

## SENATE, NO. 2364

[Senate, April 8, 2010 - New draft of Senate, No. 680 reported from the committee on Labor and Workforce Development.]



## The Commonwealth of Massachusetts

---

IN THE YEAR OF TWO THOUSAND AND TEN

---

### AN ACT UPDATING AND STREAMLINING THE REGULATION OF EMPLOYMENT AGENCIES.

*Be it enacted by the Senate and House of Representatives in General Court assembled,*

*And by the authority of the same, as follows:*

1           **SECTION 1.** Chapter 140 of the of the General Laws, as appearing in the 2008 Official  
2   Edition, is hereby amended by striking out sections 46A through 46R, inclusive, and inserting in  
3   place thereof the following sections:-

4           Section 46A. As used in this section and in sections 46B to 46M, inclusive, the following  
5   words shall have the following meanings:

6           “Applicant”, any applicant for employment, work, assignment or engagement, without  
7 regard to whether the applicant, when placed, is paid by the employment agency or another  
8 employer, or is an independent contractor. In the case of an applicant who is paid by an  
9 employment agency, for purposes of this chapter, the applicant shall continue to be considered an  
10 applicant while the applicant is employed or paid by the employment agency.

11           “Applicant fee”, any money or other valuable consideration paid or promised to be paid  
12 by a job applicant, employee, or worker, or a prospective job applicant, employee, or worker, to  
13 an employment agency for any goods or services rendered.

14  
15           “Application”, a form prescribed by the commissioner to be completed by any person  
16 required to possess an employment agency registration.

17           “Assignment”, any placement, job or task to which an applicant, employee or worker has  
18 been directed or referred by an employment agency.

19           “Client,” any person or business that utilizes the services of an employment agency by  
20 accepting the assignment, placement, recruitment, referral, engagement, or employment of  
21 workers or applicants provided by an employment agency to perform work for said client.

22           “Client fee”, any money or other valuable consideration paid or promised to be paid by a  
23 client to an employment agency for goods or services rendered.

24           “Commissioner”, the commissioner of the division.

25           “Division”, the division of occupational safety.

26           “Emigrant agent”, any person who, on behalf of an employment agency and for a fee,  
27 procures or attempts to procure employment, work, assignment or engagement in the  
28 commonwealth for persons outside the commonwealth seeking such employment, work,

29 assignment or engagement, or, applicants, employees or workers from outside the  
30 commonwealth for employers in the commonwealth seeking the services of such applicants,  
31 employees or workers.

32 “Employee”, any individual in the service of another under any contract of hire, express  
33 or implied, oral or written.

34 “Employment”, service, including service in interstate commerce, performed for wages  
35 or under any contract, oral or written, express or implied, by an employee for the employee’s  
36 employer.

37 “Employment agency”, any person who conducts in whole or in part a business for the  
38 purpose of procuring or attempting to procure permanent or temporary help, employment, work,  
39 assignment or engagement, or for the registration of such persons seeking permanent or  
40 temporary help, employment, work, assignment or engagement, or for giving information as to  
41 where and of whom such help, employment, work, assignment or engagement may be procured,  
42 where a fee is exacted or attempted to be collected for such service, regardless of whether the fee  
43 is a client fee or an applicant fee. For the purposes of this chapter, “employment agency” shall  
44 include “staffing agency” as defined by section 159C of chapter 149.

45 “Engagement”, a period of employment as defined herein, or work that lasts for a limited  
46 period of time, including, but not limited to, modeling engagements.

47 “Fee”, (a) any money or other valuable consideration paid or promised to be paid either  
48 by an applicant, employee, worker or a client, for goods or services rendered or to be rendered by  
49 any person conducting an employment agency under this chapter;

50 (b) the difference between the amount of money received by any person who furnishes  
51 applicants, employee or workers and the amount paid by the employment agency to such  
52 applicant, employee or worker.

53 “Help”, any individual in the service of another person or entity for wages or other  
54 compensation, regardless of whether the individual is an employee of that person or entity, or  
55 whether the individual’s wages or other compensation are paid by an employment agency, a  
56 client, or any other third party.

