

Is Your Temp Agency Taking You For A Ride?

Important Facts About Your Legal Rights When You Work For a Temporary Staffing Agency

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TEMPORARY WORKERS RIGHT TO KNOW LAW

On January 31, 2013, a new law in Massachusetts took effect that expanded the rights of workers employed by temporary staffing agencies. Workers sent to jobs ranging from recycling to fish-processing to warehousing now must receive critical information about their job assignments from the temp agency. The information in the job order helps workers enforce their workplace rights when they are violated.

This booklet explains the new law and how it helps workers employed by temp agencies. It also provides information about other rights of temp workers.

Enforcement of the new law depends on workers and their advocates reporting violations. A broad coalition of worker centers and other community groups is committed to improving working conditions in the temporary staffing industry. For more information about the efforts of this coalition, contact Rachel Smit in the Greater Boston Legal Services Employment Law Unit at (617) 603-1672.

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“RIGHT TO KNOW”

What is a job order?

A job order is a document given to you by the temp agency containing important information about your job assignment. It must contain the following information:

- Name, address and telephone number of:
 - Temp agency or the person who recruited or hired you
 - Workers’ compensation carrier for your temp agency
 - Worksite employer (where you are assigned to work)
 - Department of Labor Standards (the Massachusetts state agency that investigates complaints)
- A description of the assignment and whether you need special clothing, equipment, training or licenses (and any charges for these things)
- Daily start time, expected end time, and the duration of the assignment (if known)
- Information about your pay:
 - Pay day
 - Hourly rate of pay
 - Possibility of overtime
 - Whether meals are provided and any costs to you
 - Details about transportation and any fees you will be charged

When must my temp agency provide the job order?

Your temp agency must provide the information contained in the job order at the beginning of each new assignment. The information must be provided in writing by the end of your first pay period.

What should I do with the job order?

Keep it with your other important papers! This information will help you if you are injured on the job or if the agency violates your rights.

Do all temp workers need to receive the job order?

The job order requirement does not apply to professional employees or certain secretaries and administrative assistants.

ILLEGAL CHARGES AND FEES

Can my temp agency charge me a registration fee?

No!

Can my temp agency charge me for a CORI (Criminal Offender Record Information) check when I apply?

No!

Can my temp agency charge me for drug testing?

Yes, but only as much as it actually costs the temp agency.

TRANSPORTATION

I get picked up by a van driver to get to my temp job. How much can I be charged for transportation?

If you make \$8/hour (minimum wage): **Nothing**

*Subtract the transportation charges from your daily pay.
If you are being paid less than \$8 for every hour you
work in a day, the transportation charges are unlawful.*

If you are required to use the van service: **Nothing**

If you choose to use the van service and the charges do not
bring your pay below minimum wage: **3% of daily wages**

*Or the actual cost of providing the transportation,
whichever is less. For example:*

HOURLY RATE	TOTAL DAILY PAY FOR 8 HOURS	MAX 3% CHARGE
\$8/HOUR	\$64	NO CHARGE
\$9/HOUR	\$72	\$2.16/DAY
\$10/HOUR	\$80	\$2.40/DAY
\$11/HOUR	\$88	\$2.64/DAY
\$12/HOUR	\$96	\$2.88/DAY

RETALIATION

I am worried that if I complain about violations of the Temporary Workers Right to Know Law, I will lose my job.

It is illegal for the temp agency or the worksite employer to retaliate against you for seeking your rights under the Temporary Workers Right to Know Law. For advice about your particular situation, you should consult with a lawyer. You can also make an anonymous complaint to the Department of Labor Standards.

ISSUES FOR UNDOCUMENTED IMMIGRANT WORKERS

I don't have a green card or other work permit. Am I covered by the Temporary Workers Right to Know Law?

Yes. This law covers all workers, regardless of your immigration status.

Can I file a complaint with the Massachusetts Department of Labor Standards even though I don't have work authorization?

Yes. The Department will investigate your complaint without regard to immigration status.

But will the Department of Labor Standards share information with ICE?

No. The Department of Labor Standards will not share your information with ICE.

OTHER TEMP AGENCY REQUIREMENTS

Does my temp agency need to post a notice of my rights under the Temporary Workers Right to Know Law?

Yes.

Does my temp agency need to be registered with the state?

