

Information for Staffing Agencies Regarding the Temporary Workers Right to Know Law



MASSACHUSETTS DEPARTMENT OF
LABOR STANDARDS

Staffing agencies must be either licensed as employment agencies or registered as placement agencies by the Department of Labor Standards (DLS) in order to conduct business in the state, regardless of whether or not the agency has a physical office within state borders, in accordance with the Employment Agency Law, M.G.L. c. 140, §§46B. An additional law, the Temporary Workers Right to Know Law ("TWRKL"), became effective in 2013. A "staffing agency" is defined by M.G.L. c. 149, § 159C as: "an individual, company, corporation, or partnership that procures or provides temporary or part-time employment to an individual who then works under the supervision or direction of a worksite employer." Agencies which place or send individuals to worksite employers are considered "staffing agencies" subject to the TWRKL.

The TWRKL sets out certain obligations for staffing agencies and their client companies or "worksite employers." These obligations are designed to give temporary workers basic information about the jobs and assignments to which they are being sent. DLS administers the TWRKL by interpreting the law, conducting inspections and investigations, and engaging in compliance assistance for the business community. In addition to requiring that temporary workers be provided with a set of information for each new assignment, the TWRKL also prohibits a staffing agency and worksite employer from charging certain fees, requires the staffing agency to post a notice prescribed by DLS, and prohibits an agency from engaging in certain activities.



Staffing Agency Obligations

Provide Job Information to Workers

Before each new assignment, staffing agencies must provide workers with the information described below. This information may be provided in person, in writing, or through a phone call. However, all of the information must be confirmed in writing and provided to the worker before the end of the first pay period. The worker has the right to designate what method he/she wants the information sent to him/her.

Contact Information:

- The name, address, and phone number of the staffing agency (or the specific staffing agent who facilitated the placement)
- The name, address, and telephone number of the workers' compensation carrier of the staffing agency
- The name, address, and telephone number of the worksite employer
- The address and telephone number of DLS

Information about the Job Assignment:

- A description of the position
- Whether the position will require any special
 - o clothing
 - o equipment
 - o training
 - o licenses
 - o any costs for supplies or training

Payment, Hours, and Duration Information

- The designated pay day
- The hourly rate of pay
- Whether overtime may be required
- The daily start time
- The anticipated end time
- The anticipated duration of employment when known

Meals and Transportation

- Whether any meals will be provided by the staffing agency or worksite employer
- If meals are provided by the agency or employer, the charge to the worker
- Details about the means of transportation to the worksite and any fees charged to the worker by the staffing agency or the worksite employer for these transportation services

Any change to the initial information provided above must be immediately provided to the worker by the staffing agency.

DLS has created a sample “Job Order” that contains all of the required information that must be given to workers under the TWRKL. Staffing agencies are encouraged to use the form to ensure their compliance with the law. Visit www.mass.gov/dols/epsap to download the form.

The information that must be given to workers as described above is not required by law to be given to professional workers as defined by 29 U.S.C. section 152, or workers who are secretaries or administrative assistants whose main or primary duties involve one or more of the following: drafting or revising correspondence, scheduling appointments, creating, organizing, and maintaining paper and electronic files, and providing information to callers and visitors.

Post a Notice of Workers’ Rights

A notice of workers’ rights under the TWRKL must be posted by each staffing agency. The notice is provided by DLS and can be downloaded at: www.mass.gov/dols/epsap. Notices can be mailed to staffing agencies upon request.



Prohibited Charges and Fees

*Staffing agencies (and worksite employers) may not charge fees to workers or applicants for the following:

- Registering with the staffing agency
- Obtaining a job / assignment from a staffing agency

Workers cannot be charged for other goods or services unless the worker has signed a contract in a language that the worker understands. The contract must clearly state that the purchase is voluntary and that the staffing agency will not gain a profit from the cost or fee charged to the worker.

Workers can be charged for the following, but the charge cannot exceed the actual cost per applicant or worker:

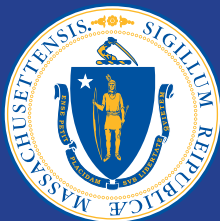
- Bank card, payroll card, voucher, etc. to pay the worker his/her wages
- Drug testing
- Criminal Offender Record Information request
- Transportation to and from the work site that is provided by or arranged by a staffing agency or worksite employer. Provided, however, that these transportation costs cannot exceed 3% of the worker's total daily wages.

(Note: if a staffing agency or worksite employer requires the use of certain transportation services arranged or provided by the agency or employer, no fee may be charged to the worker for these transportation services.)

Staffing agencies must refund reasonable transportation costs if they send a temporary worker to a job that does not exist. This does not include the transportation costs of being sent to a worksite for a job interview.

No staffing agency or worksite employer may charge a worker for any good or service if doing so would cause the worker to earn below Massachusetts' minimum wage.

*The employer may be prohibited from deducting, charging, or requiring the employee to incur any of the costs of these items under M.G.L c. 149, §§ 148 and 150, or other law or regulation.



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Prohibited Activities

A staffing agency may not:

- Knowingly give workers or applicants false or misleading information.
- Use any name it has not licensed or registered with DLS in the advertisement of its services.
- Assign or place workers by force or fraud, or for illegal purposes.
- Assign or place workers where the assignment would violate child labor laws, minimum wage laws, or compulsory school attendance.
- Assign or place workers where the assignment would violate laws related to any licensure or certification.
- Assign or place workers to a location that is on strike or lockout without giving the worker notice of this fact.
- Refuse to return to a worker or applicant any personal belongings or excessive / illegal fees charged by a staffing agency or worksite employer.

Violations of the TWRKL are enforced by the Office of the Attorney General - Fair Labor Division.

For more information about the TWRKL, please visit www.mass.gov/dols/epsap.