

# **HOUSE . . . . . No. 4304**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, July 23, 2012.

The committee on Ways and Means, to whom was referred the Bill establishing a temporary workers right to know (House, No. 4076), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4304).

For the committee,

BRIAN S. DEMPSEY.

**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 definition:-  
4 “Department”, the department of labor standards.
- 5 SECTION 2. Said section 159C of said chapter 149, as so appearing, is hereby further amended  
6 by striking out subsections (b) through (d), inclusive, and inserting in place thereof the  
7 following:-  
8 (b) A staffing agency shall provide to each employee for new assignment or employment notice  
9 of the following:  
10 (1) the name, address and telephone number of: (i) the staffing agency, or the contact  
11 information of the staffing agent facilitating the placement; (ii) its workers compensation carrier;  
12 (iii) the worksite employer; and (iv) the department;  
13 (2) a description of the position and whether it shall require any special clothing, equipment,  
14 training, or licenses and any costs charged to the employee for supplies or training;

15 (3) the designated pay day, the hourly rate of pay and whether overtime pay may occur;

16 (4) the daily starting time and anticipated end time and, when known, the expected duration of  
17 employment;

18 (5) whether any meals shall be provided by the staffing agency or worksite employer and the  
19 charge, if any, to the employee; and

20 (6) details of the means of transportation to the worksite and any fees charged to the employee  
21 by the staffing agency or worksite employer for any transportation services;

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.

25 The information concerning the employee's assignment shall be confirmed in writing and sent to  
26 the employee, in a form designated by the employee, before the end of the first pay period;  
27 provided, however, that any change to the initial terms of employment shall be immediately  
28 provided to the employee and the employee must acknowledge the change in terms.

29 The staffing agency shall post in a conspicuous place in each of its locations where it does  
30 business notice of an employee's rights under this section and the name and telephone number of  
31 the department. The department shall provide a sample posted notice that meets the requirements  
32 of this section and, when appropriate, shall facilitate the translation of the notice to a language  
33 other than English.

34 The provisions of this subsection shall not apply to a professional employee as defined in 29  
35 USC section 152; or to employees who are secretaries or administrative assistants whose main or  
36 primary duties are described by the bureau of labor statistics of the United States department of  
37 labor as involving one or more of the following: drafting or revising correspondence, scheduling

38 appointments, creating, organizing, and maintaining paper and electronic files, and providing  
39 information to callers or visitors.

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

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

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

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

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

45 employee;

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

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

48 wages, or any drug screen;

49 (4) a criminal record offender information request;

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

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

52 applicable minimum wage.

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

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

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

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

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

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

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

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

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

68 (e) A staffing agency shall not:

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

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

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

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

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

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