57 “Job order”, information provided by an employment agency to an applicant, employee  
58 or worker that details the specifics of the employment, work, assignment or engagement to which  
59 an agency is referring, assigning, or providing information to an applicant, employee or worker.

60 “Person”, any individual, company, sole proprietorship, limited partnership, joint venture,  
61 society, association, corporation, manager, contractor, subcontractor, or their agency or  
62 employees but shall not include any labor organization as defined in section 2 of chapter 150A;  
63 nor any agency operated by a religious, charitable, or nonprofit organization or accredited  
64 educational institution; nor any agency operated by the federal, state or municipal governments;  
65 nor any person validly licensed pursuant to section 180C; however, the provisions of section 46J  
66 shall apply to such person.

67 “Registrant”, a person who has been issued an employment agency registration.

68 “Registration”, a certificate issued by the commissioner that signifies that an employment  
69 agency owner has filed a complete application with the division to conduct the activities of an  
70 employment agency as defined in this section and has met the requirements of sections 46B to  
71 46D, inclusive.

72           “Work”, physical or mental effort or activity directed toward the production or  
73 accomplishment of something; a job, trade, profession or employment.

74           “Worker”, any individual hired, referred, recommended, placed or sent to perform work,  
75 regardless of whether the individual is an employee or an independent contractor.

76           “Work order”, written record of request or authorization for services by a client to an  
77 employment agency providing specific information about the services requested or authorized.

78           Section 46B. Notwithstanding the other provisions of this chapter, no person shall open,  
79 keep, maintain, conduct, or advertise any employment agency unless the person has been issued  
80 a registration therefor under section 46D from the commissioner. Such registration shall be  
81 posted in a conspicuous place in each employment agency conducted by such person.

82           Section 46C. Any person shall, before opening, keeping, establishing, maintaining,  
83 conducting or advertising an employment agency, first make an application for such registration  
84 to the commissioner. Such application shall be made by the owner or owners of the employment  
85 agency, and if the agency is owned by a corporation, such application shall be made by the  
86 president and treasurer thereof. Each application shall be in a form prescribed by the  
87 commissioner and shall contain, at minimum, the name and address of the registration applicant;  
88 the street and number of the building or place where the business is to be conducted; any other  
89 businesses owned or operated by the registration applicant; the name of the individual who will  
90 direct and operate the placement activities of the employment agency, whether such individual is  
91 the registration applicant or another; the types of jobs, work, assignments or engagements to  
92 which the employment agency will refer or assign applicants, employees or workers; a non-  
93 refundable application fee; a copy of a government-issued photo identification; an affirmation of  
94 compliance with the requirement to post or distribute the Massachusetts Minimum Wage and

95 Hour poster pursuant to 453 CMR 1.00, §2.06(1) and certification that the person is in  
96 compliance with section 49A(a) of chapter 62C; section 188(d) of chapter 149, ; section 14G(e)  
97 of chapter 151A; , section 19A(a) of chapter 151A, and section 25C(6) of chapter 152. The  
98 commissioner shall not issue a registration to any registration applicant that the commissioner  
99 finds to be in violation of the provisions of the General Laws for which certification of  
100 compliance is required and may revoke the registration of any employment agency the  
101 commissioner subsequently learns has falsely made such certification. The employment agency  
102 may make another application for registration at such time that it can make the required  
103 certifications.

104       Section 46D. (a) The commissioner may examine or cause to be examined the place in  
105 which the registration applicant proposes to conduct an employment agency. Any and all forms  
106 and contracts to be used, and any fees to be charged by the agency shall be available for review  
107 by the commissioner or any duly authorized agent or inspector designated by the commissioner.  
108 No registration shall be issued by the commissioner if the place in which the business of the  
109 employment agency is to be conducted is in a room used for living purposes, including a room  
110 where people sleep or a room where meals are prepared. Home offices are acceptable, provided  
111 that there is a dedicated area for the business of the employment agency to be conducted and a  
112 secure location for the storage of files. Interviews and in-person interactions with applicants,  
113 employees or workers are not allowed in home offices unless there is a separate entrance/egress  
114 from the main living area of the residence.

