

THE COMMONWEALTH OF MASSACHUSETTS
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August 13, 2015

The Honorable William F. Galvin
Secretary of the Commonwealth of Massachusetts
Regulations Division
State House, Room 117
Boston, MA 02133

RE: Proposed Regulation 940 C.M.R. 32.00

Dear Secretary Galvin:

Pursuant to M.G.L. c. 30A, § 5, an agency must file an amended Small Business Impact Statement ("Statement") prior to adoption of proposed regulations. The Attorney General's Office ("AGO") submits the following Statement for 940 C.M.R. 32.00: Domestic Workers Bill of Rights.

Proposed 940 C.M.R. 32.00 is mandated by M.G.L. c. 149, § 190, the Domestic Workers Bill of Rights. The regulations clarify the statutory rights of domestic workers, persons who are paid to provide housekeeping, childcare and other caretaking services in private home, and the obligations of employers. The statute and regulations outline the authority of the Attorney General's Office to investigate violations.

1. Estimate the number of small businesses subject to the proposed regulation.

These regulations are promulgated pursuant to the statute, which establishes certain protections for domestic workers, addressing disputes or unexpected gaps in child care or household responsibilities that would potentially increase worker absenteeism.

Small businesses that provide cleaning, home health care, services for the elderly and childcare may be affected by the statute and subject to these clarifying regulations, 940 CMR 32.00. Additionally, many private households who pay domestic workers, but do not otherwise hold themselves out as employers or small businesses, will likely be affected by the statute and regulations.

2. What are the projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation?

Section 190 of chapter 149 of the General Laws mandates that the Attorney General promulgate regulations necessary for enforcement. Compliance and reporting requirements contained in 940 CMR 32.00 are consistent with the purposes of the law.

Recordkeeping requirements can be found in 940 CMR 32.04. Therein, an employer who employs a domestic worker must keep a record of wages and hours for three years in accordance with M.G.L. c. 151, § 15. Additionally, an employer who employs a domestic worker for 16 hours or more a week must keep time sheets, notices, written evaluations and written agreements.

The Attorney General has provided guidance on compliance and reporting requirements at www.mass.gov/ago/dw.

3. Detail the appropriateness of performance standards versus design standards.

Neither performance standards nor design standards are applicable to the proposed regulatory changes.

4. Identify the regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation.

The Attorney General's Office is the sole agency that promulgates regulations regarding the domestic workers' law. Employers subject to these regulations must also provide domestic workers with earned sick time consistent with M.G. L. 149, §§ 148C & 148D and 940 CMR 33.00. The Attorney General enforces the Earned Sick Time law and regulations.

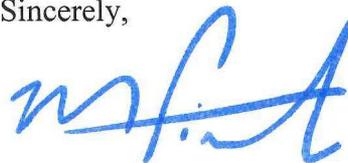
The regulations reference the State Sanitary Code promulgated by the Department of Public Health in 105 CMR. 410. The regulations also refer to minimum wage regulations promulgated by the Department of Labor Standards at 454 CMR. 27.05, regarding appropriate deductions for meals and lodging. The regulations promulgated by the Attorney General under the domestic workers law do not duplicate or conflict with those existing regulations.

5. Analyze whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth.

These regulations are unlikely to deter or encourage the formation of new businesses in the Commonwealth.

I submit this Small Business Impact Statement on behalf of the Attorney General pursuant to the requirements of G.L. c. 30A, § 5.

Sincerely,



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