

Temporary Workers, Permanent Obligations: What Employers Must Know

January 22, 2013

On January 31, 2013, Massachusetts will become the second state to require staffing agencies to provide basic job information to employees assigned to temporary or part-time jobs. [An Act Establishing a Temporary Worker's Right to Know](#) will amend Massachusetts General Law, [chapter 149, section 159C](#). The following article provides an overview of the substance of the law and how to comply.

Why was the law passed?

According to Governor Patrick, the law was passed because “thousands of Massachusetts workers are sent off to work by staffing agencies without any idea of where they are going, what work they will do, and what they will be paid. This bill levels the playing field for all of our businesses while fulfilling our responsibility to make sure all of our workers are being treated fairly.”

Who does the law protect?

Any person employed directly by a staffing agency to provide temporary or part-time employment services to a work site employer. [Temporary employment](#) lasts less than 10 weeks.

Does this law apply to all temporary workers?

No. The notification requirements do not apply to secretaries, administrative assistants or professionals as that word is defined in [29 USC § 152](#).

What is a staffing agency?

An employment agency that places workers in jobs, assignments, engagements or employment for a fee. The official definition of an employment agency can be found in [Massachusetts General Laws chapter 140, section 46A](#). The Commonwealth's [FAQs about Employment Agencies](#) is a helpful resource.

What does the law require?

The bullet list below summarizes the information a staffing agency is required to provide to part-time or temporary employees:

- the staffing agency's contact information;
- the staffing agency's workers' compensation carrier;
- the rate of pay for the job;

- shift start and end time, and if known, the duration of the assignment;
- the date of pay day;
- details related to any meals or transportation, such as whether either is provided, and whether either the staffing agency or the work-site employer is going to charge for meals or transportation;
- a description of the position and whether it requires special clothing, tools, licenses, or training; and
- the name of the work-site employer.

In addition, staffing agencies must post a notice of rights provided under the law, as well as the Massachusetts [Department of Labor Standards](#)' contact information.

How can I comply with the notice requirements if I won't see the employee prior to the commencement of the assignment?

Agencies may communicate the required information by telephone, provided that written details are provided to the employee before the end of the first pay period.

Is there a sample notice I can use?

The [Department of Labor Standards](#) will provide a sample notice to all staffing agencies that will satisfy the notification requirements prescribed by the law. This sample notice has not been posted on the DLS's website yet, but check back soon.

What does the law prohibit?

Employment Fees:

Staffing agencies may not charge an applicant or employee:

- To register to use its services.
- For any cost associated with performing a criminal background check.
- More than its actual costs for any of the following: bank cards, debit card, money orders or drug screens.
- A fee for a good or service if such fee would cause the employee to earn less than minimum wage (currently, \$8.00/hour).

Transportation Fees:

The following provisions apply to transportation:

- If the agency provides transportation to the work site, it must notify the employee of any fee associated with the service.
- Any transportation fee charged to the employee cannot exceed the actual cost to the agency, and cannot amount to more than 3% of the employee's daily wages.

- The agency cannot charge a transportation fee if it requires the employee to use its transportation. Said another way, agencies only can charge for transportation if it is a service provided to the employee rather than a requirement of the position.

Other Prohibitions

The law also specifically forbids certain activity, most of which should be common sense. These prohibitions include: providing false or fraudulent information to applicants and employees; assigning employment by force or for illegal purposes; refusing to return an employee's personal property, and; using any name that has not been registered with the DLS.