115       (b) Each completed application shall be granted or denied within 60 business days from  
116 the date of its filing. Any registration issued hereunder shall be in effect until 1 year following  
117 the date of issuance.

118           Section 46E. A registration issued under section 46D shall not be assigned or transferred  
119 without notification to the commissioner within 30 calendar days of the effective date of the  
120 assignment or transfer. Any change in location or name shall be endorsed upon the registration  
121 certificate. More than 1 such registration may be issued to the same person. If a registrant or  
122 registration applicant desires to establish or keep an employment agency at more than 1 location,  
123 he must apply for a registration for each location at which he intends to conduct said  
124 employment agency. If a registrant or registration applicant desires to establish or keep an  
125 employment agency using more than 1 name, the registrant or registration applicant must apply  
126 for a registration for each name under which the registrant or registration applicant intends to  
127 conduct said employment agency. Each name and each location being advertised, operated or  
128 maintained by an employment agency must be registered separately.

129           Section 46F. Each registrant shall maintain a record-keeping system which contains the  
130 name and contact information of each applicant, employee or worker and client with whom the  
131 agency has a business relationship; any work orders or job orders; records of applicant fees and  
132 client fees charged and received; receipts for any applicant fees received or charged; records of  
133 receipts and income received by the employment agency from the operation of its business;  
134 records of wages or other compensation paid to or made on behalf of applicants, employees or  
135 workers, by the registrant and any deductions taken from wages or compensation, including but  
136 not limited to any and all state and federal taxes, insurance premiums, or any fees charged; and  
137 any records required to be kept pursuant to sections 46G and 46H. Said records and receipts shall  
138 be maintained for a period of at least 3 years.

139           Section 46G. Each employment agency shall furnish in writing to each applicant,  
140 employee or worker, for each assignment or engagement:

- 141 (a) a job order containing the following:
- 142 (1) a multi-lingual notice provided by the division that the job order contains important  
143 information concerning the employment, work, assignment, or engagement, and that  
144 the applicant, employee or worker should have the form translated.
- 145 (2) the name of the employment agency and the address of the agency's principal  
146 location;
- 147 (3) disclosure of the employment relationship between the agency and the applicant,  
148 employee or worker;
- 149 (4) the name address and telephone number of the person for whom the applicant,  
150 employee or worker is to apply or report to for such employment, work, assignment,  
151 or engagement;
- 152 (5) the name of the worksite employer and the worksite address for the applicant's,  
153 employee's or worker's assignment;
- 154 (6) the kind and character of the employment, including any requirement for special  
155 attire, accessories, tools, safety or health equipment, training or licenses and any costs  
156 charged to the applicant, employee or worker allowed by law;
- 157 (7) the safety or protective equipment, uniforms and other items provided by the  
158 employer, including personal protective equipment that will be provided at no charge  
159 by the employment agency or worksite employer;
- 160 (8) whether the employee will receive special training for the particular job tasks as  
161 required by law;
- 162 (9) the rate of wages or compensation including any benefits to be paid for the work to be  
163 performed by the worker;



164 (10) where known, the expected duration of the employment, work, assignment, or  
165 engagement, including daily starting time, anticipated end time, and anticipated  
166 overtime, if any;

167 (11) any meal(s) to be provided by the agency or the worksite employer and the cost of  
168 such meal(s) as allowed by law, if any;

169 (12) the fee(s) to be exacted by the agency from the applicant, employee or worker, if  
170 any;

171 (13) and details of the transportation required or offered to the applicant, employee or  
172 worker by the agency or client or any person acting on behalf of the agency or client,  
173 and the cost of such transportation as allowed by law, if any;

174 provided that nothing in this paragraph shall be construed to prohibit an employment  
175 agency from directing an applicant, employee, or worker to employment, work,  
176 assignment or engagement by telephone, but such telephone message shall comply with  
177 the disclosure requirements of this paragraph and shall be confirmed in writing by the  
178 employment agency and sent to the applicant, employee or worker within 72 hours of the  
179 start of the employment, work, assignment, or engagement; a copy of such confirmation  
180 shall be kept by the employment agency for a period of at least 3 years;

181 (b) the name, address and telephone number of the division;

182 (c) a statement of the worker's right to workers' compensation benefits and the employer's  
183 workers' compensation carrier name and number;

184 (d) a copy of every contract executed between the employment agency and an applicant,  
185 employee or worker;

186 (e) a receipt for every applicant fee charged or accepted by the employment agency and which  
187 the applicant, employee or worker has paid.

