to be unpaid minimum wages or unpaid over-
17 time compensation under section 5.

18 (e) DEFINITION.—As used in this section, the term
19 “labor organization” means any organization of any kind,
20 or any agency or employee representation committee or
21 plan, in which employers participate and which exists for
22 the purpose, in whole or in part, of dealing with employers
23 concerning grievances, labor disputes, wages, rates of pay,
24 hours of employment, or conditions of work.

1 **SEC. 4. LIABILITY TO ALL PERSONS ON WORKSITE.**

2 Section 5(a)(1) of the Occupational Safety and
3 Health Act of 1970 (29 U.S.C. 654(a)(1)) is amended to
4 read as follows:

5 “(1) shall, at the place of employment of the
6 employer, furnish to each person at such place a
7 place which is free from recognized hazards that are
8 causing or are likely to cause death or serious phys-
9 ical harm to such persons; and”.

10 **SEC. 5. ENFORCEMENT.**

11 (a) CIVIL ACTION BY EMPLOYEES.—

12 (1) LIABILITY.—Any employer who violates sec-
13 tion 2 or 3 shall be liable to any eligible employee
14 affected—

15 (A) for damages equal to—

16 (i) the amount of any wages, salary,
17 employment benefits, or other compensa-
18 tion denied or lost to such employee by
19 reason of the violation;

20 (ii) the interest on the amount de-
21 scribed in clause (i) calculated at the pre-
22 vailing rate; and

23 (iii) an additional amount as liq-
24 uidated damages equal to the sum of the
25 amount described in clause (i) and the in-
26 terest described in clause (ii), except that

1 if an employer who has violated section 2
2 or 3 proves to the satisfaction of the court
3 that the act or omission which violated
4 such section was in good faith and that the
5 employer had reasonable grounds for be-
6 lieving that the act or omission was not a
7 violation of such section, such court may,
8 in the discretion of the court, reduce the
9 amount of the liability to the amount and
10 interest determined under clauses (i) and
11 (ii), respectively; and

12 (B) for such equitable relief as may be ap-
13 propriate, including employment, reinstatement,
14 and promotion.

15 (2) RIGHT OF ACTION.—An action to recover
16 the damages or equitable relief prescribed in para-
17 graph (1) may be maintained against any employer
18 (including a public agency) in any Federal or State
19 court of competent jurisdiction by any one or more
20 employees for and in behalf of—

21 (A) the employees; or

22 (B) the employees and other employees
23 similarly situated.

24 (3) FEES AND COSTS.—The court in such an
25 action shall, in addition to any judgment awarded to

1 the plaintiff, allow a reasonable attorney's fee, rea-
2 sonable expert witness fees, and other costs of the
3 action to be paid by the defendant.

4 (4) LIMITATIONS.—The right provided by para-
5 graph (2) to bring an action by or on behalf of any
6 employee shall terminate—

7 (A) on the filing of a complaint by the Sec-
8 retary in an action under subsection (d) in
9 which restraint is sought of any further delay
10 in the payment of the amount described in
11 paragraph (1)(A) to such employee by an em-
12 ployer responsible under paragraph (1) for the
13 payment; or

14 (B) on the filing of a complaint by the Sec-
15 retary in an action under subsection (b) in
16 which a recovery is sought of the damages de-
17 scribed in paragraph (1)(A) owing to an eligible
18 employee by an employer liable under para-
19 graph (1),

20 unless the action described in subparagraph (A) or
21 (B) is dismissed without prejudice on motion of the
22 Secretary.

23 (b) ACTION BY THE SECRETARY.—

24 (1) ADMINISTRATIVE ACTION.—The Secretary
25 shall receive, investigate, and attempt to resolve

1 complaints of violations of section 2 or 3 in the same
2 manner that the Secretary receives, investigates, and
3 attempts to resolve complaints of violations of sec-
4 tions 6 and 7 of the Fair Labor Standards Act of
5 1938 (29 U.S.C. 206 and 207).

6 (2) CIVIL ACTION.—The Secretary may bring
7 an action in any court of competent jurisdiction to
8 recover the damages described in subsection
9 (a)(1)(A).

10 (3) SUMS RECOVERED.—Any sums recovered by
11 the Secretary pursuant to paragraph (2) shall be
12 held in a special deposit account and shall be paid,
13 on order of the Secretary, directly to each employee
14 affected. Any such sums not paid to an employee be-
15 cause of inability to do so within a period of 3 years
16 shall be deposited into the Treasury of the United
17 States as miscellaneous receipts.

18 (c) LIMITATION.—

19 (1) IN GENERAL.—Except as provided in para-
20 graph (2), an action may be brought under this sec-
21 tion not later than 2 years after the date of the last
22 event constituting the alleged violation for which the
23 action is brought.

24 (2) WILLFUL VIOLATION.—In the case of such
25 action brought for a willful violation of section 2 or

1 3, such action may be brought within 3 years of the
2 date of the last event constituting the alleged viola-
3 tion for which such action is brought.

4 (3) COMMENCEMENT.—In determining when an
5 action is commenced by the Secretary under this
6 section for the purposes of this subsection, it shall
7 be considered to be commenced on the date when the
8 complaint is filed.

9 (d) ACTION FOR INJUNCTION BY SECRETARY.—The
10 district courts of the United States shall have jurisdiction,
11 for cause shown, in an action brought by the Secretary—

12 (1) to restrain violations of section 2 or 3, in-
13 cluding the restraint of any withholding of payment
14 of wages, salary, employment benefits, or other com-
15 pensation, plus interest, found by the court to be
16 due to eligible employees; or

17 (2) to award such other equitable relief as may
18 be appropriate, including employment, reinstatement,
19 and promotion.

20 (e) SOLICITOR OF LABOR.—The Solicitor of Labor
21 may appear for and represent the Secretary on any litigation
22 brought under this section.

23 **SEC. 6. DEFINITIONS.**

24 For purposes of this Act:

1 (1) EMPLOYEE.—The term “employee” means
2 any individual who performs services for wages, sal-
3 ary, or other reimbursement under any contract of
4 hire, written or oral, express or implied with an em-
5 ployer. This individual also works for an employer at
6 least 1,000 hours per year.

7 (2) EMPLOYER.—The term “employer” means
8 any person engaged in commerce or in any industry
9 or activity affecting commerce who employs 100 or
10 more employees for each working day during each of
11 20 or more calendar workweeks in the current or
12 preceding calendar year.

13 (3) PERMANENT EMPLOYEE.—The term “per-
14 manent employee” means any individual who is
15 hired for an indefinite period of time as an employee
16 and is accorded benefits.

17 (4) SECRETARY.—The term “Secretary” means
18 the Secretary of Labor.

19 (5) TEMPORARY AGENCY.—The term “tem-
20 porary agency” means any person regularly under-
21 taking with or without compensation to procure em-
22 ployees for an employer temporarily or to procure
23 for employees opportunities to work for an employer
24 and includes an agent of such a person.

1 (6) TEMPORARY EMPLOYEE.—The term “tem-
2 porary employee” means any employee who is not
3 permanent.

○