

New Law Imposes Obligations on Staffing Agencies in Massachusetts

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The Massachusetts legislature recently enacted the “Temporary Workers’ Right to Know Act,” which imposes new requirements on staffing agencies and also will affect work site employers to which temporary workers are assigned. The Act, which takes effect on January 31, 2013, requires staffing agencies to provide temporary employees with notice regarding the details of their work assignments. It also imposes limitations on fees that may be charged to temporary employees. Failure to abide by the law may result in harsh civil fines and criminal sanctions.

Notice Requirements and Exceptions

The new notice requirements constitute the most significant aspect of the Act. Staffing agencies will now be required to provide temporary workers with specific information about each new assignment, including:

- The name, address, and telephone number of the staffing agency or the agent facilitating the placement;
- The name, address, and telephone number of the work site employer and the department;
- A description of the position, including whether it requires any special clothing, equipment, training, or licenses (and whether the employee will be charged for the costs of the supplies or training);
- The designated pay day, the hourly rate of pay, and whether overtime pay may occur;
- The daily starting time and anticipated end time;
- The expected duration of employment (when known);
- Whether any meals will be provided by the staffing agency or work site employer (and whether the employee will be charged for the meal); and
- Details of the means of transportation to the worksite (and any fees charged to the employee for transportation services). Staffing agencies may convey this information to the employee by telephone initially, but these terms must be confirmed in writing and sent to the employee before the end of the first pay period. If any of the initial terms of the assignment change, the staffing agency must notify the employee in writing, and the employee must acknowledge the change.

Staffing agencies must also post these notice requirements (and translations, if appropriate) in a conspicuous place in each location. The Massachusetts Department of Labor has been directed to create a sample poster.

Note, however, that these notice requirements do not apply to “professional” employees (as defined by the Fair Labor Standards Act) or to secretaries or administrative assistants whose primary duties involve drafting or revising correspondence, scheduling appointments, creating, organizing and maintaining paper and electronic files, or providing information to callers or visitors.

Limitations on Fees

In addition to imposing notice requirements, the Act states that no staffing agency or work site employer may deduct any costs or fees from an employee’s wages without his or her express written authorization. Further, the Act curtails the fees that staffing agencies and workplace employers may charge temporary workers. For example, fees for registering with staffing agencies or for the cost of procuring employment are prohibited. Staffing agencies are also prohibited from charging fees exceeding the actual cost in connection with criminal

record offender information requests, drug screens, transportation services, or forms of payment such as debit cards or money orders.

Regulations

The Massachusetts Department of Labor will issue regulations with further guidance on the law, but it is not clear whether these regulations will be issued in time for the January 31, 2013 effective date.

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