188 The original or duplicate copy of each contract, receipt for applicant fees and record that  
189 the information as prescribed in this section was provided shall be retained by the employment  
190 agency for at least 3 years following the date on which the contract is executed, the payment is  
191 made, or the information is furnished, whichever is later, and shall be made available for  
192 inspection by the commissioner or the commissioner's duly authorized agent or inspector, upon  
193 his request. The commissioner may, at the commissioner's discretion, provide a sample notice  
194 that shall meet the notification requirements of this section.

195 Section 46H. (a) No employment agency shall bring into the commonwealth from  
196 outside the commonwealth any applicant, employee or worker unless the agency has first given  
197 the applicant, employee or worker a written statement containing all of the information contained  
198 within section 46G. A copy of such statement shall be retained by the employment agency for 3  
199 years from the date of issuance.

200 (b) Each employment agency which directly or indirectly engages or uses the services of an  
201 emigrant agent, shall maintain records containing the name and contact information of all  
202 emigrant agents from whom it accepts job applicants, employees or workers. If such emigrant  
203 agents are required to be licensed in the places in which they recruit applicants, employees or  
204 workers, no employment agency shall accept applicants, employees or workers from other than  
205 duly licensed emigrant agents.

206 (c) Each employment agency which is responsible for providing transportation to an applicant,  
207 employee or worker shall do so in accordance with section 159C of chapter 149.

208 (d) Each employment agency which has transported into the commonwealth an applicant,  
209 employee or worker from outside the commonwealth shall provide at its own expense suitable  
210 lodging and meals for any applicant, employee or worker who is not placed in employment,  
211 work, assignment or engagement on the day the applicant, employee or worker arrives at the  
212 location of the employment agency or at the location of the employment, work, assignment or  
213 engagement to which the applicant, employee or worker was placed, assigned or referred, from  
214 the time the applicant, employee or worker reports at such location until the applicant, employee  
215 or worker is placed, or is returned to the place from which the applicant, employee or worker  
216 was recruited, or is given the option of returning to such place as hereinafter provided.

217 (e) Each employment agency which has transported into the commonwealth an applicant,  
218 employee or worker from outside the commonwealth shall provide reasonable allowance for 1  
219 day's meals and the return fare or actual transportation to any such applicant, employee or  
220 worker who was not placed in employment, work, assignment or engagement, or whose  
221 employment, work, assignment or engagement terminated within 30 days thereafter, and who is  
222 without employment, work, assignment or engagement and desires to return to the place from  
223 which the applicant, employee or worker was recruited.

224 (f) The provisions of sections 46H(d) and 46H(e) shall not apply to any activities of an  
225 employment agency where an applicant, employee or worker is recruited, applying for or seeking  
226 information about any employment, work, assignment or engagement with an annualized base  
227 wage equivalent to 2.5 times the state or federal minimum wage, whichever is higher.

228 Section 46I. In addition to the other requirements of this chapter, an employment agency  
229 shall not engage in any of the following activities or conduct:

230           (a)     Issue, distribute, circulate or provide or cause to be issued, circulated, distributed  
231 or provided, any false, fraudulent or misleading information, representation, promise, notice or  
232 advertisement to any applicant, employee or worker.

233           (b)     Use any name that has not been registered with the division in the advertisement  
234 of its services.

235           (c)     Assign, place or refer or cause to be assigned, placed or referred an applicant,  
236 employee or worker to a client without a bona fide work order.

237           (d)     Assign, place or refer or cause to be assigned, placed or referred, any applicant,  
238 employee or worker to any employment, work, assignment or engagement where the  
239 employment agency knows, or reasonably should know, that the prospective employment, work,  
240 assignment or engagement is or would be in violation of state or federal laws governing  
241 minimum wages, child labor, compulsory school attendance or required licensure or certification.

