

HOUSE No. 4076

The Commonwealth of Massachusetts

In the Year Two Thousand 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:

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 words:-

4 “Department”, the department of labor standards.

5 SECTION 2. Section 159C of chapter 149 of the General Laws, as so appearing, is
6 further amended by striking out subsections (b) through (d) and inserting in place thereof the
7 following:-

8 (b) Each staffing agency shall provide to each employee for each new assignment or
9 employment a written job order containing the following:

10 (1) the name, address and telephone number of the staffing agency and its workers
11 compensation carrier, the worksite employer, and the department;

(2) the kind and character of the employment, including any requirement for special clothing, accessories, tools, equipment, training, or licenses and any costs charged to the employee;

(3) the designated pay day and the actual hourly rate of pay, overtime pay and compensation;

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

(5) any meals provided by the staffing agency or worksite employer and the costs of such meals; details of the transportation required or offered to the employee by the staffing agency, the worksite employer or any person acting on either's behalf and the cost of such transportation; and any other fees charged to the employee; and

(6) a multilingual notice that the job order contains important information about the employment and that the notice should be translated.

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 and shall be confirmed in writing and sent to the employee within 3 days of the start of the employment; and provided further, that the staffing agency shall post in a conspicuous place in each of its locations where it does business in languages which the staffing agency's employees can understand a notice containing a copy of this section and the name and telephone number of the department. The department shall provide a sample job order and a sample posted notice that will meet the requirements of this section.

33 The provisions of this subsection shall not apply to a professional employee as defined in
34 29 USC section 152.

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

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

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

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

45 (4) a criminal record offender information (CORI) request;

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

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

49 No staffing agency or work site employer or a person acting directly or indirectly in
50 either's interest may deduct any costs or fees from the wages of an employee without the express
51 written authorization of the employee. A staffing agency or work site employer shall furnish to
52 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 no 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 may 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, or 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;

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

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

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