

HOUSE No. 23

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act IMPROVE THE REPORTING OF WAGES IN THE COMMONWEALTH.

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 1 of chapter 62E of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by striking out, in the second paragraph, the words “section
3 9 of chapter 14” and inserting in place thereof the following words:- section 16 of chapter 11.

4 SECTION 2. Said section 1 of said chapter 62E, as so appearing, is hereby further
5 amended by striking out the sixth paragraph and inserting in place thereof the following
6 paragraph:-

7 “Employer”, an employing unit subject either to chapter 151A, section 14P, or to chapter
8 62B.

9 SECTION 3. Said section 1 of said chapter 62E, as so appearing, is hereby further
10 amended by striking out the seventh paragraph and inserting in place thereof the following
11 paragraph:-

12 "Employee", an individual employed by an employer subject either to chapter 151A or to
13 chapter 62B.

14 SECTION 4. Said section 1 of said chapter 62E, as so appearing, is hereby further
15 amended by striking out the last paragraph and inserting in place thereof the following three
16 paragraphs:-

17 “Reporting systems”, the wage reporting system, new hire and other reporting systems
18 established in section 2, and financial institution match system established in section 4.

19 “Wage records”, reports submitted by employers to the Director of the Division of
20 Unemployment Assistance pursuant to chapter 151A, section 14P.

21 “Wage reporting system”, a system of wage records that are provided by the Director of
22 the Division of Unemployment Assistance to the Commissioner pursuant to an interagency
23 agreement.

24 SECTION 5. Section 2 of said chapter 62E, as so appearing, is hereby amended by
25 striking out the first two sentences.

26 SECTION 6. Said section 2 of said chapter 62E, as so appearing, is hereby further
27 amended, in line 10, by striking out the words “, in addition,”.

28 SECTION 7. Said section 2 of said chapter 62E, as so appearing, is hereby further
29 amended by striking out the last three sentences and inserting in place thereof the following:-
30 The commissioner shall, by regulation, prescribe the timing, the form, and the manner of such
31 reports and the information to be provided in the reports, which may include disclosure of the
32 existence of an outstanding child support order. All such reports shall be part of the reporting
33 systems.

34 SECTION 8. Said chapter 62E is hereby further amended by inserting after section 2 the
35 following section:-

36 Section 2A. Notwithstanding any other provision of this chapter, the new hire reporting
37 requirements of this chapter and the penalties associated with the failure to comply with those
38 requirements shall apply to any entity electing to report new hire information to the
39 Commonwealth pursuant to the multistate employer provisions of 42 U.S.C. § 653a(b)(1)(B).

40 SECTION 9. Section 3 of said chapter 62E, as so appearing, is hereby amended by
41 striking out the words “The commissioner shall design” and all that follows through the colon
42 and inserting in place thereof the following:- The commissioner shall operate the reporting
43 systems:

44 SECTION 10. Said section 3 of said chapter 62E, as so appearing, is hereby further
45 amended by striking out, in lines 3 to 4, the words “an entitlement” and inserting in place thereof
46 the following words:- a public benefit.

47 SECTION 11. Said section 3 of said chapter 62E, as so appearing, is hereby further
48 amended by striking out, in lines 8 to 9, the words “for free care services made from the
49 uncompensated care pool pursuant to section 18 of chapter 118G” and inserting in place thereof
50 the following words:- made from the health safety net trust fund.

51 SECTION 12. Said section 3 of said chapter 62E, as so appearing, is hereby further
52 amended by striking out, in the second sentence, the word “system” and inserting in place
53 thereof the following word:- systems.

54 SECTION 13. Said section 3 of said chapter 62E, as so appearing, is hereby further
55 amended by striking out, in the third sentence, the word “system” and inserting in place thereof
56 the following word:- systems.

57 SECTION 14. Said section 3 of said chapter 62E, as so appearing, is hereby further
58 amended by striking out the second to last sentence and inserting in place thereof the following
59 sentence:- Such information shall be utilized in the reporting systems as a post audit mechanism
60 for the purpose of verifying eligibility and detecting and preventing fraud, error and abuse in
61 public benefits provided by agencies of the commonwealth.

62 SECTION 15. Said section 3 of said chapter 62E, as so appearing, is hereby further
63 amended by striking out, in the last sentence, the words “this reporting system” and inserting in
64 place thereof the following words:- the reporting systems.