Yes. Under a different law, temp agencies either need to be registered with or licensed by the state. When an agency registers with the state, it submits documentation of compliance with the workers' compensation law and certifies that it is complying with other important laws. You can check to see if your agency is registered by looking at this website:

<http://www.mass.gov/lwd/labor-standards/employment-agency/employment-placement-and-staffing-agencies-program/>

(click on "Licensed Employment Agencies and Registered Placement Agencies List"). If your agency is not registered, you can report it anonymously to the Department of Labor Standards.

What happens if I am injured while working?

Your temp agency is required to maintain workers' compensation insurance so that you can be compensated for injuries on the job. The job order that you must receive under the Temporary Workers Right to Know Law will provide the contact information for the temp agency's workers' compensation insurer.

HEALTH AND SAFETY

At the place where I work, the temp workers do not receive the same safety protections as the permanent workers while doing the same work. Is this legal?

No. Under federal workplace safety laws, temporary workers must be protected to the same extent as permanent workers.

WAGE AND HOUR LAWS

During the week, I worked for two different companies. My total hours for the week are more than 40. Does the temp agency need to pay me time-and-a-half for my overtime hours?

Yes, with limited exceptions.

I work more than 40 hours every week at the same company. I receive two different checks – one from the company and one from my temp agency. I never receive time-and-a-half for my overtime hours. Is this legal?

Probably not. Unless one of the limited exceptions to the overtime law applies, this scheme is illegal.

I was sent to a job assignment but there was no work for me when I arrived. Am I owed any wages?

Yes. You must be paid the minimum wage for at least 3 hours of work. Also, if you were charged for transportation, those charges must be repaid to you.

Keep Your Own Records of Hours Worked and Wages Paid

Keeping track of your hours and your wages will help you figure out if your employer is following the law. If not, having good records will make it much easier to enforce your legal rights.

- * If you receive a paycheck, always keep your check stubs or a photocopy of your checks.
- * If you are paid in cash, write down in a notebook the dates and hours that you worked and the dates and amounts that you were paid.

HOW TO PROTECT YOUR RIGHTS

Once you know what your legal rights are, how can you make sure that they are protected? Here are some helpful tips for defending your rights when you work for a temporary staffing agency:

Take Action to Enforce Your Rights

If your temporary staffing agency or your worksite employer is not complying with the law, take action quickly. You will have a much better chance of success. Here are some suggestions:

- 1. If possible, don't act alone.** Try to get together with co-workers, so that no one worker can be singled out by your employer. Getting together in a group will also show strength and support for your issue. As a group, you will also be protected against retaliation by the National Labor Relations Act.
- 2. Organize.** You can organize with co-workers, worker centers, other community groups, or unions to bring pressure on your employer. Since laws do not cover all problems and legal procedures can be slow, sometimes you can get quicker or better results by using the media, consumer boycotts, pickets, and pressure from community leaders.
- 3. File a government complaint.**

For violations of the Temporary Workers Right to Know Law, you can file a complaint with the Massachusetts Department of Labor Standards. If you are afraid to use your name, you can make an anonymous complaint. But the Department's compliance officers can investigate your complaint more effectively if they can contact you.

To file a complaint with the Department of Labor Standards:

Contact: Ligia Martinez
Department of Labor Standards
19 Staniford Street, 2nd Floor
Boston, MA 02114
(617) 626-6971

For violations of workplace safety laws, you can file a complaint with the federal Occupational Safety and Health Administration (OSHA).

To file a safety complaint:

Contact: Regional OSHA Office
JFK Federal Building, Room E340
Boston, Massachusetts 02203
(617) 565-9860

For violations of other wage and hour laws, you can file a complaint with the Massachusetts Office of the Attorney General or the U.S. Department of Labor. They can demand payment from your employer or take the employer to court.

To file a wage complaint:

Massachusetts Office of the Attorney General Fair Labor Division Office: 100 Cambridge Street, Boston, MA 02114 Mailing address: One Ashburton Place, Boston, MA 02108 (617) 727-3465 www.mass.gov/ago (click on “Workplace Rights”)	U.S. Department of Labor, Wage and Hour Division JFK Federal Building, Room 525 Government Center Boston, MA 02203 (617) 624-6700 www.dol.gov/whd
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- 4. Consider seeking legal representation.** A lawyer can advise you about the above options. A lawyer can also negotiate with your employer or file a private lawsuit on your behalf.

For free legal advice and assistance if you work for a temp agency:

Contact: Rachel Smit
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The content of this brochure is general in nature and is not intended as legal advice for individual situations. For specific legal planning and advice, a lawyer should be consulted.

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