

## Legislative Fact Sheet Temp Workers' Right to Know Bill

Lead sponsors: Representative Eugene O'Flaherty (HB 1829) and Senator Jack Hart (SB 1062)

*"I had to quit my job because the conditions were so dangerous," said "Richard" who worked for two days for a temporary agency in Boston. When Richard went to pick up his check, the owner of the agency told him he had not worked a full week and so was not entitled to a pay check. "I knew about MassCOSH so I could take action against my employer. But so many of my friends and former co-workers don't get any information from their employer about what they're entitled to. We need to have a law that will make sure our rights are not violated."*

**Background:** The American dream is that if you work hard and play by the rules you ought to be able to support yourself and your family. Yet thousands of workers in Massachusetts who work for temp agencies are being denied their basic rights. They are sent off to work without having any idea where they are going, the type of work they will do, their rate of pay – even the name of their employer, who is often referred to by a nickname. Although they work hard and long, these workers do not get the wages they have earned or are injured without compensation at hazardous worksites.

As of 2001, over 83,000 individuals in Massachusetts were classified as temporary workers and an additional 25,000 were classified as on-call or day laborers. Since temporary jobs are largely low-wage and characterized by high turnover, temporary workers constitute some of the most economically vulnerable members of the workforce. Even though many are primary breadwinners for their families, temporary workers are also more likely to be paid poverty-level wages than permanent workers: temporary workers employed through agencies were more than three times as likely to have annual family incomes below \$15,000 as standard full-time workers of similar age, occupation, educational attainment, and geographic region of residence. One in five temporary workers is in the bottom 10% of wage earners, and temporary workers employed through temporary agencies are more than seven times as likely as permanent workers to lack health insurance.

According to current regulations, a temporary agency does not have to reveal to workers where they are being taken to work, the types of duties the workers will be performing, how long they are going to work, or how much they will be paid. Temporary agencies are also exempt from all of the licensing requirements of employment agencies and are consequently not subject to any regulatory oversight. Consequently, the rights of workers are ignored leading to the prevalence of employer abuse and exploitation including non payment of wages, illegal fees, and hazardous working conditions.

### What is the Temp Worker Right to Know Bill:

1- **A Simple Form Can Make A Big Difference!** The Temp Workers' Right to Know Bill would require that a temp agency give a worker basic information about the job they are being hired for in the language which the temp agency usually communicates with the worker. All this information could be contained in a simple form.

2- **No Charge for Equipment** – The bill also forbids temp employers from charging workers for protective equipment for jobs that a worker does temporarily.

**Endorsing organizations:** Massachusetts AFL-CIO, Massachusetts Coalition for Occupational Safety and Health (MassCOSH), Greater Boston Legal Services, Brazilian Immigrant Center, Centro Presente, CEDC Southeastern Mass, Central Mass. AFL-CIO, Chelsea Collaborative, Latino Immigrants Committee, Mass Global Action, Merrimack Valley Central Labor Council, New England Regional Carpenters Council, Painters and Allied Trades District Council 35, North Shore Labor Council, and Western MassCOSH.

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## **AN ACT ESTABLISHING A TEMPORARY WORKER'S 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:*

**SECTION 1.** Section 27C of chapter 149 of the General laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 4, the words "or 159C" and inserting in place thereof the following words:- , 159C or 159D.

**SECTION 2.** Said section 27C of said chapter 149, as so appearing, is hereby further amended by striking out, in line 13, the words "or 159C" and inserting in place thereof the following words:- , 159C or 159D.

**SECTION 3.** Chapter 149 of the General Laws is hereby amended by inserting after section 159C the following section:-

### *Section 159D.*

(a) As used in this section, the terms "employee," "employer," "employment," "staffing agency," "work site employer," shall have the meanings assigned to them by section 159C.