65 SECTION 16. Said section 3 of said chapter 62E, as so appearing, is hereby further
66 amended by adding after the existing text the following new paragraph:

67 The provisions of this chapter do not apply to the utilization and dissemination of wage
68 records by the Division of Unemployment Assistance.

69 SECTION 17. Section 4 of said chapter 62E, as so appearing, is hereby amended by
70 striking out paragraph (f) and inserting in place thereof the following paragraph:-

71 (f) All reports under this section shall be part of the reporting systems.

72 SECTION 18. Section 5 of said chapter 62E, as so appearing, is hereby amended, in the
73 first sentence, by striking out the words “to him under the reporting system” and inserting in
74 place thereof the following words:- under the reporting systems.

75 SECTION 19. Section 5 of said chapter 62E, as so appearing, is hereby further amended,
76 in the first sentence, by striking out, in line 3, the word “system” and inserting in place thereof
77 the following word:- systems.

78 SECTION 20. Section 5 of said chapter 62E, as so appearing, is hereby further amended
79 by inserting, at the end of the second sentence, the following words:- , or other information as
80 determined by the commissioner.

81 SECTION 21. Section 5 of said chapter 62E, as so appearing, is hereby further amended
82 by striking out, in the third sentence, the words “presented in accordance” through the end of the
83 sentence and inserting in place thereof the following words:-, including consultation with the
84 recipient whose status is in question.

85 SECTION 22. Section 5 of said chapter 62E, as so appearing, is hereby further amended
86 by striking out, in the last sentence, the word “system” and inserting in place thereof the
87 following word:- systems.

88 SECTION 23. Section 6 of said chapter 62E, as so appearing, is hereby amended by
89 striking out the words “in accordance with regulations” and all that follows through the end of
90 the section.

91 SECTION 24. Section 6B of said chapter 62E, as so appearing, is hereby amended by
92 striking out the words “, pursuant to procedures established by said commission,”.

93 SECTION 25. Section 7 of said chapter 62E, as appearing, is hereby amended by
94 striking out the words “administering department” and inserting in place thereof the following
95 words:- commissioner and the administering department.

96 SECTION 26. Section 7A of said chapter 62E, as so appearing, is hereby amended by
97 striking out the words “wage reporting data compiled by the department from the quarterly
98 reports filed by employers” and inserting in place thereof the following words:- reporting
99 systems.

100 SECTION 27. Section 8 of said chapter 62E, as so appearing, is hereby amended by
101 striking out, in the first sentence, the word “system” and inserting in place thereof the following
102 word:- systems.

103 SECTION 28. Section 9 of said chapter 62E, as so appearing, is hereby amended by
104 striking out, in the second paragraph, the word “treasurer” and inserting in place thereof the
105 following word:- person.

106 SECTION 29. Section 10 of said chapter 62E is hereby repealed.

107 SECTION 30. Section 11 of said chapter 62E, as appearing in the 2006 Official Edition,
108 is hereby amended by striking out, in the first sentence, the words “establish a program of wage
109 and financial institution information sharing” and inserting in place thereof the following words:-
110 share reporting system information.

111 SECTION 31. Said section 11 of said chapter 62E, as so appearing, is hereby further
112 amended by striking out, in the third sentence, the words “wage reporting system” and inserting
113 in place thereof the following words:- reporting systems.

114 SECTION 32. Said section 11 of said chapter 62E, as so appearing, is hereby further
115 amended by striking out, in the fourth sentence, the words “wage and financial institution
116 information” and inserting in place thereof the following words:- reporting system information.

117 SECTION 33. Section 12 of said chapter 62E, as so appearing, is hereby amended by
118 striking out, in the first sentence, the words “wage and financial institution information data” and
119 inserting in place thereof the following words:- reporting system information.

120 SECTION 34. Said section 12 of said chapter 62E, as so appearing, is hereby further
121 amended by striking out, in the first sentence of the second paragraph, the words “wage reporting
122 system” and inserting in place thereof the following words:- reporting systems.

123 SECTION 35. Said section 12 of said chapter 62E, as so appearing, is hereby further
124 amended by striking out, in the second sentence of the second paragraph, the words “wage
125 reporting and financial institution match system” and inserting in place thereof the following
126 words:- reporting systems.

127 SECTION 36. Said section 12 of said chapter 62E, as so appearing, is hereby further
128 amended by striking out, in the second sentence of the second paragraph, the words “relating to
129 administration of the tax laws, public assistance programs of the commonwealth or any political
130 subdivision thereof or their respective agencies, workers’ compensation laws or the child support
131 enforcement program of the commonwealth;”.

