

SENATE No. 2416

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

SENATE, Friday, July 8, 2016

The committee on Ways and Means, to whom was referred the Senate Bill to prevent wage theft and promote employer accountability (Senate, No. 2207),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2416).

For the committee,
Karen E. Spilka

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In the One Hundred and Eighty-Ninth General Court
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An Act to prevent wage theft and promote employer accountability.

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. Chapter 149 of the General Laws is hereby amended by inserting after
2 section 148D the following 2 sections:-

3 Section 148E. (a) As used in this section and section 148F, the following words shall
4 have the following meanings unless the context clearly requires otherwise:-

5 “Contracted entity”, a person or entity that directly enters into an agreement with a direct
6 company to perform labor or services for the direct company.

7 “Direct company”, a business entity that directly enters into an agreement with a
8 contracted entity for labor or services.

9 “Wage theft violation”, a violation of section 27, 27F, 27G, 27H, 148, 148A, 148B,
10 148C, 150, 150C, 152A, subsection (c) or (d) of section 159C or section 1, 1A, 1B, 2A, 7, 19 or
11 20 of chapter 151.

12 (b) A direct company shall be subject to joint and several civil liability and shall share
13 civil legal responsibility for wages owed by a contracted entity as the result of a wage theft
14 violation.

15 (c) A direct company shall be subject to joint and several civil liability and shall share
16 civil legal responsibility for any penalties or fines owed by a contracted entity as a result of a
17 wage theft violation if the direct company knew or should have known that a contracted entity
18 has committed a wage theft violation.

19 (d) Nothing in this section shall preclude the exercise or enforcement of any lawful rights
20 or remedies available for a wage theft violation.

21 (e) Notice of this section shall be prepared by the attorney general in the languages
22 required in clause (iii) of subsection (d) of section 62A of chapter 151A. Direct companies and
23 contracted entities shall post this notice in a conspicuous location accessible to employees or
24 contracted workers in establishments where employees or contracted workers with rights under
25 this section perform their duties. Direct companies and contracted entities shall provide a copy of
26 the notice to their employees or contracted workers. This notice shall include the following
27 information: (i) information describing wage theft violations; (ii) information about the notices,
28 documentation and other requirements placed on employees or contracted workers in order to
29 exercise their right to collect wages; (iii) information that describes the protections that an
30 employee or contracted workers has in exercising rights under this section; and (iv) the name,
31 address, phone number and website of the attorney general's office where questions about the
32 rights and responsibilities under this section can be answered.

33 Section 148F. (a) Upon determination by the director of unemployment assistance or a
34 designee that a person or entity has violated section 14 of chapter 151A, the director may issue a
35 stop work order against the violator requiring the cessation of all business operations of the
36 violator related to the violation cited in the stop work order; provided, however, that a stop work
37 order shall only be issued against the person or entity found to be in violation and only related to
38 the worksite or place of business or employment for which the violation exists. If a stop work
39 order is issued, it shall be served at the worksite or place of business or employment of the
40 violator by posting a copy of the stop work order in a conspicuous location at the place of
41 business or employment. The stop work order shall be effective 96 hours after the order is
42 served upon the violator or at the worksite or place of business or employment of the violator.
43 The stop work order shall contain a description of the violation, including the amount of wages
44 owed to each individual due to the wage theft violation. If a person or entity submits
45 documentation to the satisfaction of the director that all wages owed related to the stop work
46 order are properly paid to all workers prior to the stop work order taking effect, the director shall
47 rescind the stop work order.

48 If the stop work order goes into effect, it shall remain in effect until the director or
49 designee rescinds the stop work order upon a finding that the wage theft violation has been
50 corrected.

51 A person or entity against which a stop work order is issued may request a hearing by
52 providing a written appeal, in a manner determined by the director, within 10 days from the date
53 the stop work order is served.

54 (b) Upon determination by the attorney general that a person or entity has committed a
55 wage theft violation, the attorney general may issue a stop work order against the violator
56 requiring the cessation of all business operations of the violator; provided, however, that a stop
57 work order shall only be issued against the person or entity found to be in violation and only
58 related to the worksite or place of business or employment for which the violation exists. If a
59 stop work order is issued, it shall be served at the worksite or place of business or employment of
60 the violator by posting a copy of the stop work order in a conspicuous location at the place of
61 business or employment. The stop work order shall be effective 96 hours after the order is
62 served upon the violator or at the worksite or place of business or employment of the violator.
63 The stop work order shall contain a description of the violation, including the amount of wages
64 owed to each individual due to the wage theft violation. If a person or entity submits
65 documentation to the satisfaction of the attorney general that all wages owed related to the stop
66 work order are properly paid to all workers prior to the stop work order taking effect, the director
67 shall rescind the stop work order.

68 If the stop work order goes into effect, it shall remain in effect until the attorney general
69 rescinds the stop work order upon a finding that the violation has been corrected.

70 A person or entity against which a stop work order is issued may request a hearing by
71 providing a written appeal, in a manner determined by the attorney general, within 10 days from
72 the date the stop work order is served.

73 (c) A stop work order and any penalty imposed against a person or entity shall be
74 effective against any successor person or entity that: (i) has at least 1 of the same principals or
75 officers as the person or entity against whom the stop work order or penalty was issued; and (ii)

76 is engaged in the same or an equivalent trade or activity as the person or entity the stop work
77 order was imposed against.

78 (d) An employee affected by a stop work order under this section shall be paid for the
79 period the stop work order is in place or the first 10 days the employee was scheduled to work if
80 the stop work order had not been issued, whichever is less. Any time lost pursuant to this section,
81 not to exceed 10 days, shall be considered time worked under chapter 149.

82 SECTION 2. Section 27C of said chapter 149, as appearing in the 2014 Official Edition,
83 is hereby amended by striking out, in line 159, the words “Civil and criminal” and inserting in
84 place thereof the following word:- Criminal.

85 SECTION 3. The department of unemployment assistance and the office of the attorney
86 general may promulgate regulations to implement sections 148E and 148F of chapter 149 of the
87 General Laws.

88 SECTION 4. A direct company shall not be liable under section 148E or 148F of chapter
89 149 of the General Laws unless a wage theft violation occurs on or after January 1, 2017.

90 SECTION 5. This act shall take effect on January 1, 2017.