

HB 1189 – AS INTRODUCED

2014 SESSION

14-2060
06/03

HOUSE BILL ***1189***

AN ACT relative to temporary worker rights.

SPONSORS: Rep. Weed, Ches 16

COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill requires temporary staffing companies to provide temporary workers with certain information.

This bill also provides certain protections for temporary workers.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to temporary worker rights.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Temporary Workers. Amend RSA 275 by inserting after section 70 the
2 following new subdivision:

3 Temporary Workers

4 275:71 Definitions. In this subdivision:

5 I. “Commissioner” means the commissioner of labor.

6 II. “Work site employer” means any individual, business, or nonprofit entity, including a sole
7 proprietorship, company, limited liability company, joint venture society, association, corporation,
8 manager, contractor, subcontractor, partnership, bureau, service, agency, or office, or the agent or
9 employee of any of the forgoing, for whom a temporary staffing company procures or undertakes to
10 procure a temporary worker or workers.

11 III. “Temporary staffing company” means any person, business, company, or agency
12 conducting a business which consists of recruiting, procuring, or employing individuals directly for
13 the purpose of furnishing part time or temporary help to other individuals, businesses, companies,
14 organizations, or agencies.

15 IV. “Temporary worker” means any worker employed or procured by a temporary staffing
16 company for placement or assignment to a temporary job position with a client or work site
17 employer.

18 275:72 Notices and Disclosures.

19 I. A temporary staffing company shall provide each temporary worker with the
20 following notices and disclosures on the date of hire and each time a worker is placed in a new
21 work assignment, including renewed, extended, or repeated work assignments for the same work site
22 employer or entity:

23 (a) The name and telephone number of the temporary staffing company and the agent
24 facilitating the placement, and the address and operating hours of the staffing company’s principle
25 location. Any temporary staffing company that does not maintain a geographic business address,
26 walk-in office, dispatch location, or day-labor hall shall provide a working phone number and the
27 hours when a live representative of the company may be contacted;

28 (b) The name of the work site employer and exact work site address for a temporary
29 worker’s job assignment, directions to the work site, and a telephone number at the work site for use
30 in emergencies;

31 (c) The duration and hours of the work to be performed by the temporary worker,

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1 including the start date, daily starting and end times, days on which the assigned work will be
2 performed, the anticipated end date, and whether there is any possibility of overtime work or
3 extension of the assignment past the anticipated end date;

4 (d) The rate of wages and compensation including any benefits to be paid for the work,
5 the overtime rate of pay, and the designated pay day;

6 (e) A detailed description of the work to be performed by the temporary worker and
7 whether the worker must have or receive special training or licensing, as required by law, to perform
8 the assigned work and any requirement for special attire, accessories, tools, and safety equipment;

9 (f) A complete and accurate description of work site hazards to which the temporary
10 worker may become exposed, or the name of a contact person at the work site who can provide a
11 complete and accurate description of such work site hazards;

12 (g) A list of protective equipment, including personal protective equipment that will be
13 provided at no charge by the staffing company or work site employer;

14 (h) A statement of the temporary worker's right to workers' compensation benefits and
15 the employer's workers' compensation carrier name and phone number;

16 (i) The cost of the transportation to the assigned work site, if any, when such
17 transportation is provided by either the temporary staffing company or the work site employer, and
18 whether the work site is accessible by public or personal transportation; and

19 (j) Whether any meals are provided, either by the temporary staffing company or the
20 work site employer, and the cost of such meals, as allowed under RSA 275:76.

21 II. The notices and disclosures required in this section shall be written in English and any
22 other language or languages that are generally used in the locale or locales of the temporary staffing
23 company or the work site employers it serves. Copies of all the notices required by this section shall
24 be kept on file for a period of one year by the temporary services companies and shall be made
25 available for inspection by any affected temporary workers, without charge, within 10 days of an
26 initial request.

27 III. Nothing in this section shall be construed to prohibit a temporary staffing company from
28 hiring a temporary worker by telephone, but such telephone message shall comply with the
29 disclosure requirements in this section and shall be confirmed in writing by the staffing company
30 and provided with the temporary workers first paycheck or first payment of wages or prior to the
31 date of first payment when requested by the worker.

32 275:73 Required Health and Safety and Employer Discrimination Posters.

33 I. A temporary staffing company shall provide each temporary worker employed by the
34 company, on the date of hire, the posting location of the following required employer posters:

35 (a) The New Hampshire commission for human rights required employer poster on
36 employment discrimination; and,

37 (b) The United States Department of Labor required poster on employee rights under the

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1 Occupational Safety and Health Act of 1970, 29 U.S.C. section 651 et seq.

2 II. The temporary staffing company shall also provide a clear written summary of the
3 company's employer policy on addressing employment discrimination and workplace safety
4 complaints, with specific instructions about reporting procedures for temporary workers who believe
5 they have been exposed to health and safety violations or discriminatory actions by the temporary
6 staffing company or at an assigned work site.

7 III. In the event that a temporary staffing company that does not maintain a geographic
8 business address, walk-in office, dispatch location, or day-labor hall, or when a temporary worker is
9 placed in a work assignment without reporting to the temporary staffing company's principle
10 location, legible copies of the required posters may be provided to a temporary worker with the
11 worker's first payment of wages or prior to the date of first payment when requested by the worker.

12 275:74 Temporary Worker Protections.