132 SECTION 37. Said section 12 of said chapter 62E, as so appearing, is hereby further
133 amended by striking out, in the last sentence of the second paragraph, the words “wage reporting
134 data” and inserting in place thereof the following words:- reporting system information.

135 SECTION 38. Section 13 of said chapter 62E is hereby repealed.

136 SECTION 39. Section 14G of chapter 151A of the General Laws, as appearing in the
137 2006 Official Edition, is hereby amended by striking out subsection (g).

138 SECTION 40. Said chapter 151A is hereby further amended by adding after section 14 O
139 the following new section: -

140 Section 14P. (a) As used in this section the following words shall, unless the context
141 clearly requires otherwise, have the following meanings:

142 (1) "Director", the director of the division of unemployment assistance.

143 (2) "Division", the division of unemployment assistance.

144 (3) "Employee", any individual employed by an employer subject either to this chapter
145 or to chapter sixty-two B.

146 (4) "Employer", any employing unit subject either to this chapter or to chapter sixty-two
147 B.

148 (b) All employers who are or become either subject to the provisions of this chapter or
149 subject to the provisions of chapter sixty-two B shall register with the division in the time, form
150 and manner as may be prescribed by the director.

151 (c) Beginning with the calendar quarter ending December 31, 2009, every employer as
152 defined in this section shall, for each calendar quarter, submit in the time, form and manner as
153 may be prescribed by the director a report containing, but not limited to, the following
154 information for each employee: name, social security number, wages paid as defined in section
155 1(s) of this chapter, hours worked, total amount of taxes withheld under the provision of chapter
156 sixty-two B and the amount of wages as defined in section 1 of chapter sixty-two B upon which
157 the withholding was based, the identification number assigned the employer by the division, the
158 corresponding federal employer identification number and the identification number such

159 employer is required to include on a withholding tax return filed pursuant to chapter sixty-two B.
160 The report also shall include the count of all employees as defined in section 1(h) of this chapter
161 who worked during or received wages as defined in section 1(s) of this chapter for the pay period
162 which includes the twelfth day of each month of the applicable quarter. The report shall be
163 submitted quarterly according to a schedule prescribed by the director. The report shall be
164 deemed submitted when received by the division.

165 (d) The director may require by regulation an employer to submit the report specified in
166 subsection (c) using a form and means of electronic transmittal as prescribed by the director.
167 The regulation may include penalties for failure to comply with the filing requirements.

168 (e) If an employer fails to file any report or form required by this section or section 14G
169 of this chapter within fifteen days from the date of which the director has mailed to such
170 employer a demand for such report or form, the director may assess upon such employer a
171 penalty as follows:

172	WORKFORCE SIZE	
173	PENALTY AMOUNT	
174	0-4	\$25.00
175	5-9	\$100.00
176	10-49	\$250.00
177	50-99	\$500.00
178	100-499	\$1,000.00

179 500 and up \$2,500.00

180 The director shall determine the applicable workforce size by taking an average of the
181 monthly employment count reported by the employer as required by subsection (c) for the most
182 recent quarter; provided that, if the employer has not filed any reports required by subsection (c),
183 the director may determine the applicable workforce size from any available information. Each
184 such failure to file shall constitute a separate and distinct offense.

185 (f) The director shall provide information secured under this section to the commissioner
186 of the department of revenue pursuant to an interagency agreement between the division and the
187 department of revenue. The commissioner of the department of revenue may provide such
188 information pursuant to an interagency agreement with other governmental entities as specified
189 in chapter sixty-two E. The director is authorized to provide information secured under this
190 section to other entities pursuant to an agreement which is consistent with the provision of 20
191 CFR Pt 603.

192 (g) Information secured pursuant to this section may be used as part of the Wage Record
193 Interchange System established and implemented to carry out the provisions of the Workforce
194 Investment Act of 1998.

195 (h) Except where inconsistent with the provisions of this section, the provisions of this
196 chapter, including the rules and regulations adopted under this chapter, shall apply to the
197 requirements of this section.

198 (i) The director shall promulgate regulations necessary to implement this section.

199 SECTION 41. Subsection (a) of section 15 of said chapter 151A, as appearing in the
200 2006 Official Edition, is hereby amended by striking out the second paragraph.

201 SECTION 42. Sections 1 through 39 and section 41 of this Act shall take effect October
202 1, 2009. Section 40 of this Act shall take effect July 1, 2009.