

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency: Dept. of Labor

Rule No. 480-4-3-.37

Rule Title: Alternative Staffing

_____ New _____ Amend X Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? NO

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer *Steph McCall*

Date 10-20-17

(DATE FILED)
(STAMP)

Department of
Labor

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF LABOR

RULE NO. & TITLE: 480-4-3-.37 Alternative Staffing

INTENDED ACTION: To repeal the above titled rule.

SUBSTANCE OF PROPOSED ACTION: The repeal is necessary to correct unintended consequences of the original adoption. The proposed rule's application has failed the scope of the original intent by adding additional requirements that are not contained in the Unemployment Compensation Law.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested persons may submit data, views, or arguments in writing to Stephen McCormick, Department of Labor, 649 Monroe Street, Montgomery, Alabama 36131 by mail or in person between the hours of 8:00 am and 4:30 pm, Monday through Friday until and including December 11, 2017. Persons wishing to submit data, views or arguments orally should contact Stephen McCormick by telephone at (334) 242-8274 during this period to arrange an appointment.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: December 11, 2017

CONTACT PERSON AT AGENCY:

Stephen McCormick
Department of Labor
649 Monroe Street
Montgomery, AL 36131
Telephone: (334) 242-8274



Stephen McCormick
Director, Governmental Affairs

**ALABAMA DEPARTMENT OF LABOR
ELEVATOR SAFETY RULES
ADMINISTRATIVE CODE**

**CHAPTER 480-4-3
BENEFITS**

480-4-3-.37 Alternative Staffing. **REPEALED**

(1) Definitions - The following definitions will be used in applying the provisions of this Administrative Rule.

(a) Temporary employee. A person employed through a temporary help services firm to support or supplement the existing work force of a client company in special situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects with the expectation that the position of the person shall be terminated upon the completion of the task or function.

(b) Temporary help services firm. A firm which services consist only of:

1. recruiting and hiring their own employees;
2. finding other organizations that need the services of those employees;
3. assigning those employees to perform work at or services for the other organizations to support or supplement the other organizations workforces, or to provide assistance in special work situations such as, but not limited to, employee absences, skill shortages, seasonal workloads, or to perform special assignments or projects, and
4. Customarily attempting to reassign the employees to other organizations when they finish each assignment.

(c) Professional Employer Organization (PEO). A entity engaged in the business of providing professional employer services through one or more professional employer organization arrangements regardless of its use of the term professional employer organization, PEO, staff leasing company, registered staff leasing company, employee leasing company, or any other name.

(d) Good Cause connected with work. Substantial reason; just ground for such action; adequate excuse that will bear the rest of reason; and always the element of good faith. A

test of good cause is whether it is reasonable when measured by what the average or normal worker would have done under similar circumstances.

(2) Voluntarily Leaving Work

(a) As further evidenced in Code of Ala. 1975, §25-4-78(2), an individual is disqualified for benefits if the individual left his or her last work voluntarily without good cause connected with the individual's work.

(b) A temporary employee of a temporary help services firm is considered to have left work voluntarily without good cause connected with work if the temporary employee does not contact the temporary help services firm prior to close of business on the first business day following separation from the temporary help services firm's client company. This required contact for job reassignment at the completion of an assignment or any other separation will allow the temporary help services firm an opportunity to reassign a temporary employee to employment opportunities or other ongoing assignments. This establishes an ongoing employment relationship that will be valid until close of business on the first business day following the temporary employee's separation. A temporary employee is not considered to have left work voluntarily without good cause connected with the work under this subsection unless;

1. the temporary employee has been advised, and
2. there exist a written record, that the temporary employee is obligated to contact the temporary help services firm by close of business on the day following completion of assignments. The method used in contacting the temporary help services firm may vary from one firm to another. The Department of Industrial Relations will consider contacts made only in accordance with written policy of the temporary help services firm. Notification that Unemployment Benefits may be adversely affected by failure to report as directed, should not be made in a manner to deter employees from filing a claim for Unemployment Benefits as Any agreement by an employee to waiver or release his rights to benefits or any other rights under this chapter shall be void. (Code of Ala. 1975, §25-4-138).

(c) If the individual reports to the temporary help services firm as required in this administrative rule and no additional employment is offered on or before the close of business on the first business day following a separation from the temporary firm's client company, an employment relationship will no longer exist between the individual and the temporary help services firm. Any personal contact or conveyance of employment by the temporary help services firm following the

assigned time period of one business day following a separation will be treated as an offer for new employment whereby if the claimant refused the offer, suitability of the job will have to be established and adjudicated under Code of Ala. 1975, §25-4-78(5).

(d) Should a claimant report as required by this Administrative rule and refuse to accept a new assignment on or before close of business on the first business day following a separation from the temporary firm=s client company, and the offer for employment is deemed suitable by the Department of Industrial Relations, the individual will be considered to have voluntarily quit this employment as further evidenced in the Code of Ala. 1975, §25-4-78(2).

(e) Employees who report to the temporary help services firm as required and are offered and accept employment under this subsection, must report to work as directed. Unemployment Benefit claims of those employees who accept the new assignment and fail to report to work as directed will be adjudicated under the Code of Ala. 1975, §25-4-78(2).

Author: Brent Langley, UC Section Supervisor, Unemployment Compensation Division

Statutory Authority: Code of Ala. 1975, §§25-4-78; 25-4-138.

History: New Rule: Filed August 25, 2005; effective September 29, 2005.