

New Massachusetts Law Requires Staffing Firms to Give Written Notice Regarding Jobs to Temporary Workers

By Brian E. Lewis

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Effective January 31, 2013, temporary staffing agencies in Massachusetts must provide temporary employees with written notice of certain information before the employees can go to a new assignment for work. The new law also prohibits staffing agencies from charging temporary employees for certain items and services related to employment.

Specifically, the new law requires temporary staffing agencies to provide:

1. The name, address, and telephone number of the staffing agency, its workers' compensation insurance carrier, the worksite employer, and the department in which the employee will work.
2. A description of the position the employee is to fill and whether the position requires any special clothing, equipment, training or licenses (as well as 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 on the job.
4. The daily starting time and anticipated end time, and, if known, the expected duration of employment.
5. Whether meals will be provided and the charge for the meal (if any).
6. The details of the means of transportation to the worksite and any fees charged to the employee for transportation services (if provided).

In addition, temporary staffing agencies cannot charge or accept a fee from any staffing agency employee for the following:

1. The cost of registration for the staffing agency.
2. Any good or service, unless it is clearly stated in a written contract that the purchase is voluntary and states that the staffing agency will not gain a profit from the fee charged to the employee.
3. The cost of a bank card, debit card, payroll card, voucher, draft, money order or similar form of payment for wages, or drug screen, which exceeds the actual cost per applicant.
4. The cost of a criminal record request.
5. The cost of transportation expense, if the staffing agency requires the use of the transportation. If the staffing agency offers the transportation as an option, the charge cannot be more than the actual cost of the transportation, and more than 3% of the employee's total daily wages, and it cannot reduce the employee's wages below minimum wage.

Further, under the new law, staffing agencies are prohibited from engaging in the following activities:

- Knowingly providing false, fraudulent, or misleading information to workers;
- Using any name that they have not registered with the Department;
- Assigning or placing an employee by force, fraud, or for illegal purposes; or
- Refusing to return personal belongings or excessive fees or charges to an employee.

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Finally, under the new law, staffing agencies must post in their locations (not the worksite locations) a notice of an employee's rights under the Act and the name and contact information of the Massachusetts Department of Labor Standards, which enforces the law. The Department is supposed to provide a sample poster prior to the effective date of the statute. The Department also is directed to issue regulations concerning this poster, as well as other parts of the law. There is no date specified by which the Department must do so.

Violations of this law can result in civil fines, up to \$15,000 or \$25,000 for willful violations.

Jackson Lewis attorneys will be tracking the enforcement of the new law and the implementing regulations.

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