

Chapter

T H E C O M M O N W E A L T H O F M A S S A C H U S E T T S

*In the Year Two Thousand and Twelve*

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:*

SECTION 1. Subsection (a) of section 159C of chapter 149 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting before the definition of "Employee" the following definition:-

"Department", the department of labor standards.

SECTION 2. Said section 159C of said chapter 149, as so appearing, is hereby further amended by striking out subsections (b) to (d), inclusive, and inserting in place thereof the following 6 subsections:-

(b) A staffing agency shall provide to each employee for new assignment or employment notice of the following:

(1) the name, address and telephone number of: (i) the staffing agency, or the contact information of the staffing agent facilitating the placement; (ii) its workers compensation carrier; (iii) the worksite employer; and (iv) the department;

(2) a description of the position and whether it shall require any special clothing, equipment, training or licenses and any costs charged to the employee for supplies or training;

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

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

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

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

Nothing in this subsection shall be construed to prohibit a staffing agency from directing an employee to employment by telephone; provided, that the telephone message shall disclose the information in this subsection.

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

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

This subsection shall not apply to a professional employee, as defined in 29 U.S.C. section 152; or to employees who are secretaries or administrative assistants whose main or primary duties are described by the bureau of labor statistics of the United States Department of Labor as involving 1 or more of the following: drafting or revising correspondence, scheduling appointments, creating, organizing, and maintaining paper and electronic files, and providing information to callers or visitors.

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

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

(2) any good or service unless under the terms of a written contract with an employee, which clearly states in a language that the employee understands, that the purchase is voluntary and which provides that the staffing agency will not gain a profit from any cost or fee charged to the employee;

(3) the provision of any of the following that exceed the actual cost per applicant or employee: bank card, debit card, payroll card, voucher, draft, money order or similar form of payment or wages, or any drug screen;

(4) a criminal record offender information request;

(5) transportation, except as provided in subsection (d); or

(6) any good or service the payment of which would cause the employee to earn less than the applicable minimum wage.

No staffing agency or work site employer or a person acting directly or indirectly in either's interest shall deduct any costs or fees from the wages of an employee without the express written authorization of the employee. A staffing agency or work site employer shall furnish to the employee a copy of the signed authorization in a language that the employee can understand.

(d) If a staffing agency or work site employer or a person acting directly or indirectly in either's interest offers transportation services to an employee and charges a fee for such services, the staffing agency or work site employer shall charge such employee not more than the actual cost to transport such employee to or from the designated work site. The fee, if any, to cover the transportation service costs for each such employee shall not exceed 3 per cent of such employee's total daily wages, and shall not reduce the employee's total daily wages below the minimum wage earned for the day. If a staffing agency or work site employer or a person acting directly or

indirectly in either's interest requires the use of such transportation services, no fee shall be charged. Any staffing agency that sends an employee to a worksite employer for employment that day where in fact no employment exists shall fully refund the cost of transportation.

(e) A staffing agency shall not:

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

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

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

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

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

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

SECTION 3. This act shall take effect on January 31, 2013.

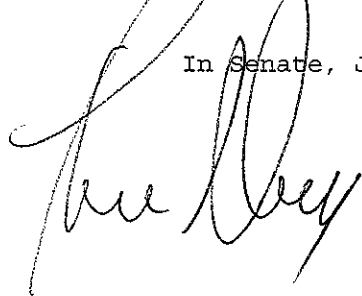
House of Representatives, July 30, 2012.

Passed to be enacted,

 Speaker.

In Senate, July 31, 2012.

Passed to be enacted,

 , President.

, 2012.

Approved,

Governor.