242           (e)     Assign, place or refer or cause to be assigned, placed or referred an applicant,  
243 employee or worker to any place in which the employment agency knows or reasonably should  
244 know is maintained for illegal purposes.

245           (f)     Assign, place or refer or cause to be assigned, placed or referred any applicant,  
246 employee or worker to any employment, work, assignment or engagement by force.

247           (g)     Require any applicant, employee or worker to purchase any good or service  
248 offered by an employment agency or by any third party which will inure to the financial benefit  
249 of the employment agency.

250           (h)     Refuse to return on demand of any applicant, employee or worker, any personal  
251 property belonging to such person.

252 (i) Assign, place or refer or cause to be assigned, placed or referred any applicant,  
253 employee or worker to any place which the employment agency knows or reasonably should  
254 have known is on strike, without notifying the applicant, employee or worker of this fact in the  
255 job order.

256 (j) Divide or share, or offer to divide or share applicant fees with employment  
257 agency clients.

258 (k) Discharge, or cause to be discharged, reduce the compensation of, or otherwise  
259 discriminate or retaliate against any applicant, employee or worker for making a complaint for a  
260 violation of this chapter, participating in any of its proceedings under this chapter, using any civil  
261 remedies to enforce the applicant's, employee's or worker's rights, or otherwise asserting the  
262 applicant's, employee's or worker's rights under this chapter or chapter 149.

263 Section 46J. (a) An employment agency shall not charge or accept an applicant fee or  
264 other consideration for any good or service unless in accordance with the terms of a written  
265 contract with an applicant, employee or worker.

266 (b) No applicant fee shall be charged or accepted for the registration of applicants,  
267 employees or workers for employment, work, assignment or engagement.

268 (c) An applicant fee for the procurement of employment, work, assignment or  
269 engagement shall only be charged or accepted if the placement, referral or assignment by the  
270 employment agency resulted in employment, work, assignment or engagement for the applicant,  
271 employee or worker from which the applicant, employee or worker receives wages or other  
272 consideration. Said applicant fee for the procurement of employment, work, assignment or  
273 engagement shall not exceed the following:

274 (1) Where the applicant is an employee of the employment agency and is paid by  
275 and placed or assigned by the employment agency for employment, work,  
276 assignment or engagement, the annual applicant fee shall not exceed 10 percent of  
277 the total gross wages or salary received within the first 4 weeks of employment,  
278 work, assignment or engagement based upon the wage at which the applicant was  
279 hired; provided, however, that if the applicant fee would bring the applicant's  
280 wages below minimum wage in any of the first 4 weeks, the employment agency  
281 shall reduce the fee so that no applicant earns less than the applicable minimum  
282 wage rate.

283 (2) For independent contractors under section 148B of chapter 149, the maximum  
284 applicant fee shall not exceed 10 percent of the gross wages received by the  
285 independent contractor for any engagement arranged by the employment agency.

286 (3) For models, the maximum applicant fee shall not exceed 10 percent of the  
287 gross wages received by the model for any engagement arranged by the  
288 employment agency.

289 (4) Where the applicant is placed or referred to a client for employment or work  
290 by an employment agency and is hired as an employee of the client and is not an  
291 employee of the employment agency, except any applicant who is hired with an  
292 annualized base wage equivalent to a minimum of 2.5 times the state or federal  
293 minimum wage, whichever is higher, the following shall be the maximum  
294 applicant fee to be charged or accepted in percentage of the first 4 weeks' gross  
295 salary or wages received based upon the wage at which the applicant was hired:

296 (i) If no meals or lodging are provided 10%

297 (ii) If 1 meal per working day is provided 12%

298 (iii) If 2 meals per working day are provided

299 14%

300 (iv) If 3 meals and lodging per working day are provided 18%

301 (5) Where the applicant is placed or referred to a client for employment or work  
302 by an employment agency and is hired as an employee of the client and is not an  
303 employee of the employment agency, and where the applicant will be paid on a  
304 straight commission basis or on the basis of a drawing account or base wage plus  
305 commissions, the total applicant fee shall be calculated on the percentages in  
306 section 46J(C)(4) and applied to an amount equivalent to one-twelfth of the  
307 computed annual earnings as estimated by the employer client.

