

HOUSE No. 04076

The committee on Labor and Workforce Development, reports, on House, No. 1393, a Bill establishing a temporary workers right to know (House, No. 4076). May 9, 2012. Cheryl A. Coakley-Rivera, for the committee.

The Commonwealth of Massachusetts

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In the Year Two Thousand Twelve
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An Act Establishing a Temporary Workers Right to Know.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Section 159C of chapter 149 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by inserting in paragraph (a) after the word “meanings”, in
3 line 2, the following words:-
- 4 “Department”, the department of labor standards.
- 5 SECTION 2. Section 159C of chapter 149 of the General Laws, as so appearing, is further
6 amended by striking out subsections (b) through (d) and inserting in place thereof the following:-
- 7 (b) Each staffing agency shall provide to each employee for each new assignment or
8 employment a written job order containing the following:
- 9 (1) the name, address and telephone number of the staffing agency and its workers compensation
10 carrier, the worksite employer, and the department;

11 (2) the kind and character of the employment, including any requirement for special clothing,
12 accessories, tools, equipment, training, or licenses and any costs charged to the employee;

13 (3) the designated pay day and the actual hourly rate of pay, overtime pay and compensation;

14 (4) the daily starting time, anticipated end time, and, where known, the expected duration of
15 employment;

16 (5) any meals provided by the staffing agency or worksite employer and the costs of such meals;
17 details of the transportation required or offered to the employee by the staffing agency, the
18 worksite employer or any person acting on either's behalf and the cost of such transportation;
19 and any other fees charged to the employee; and

20 (6) a multilingual notice that the job order contains important information about the employment
21 and that the notice should be translated.

22 Nothing in this subsection shall be construed to prohibit a staffing agency from directing an
23 employee to employment by telephone; provided that the telephone message shall disclose the
24 information in this subsection and shall be confirmed in writing and sent to the employee within
25 3 days of the start of the employment; and provided further, that the staffing agency shall post in
26 a conspicuous place in each of its locations where it does business in languages which the
27 staffing agency's employees can understand a notice containing a copy of this section and the
28 name and telephone number of the department. The department shall provide a sample job order
29 and a sample posted notice that will meet the requirements of this section.

30 The provisions of this subsection shall not apply to a professional employee as defined in 29
31 USC section 152.

32 (c) No staffing agency or worksite employer shall charge or accept a fee from an employee for:

33 (1) the cost of registration of the staffing agency or the cost of procuring employment;

34 (2) any good or service unless under the terms of a written contract with an employee, which

35 clearly states in a language that the employee understands that the purchase is voluntary and

36 which provides that the staffing agency will not gain a profit from any cost or fee charged to the

37 employee;

38 (3) the provision of any of the following that exceed the actual cost per applicant or employee:

39 bank card, debit card, payroll card, voucher, draft, money order or similar form of payment or

40 wages, or any drug screen;

41 (4) a criminal record offender information (CORI) request;

42 (5) transportation except as provided in subsection (d);

43 (6) any good or service the payment of which would cause the employee to earn less than the

44 applicable minimum wage.

45 No staffing agency or work site employer or a person acting directly or indirectly in either's

46 interest may deduct any costs or fees from the wages of an employee without the express written

47 authorization of the employee. A staffing agency or work site employer shall furnish to the

48 employee a copy of the signed authorization in a language that the employee can understand.

49 (d) If a staffing agency or work site employer or a person acting directly or indirectly in either's

50 interest offers transportation services to an employee and charges a fee for such services, the

51 staffing agency or work site employer shall charge such employee no more than the actual cost to

52 transport such employee to or from the designated work site. The fee, if any, to cover the

53 transportation service costs for each such employee shall not exceed 3 per cent of such
54 employee's total daily wages, and shall not reduce the employee's total daily wages below the
55 minimum wage earned for the day. If a staffing agency or work site employer or a person acting
56 directly or indirectly in either's interest requires the use of such transportation services, no fee
57 may be charged. Any staffing agency that sends an employee to a worksite employer for
58 employment that day where in fact no employment exists shall fully refund the cost of
59 transportation.

60 (e) A staffing agency shall not:

61 (1) knowingly issue, distribute, circulate or provide any false, fraudulent, or misleading
62 information, representation, promise, notice or advertisement to any applicant or employee;

63 (2) use any name that has not been registered with the department under chapter 140 in the
64 advertisement of its services;

65 (3) assign or place an employee in employment by force or fraud, or for illegal purposes, or
66 where the employment is in violation of state or federal laws governing minimum wage, child
67 labor, compulsory school attendance, required licensure or certification, or at any location that is
68 on strike or lockout without notifying the employee of this fact;

69 (4) refuse to return on demand any personal property belonging to an employee or any fee or cost
70 that is charged or accepted by a staffing agency or work site employer in excess of the amounts
71 allowable under this section.

72 (f) The department shall make rules and regulations and all inspections and investigations
73 necessary for the enforcement of this section.

74 (g) Whoever violates this section shall be punished or shall be subject to a civil citation or order
75 as provided in section 27C.