(b) Each staffing agency shall furnish in writing for each applicant for employment on the date of hire: (1) information as to the name of the worksite employer and the worksite address for the applicant's assignment; the kind and character of the employment, including any requirement for special attire, accessories, tools, safety equipment, or licenses and any costs charged; whether the employee must receive special training as required by law; the anticipated rate of wages or compensation, including any benefits to be paid for the work and the overtime rate of pay; whether such employment is temporary; the expected duration of the work to be performed by the employee, including daily starting time, anticipated end time, and anticipated overtime, if any; a statement of the employee's right to workers' compensation benefits and upon request the employer's workers' compensation carrier name and number; a complete and accurate description of work site hazards to which the employee may become exposed or the name of a contact person at the worksite who can provide a complete and accurate description of work site hazards to which the employee may become exposed; meal provision and the cost of the meal provided through the staffing agency, if any; the total fee to be exacted by the staffing agency from the applicant, if any; and the provisions set out in this section; provided that, nothing in this paragraph shall be construed to prohibit a staffing agency from directing an applicant to employment by telephone, but such telephone message shall comply with the disclosure requirements of this paragraph and shall be, confirmed in writing by the staffing agency and included with the employee's first paycheck or first payment of wages; a carbon copy of such confirmation shall be kept by the staffing agency for a period of at least one year; and (2) a receipt for every charge made by the staffing agency the employee has paid.

(c) A notice of the provisions of this section shall be prepared by the attorney general, in English and in the languages that are generally used in the locale or locales of the staffing agency or its employees and shall be posted in the staffing agency's offices in a conspicuous location accessible to employees. Copies of all notices providing individual information to the employee shall be kept on file for a period of three years by the staffing agency and shall be made available for inspection by any affected employee, who shall be given copies of such notices, without charge, within 10 days of the employee's request therefore. A duplicate receipt for any charges by the staffing agency to the applicant shall be retained by the staffing agency for three years following the date on which the agency contract is executed or the payment is made, and shall be made available for inspection by the employee, attorney general or their duly authorized agent or inspector, upon their request.

(d) No staffing agency or worksite employer shall charge an employee for safety equipment, personal protective equipment, uniforms, clothing, tools, accessories or any other items required by the nature of the work either by law, custom, or as a requirement of the client company; but this subsection shall not preclude the staffing agency from charging the employee the market value of items temporarily provided to the employee by the agency in the event that the employee willfully fails to return such items to the agency, but no charge may be made for items damaged through ordinary use or lost through no fault of the employee. For items other than those referenced in

this subsection, which the staffing agency makes available for purchase, the employee shall be charged no more than the actual cost of the item to the labor pool, or market value, whichever is less.

(e) The attorney general shall enforce this section, and may obtain injunctive or declaratory relief for this purpose. Violation of this section shall be punished by a fine of not less than \$250 nor more than \$1250.

(f) (1) Any employee aggrieved by a violation of subsection (b) or (c) of this section shall be entitled to an award of damages of not less than \$25 per offense nor more than one \$100 per offense. Each assignment to a worksite shall constitute a separate offense unless the staffing agency shows that it gave the employee notice of a multiple day assignment.

(2) Any employee aggrieved by a violation of this section may, at the expiration of ninety days after the filing of a complaint with the attorney general, or sooner, if the attorney general assents in writing, and within three years of such violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief and any damages incurred, and shall include treble damages for any loss of wages and other benefits. An employee so aggrieved and who prevails in such an action shall be entitled to an award of the costs of the litigation and reasonable attorney fees.

(g) Any waiver by an employee of the provisions of this section shall be deemed contrary to public policy and shall be void and unenforceable. Any attempt by a staffing agency or its client company to have an employee waive rights given by this section shall constitute a violation of this section.

(h) Exemptions: Temporary or contract staffing agencies that require all of their job applicants to have a post-secondary degree are exempted from complying with the provisions of this Act, provided that each applicant is given a copy of the employment application and said application contains all the information required in subsection (b).