13 I. A temporary services company that operates an office where temporary workers are
14 required to appear for assignment to work or for payment or compensation shall provide facilities for
15 a worker waiting at the labor hall for a job assignment that include restroom facilities, drinking
16 water, and sufficient seating.

17 II. A temporary staffing company shall insure any motor vehicle owned or operated by the
18 company and used for the transportation of workers.

19 III. A temporary staffing company's workers' compensation insurance premiums shall be
20 determined and paid based on the experience rating of the work site employer for which the
21 temporary worker performs services. Premiums for employees supplied by the temporary staffing
22 company shall be based on the same occupation codes as the work site employer company uses for
23 the payment of premiums on behalf of its own employees performing similar work. All records
24 showing the information justifying the premiums paid by the temporary staffing company shall be
25 retained by the company for a minimum of 3 years. The absence of a record shall be presumed to
26 mean that justification for the related premium payment does not exist and the conditions of this
27 section have not been met with respect to the temporary workers or workers for whom the premium
28 was paid.

29 IV. No temporary staffing company shall make or give, or cause to be made or given, any
30 false, misleading, or deceptive advertisements, information, or representations concerning the
31 services, compensation or benefits, or work opportunities that the company will provide to temporary
32 workers.

33 V. All advertisements of a temporary staffing company shall contain the correct name of the
34 temporary services company and at least one of the following: the street address of the company's
35 place of business or the correct telephone number of the company at its place of business.

36 275:75 Pay and Compensation. A temporary staffing company shall:

37 I. Compensate temporary workers for work performed in the form of cash, or commonly

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1 accepted negotiable instruments that are payable in cash, on demand at a financial institution, and
2 without discount regardless of the form or manner of payment.

3 II. Compensate temporary workers at or above the federal or state minimum wage. In no
4 event shall any deductions, other than those permitted by federal or state law, bring the worker's
5 pay below minimum wage for the hours worked.

6 III. Pay the temporary worker the prevailing wage or the wage established by the temporary
7 staffing company, whichever is higher, when a temporary worker is assigned to a work site employer
8 or contractor on a project covered by local, state, or federal prevailing wage laws or a Project Labor
9 Agreement.

10 IV. Compensate each temporary worker who uses the worker's own motor vehicle for
11 transportation to a jobsite for the fair market value of such use, including the value of transporting
12 other workers to the jobsite in the vehicle.

13 V. At the time of each payment of wages, provide each temporary worker a written itemized
14 statement showing in detail the dates worked, hours worked on each date, rate of pay, total amount
15 of wages paid, and each deduction made from such wages, and printed with the name, address, and
16 phone number of the temporary staffing company on each page of the statement.

17 VI. Provide each worker with an annual earnings summary within a reasonable period of
18 time after the end of the preceding calendar year, but no later than February 1.

19 275:76 Prohibited Charges and Deductions.

20 I. No temporary staffing company or work site employer shall charge a temporary worker for
21 any of the following items or services:

22 (a) A fee for the cost of registration with the staffing agency or the cost of procuring
23 employment.

24 (b) Safety equipment, clothing, tools, accessories, training, or any other items required
25 by the nature of the work either by law, custom, or as a requirement of the work site employer.

26 (c) Directly or indirectly cashing a worker's check.

27 (d) More than the actual cost of providing a meal or transportation, if a meal or
28 transportation is provided at the work site by the temporary staffing company, but in no case shall
29 the purchase of transportation or a meal be a condition of employment.

30 II. For items other than those in paragraph I, which the temporary services company makes
31 available for purchase, the day laborer shall be charged no more than the actual cost of the item to
32 the labor pool, or market value, whichever is less.

33 III. Nothing in this section shall preclude the temporary services company from charging the
34 temporary worker the market value of items temporarily provided to the worker by the temporary
35 services company, in the event that the worker willfully fails to return such items to the company,
36 but no charge may be made for items damaged through ordinary use or lost through no fault of the
37 temporary worker.

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1 275:77 Employment of Temporary Workers on Public Works Projects. Any temporary staffing
2 company which procures temporary workers for a business, construction company, contractor, or
3 subcontractor for employment on a public works project covered under federal, state, or local labor
4 regulations or a Project Labor Agreement, shall be classified as a subcontractor for the purposes of
5 certification, compliance, and employee payroll reporting, and shall abide by all regulations and
6 requirements regarding prevailing wages, occupational safety rules, and workers compensation
7 insurance.

8 275:78 Prohibited Practices. A temporary staffing company or a work site employer shall not
9 discharge, reduce the compensation of, or otherwise discriminate against any employee for making a
10 complaint of a violation of the provisions of this subdivision, for using any civil remedies to enforce
11 his or her rights, or for otherwise asserting his or her rights under the provisions of this subdivision.

12 275:79 Penalties and Enforcement.

13 I. Any person, temporary staffing company, or work site employer who violates the
14 provisions of this subdivision may be fined by the commissioner up to \$500 per employee for each day
15 the violation continues. A temporary staffing company aggrieved by the commissioner's assessment
16 may appeal in accordance with RSA 273:11-c.

17 II. Any such fines or penalties for violations of the labor law of New Hampshire shall be
18 assessed either against the temporary staffing company or the work site employer based upon the
19 commensurate level of control of the work site and each party's responsibility for compliance with the
20 applicable violation.

21 2 Effective Date. This act shall take effect January 1, 2015.