308 (d) An employment agency shall not require the payment, charge or acceptance of any  
309 applicant fee for any good or service other than an applicant fee for the procurement of  
310 employment, work, assignment or engagement. Any applicant fee charged or accepted shall be in  
311 accordance with the terms of a written contract and said contract shall clearly state that the  
312 purchase of said good or service is voluntary on the part of the applicant, employee or worker.

313 (e) An employment agency, or any person acting in its interest, shall not charge or accept  
314 any applicant fee for transportation that violates the provisions of section 159C of chapter 149.

315 (f) An employment agency shall not charge any applicant fee for any bank card, debit  
316 card, payroll card, voucher, draft, money order or similar form of payment of wages by the  
317 employment agency, for applicants, employees or workers who are compensated for their  
318 employment, work assignment or engagement by an employment agency, that exceeds the actual  
319 cost to the employment agency for providing such service to the applicant, employee or worker;

320 provided, however, that no fee may be charged if it would cause the applicant, employee or  
321 worker to earn less than the applicable minimum wage.

322 (g) An employment agency shall not charge any applicant fee for any criminal offender  
323 record information (CORI) check or drug screen that exceeds the actual cost per applicant,  
324 employee or worker to the employment agency for providing such service.

325 (h) Any employment agency that knowingly refers or assigns any applicant, employee or  
326 worker to any employment, work, assignment or engagement where it is found that no  
327 employment, work, assignment or engagement existed, shall fully refund any applicant fee, along  
328 with the costs of transportation in going to and returning from such location. An employment  
329 agency shall not be responsible to an applicant, employee or worker for any expense incurred by  
330 an applicant, employee or worker in connection with an interview unless the employment agency  
331 has failed to inform the applicant, employee or worker that the purpose of the referral or  
332 assignment is for an interview and will not necessarily result in employment, work, assignment  
333 or engagement.

334 (i) Any applicant fee that is charged or accepted in excess of the amounts allowable  
335 under this section shall be refunded to such applicant, employee or worker on demand.

336 Section 46K. Each employment agency shall post in a conspicuous place in each agency  
337 location, or distribute to each applicant, employee or worker who is placed, assigned, or referred  
338 to an employment, work, assignment or engagement, a copy of sections 46G, 46H, 46I and 46J  
339 of this chapter, in languages in which persons commonly doing business with such employment  
340 agency location can understand. Such poster shall contain the name, address and telephone  
341 number of the commissioner charged with the enforcement of said sections. The commissioner



342 may, at the commissioner's discretion, provide a sample notice that shall meet the notification  
343 requirements of this section.

344 Section 46L. (a) The commissioner, or any duly authorized agent or inspector designated  
345 by the commissioner, shall have authority to inspect and make a record of the premises, records,  
346 contracts, receipts, job application forms, work orders, job orders, referral forms, reference  
347 forms, reference reports, financial and other records of applicant, employee, worker and client  
348 fees charged and refunds made of each employment agency which are essential to the operation  
349 of such employment agency and of each applicant for an employment agency registration. The  
350 premises of an employment agency shall include any place where the business of an employment  
351 agency is conducted, including, but not limited to locations owned, leased or occupied by the  
352 employment agency or where the records of such agency are stored. The commissioner, or any  
353 duly authorized agent or inspector, shall not be denied reasonable access by an employment  
354 agency or client for the purposes of interviewing applicants, employees or workers and others  
355 who are placed, referred, employed, assigned or engaged by any employment agency or client  
356 and shall have the authority to inspect the premises or work locations of a client and conduct  
357 such other investigations that the commissioner deems necessary for the enforcement of this  
358 chapter.

359 (b) Any complaint against any person operating as an employment agency shall be made  
360 to the commissioner. The commissioner shall notify the person of the complaint no later than 5  
361 business days from the receipt of the complaint at the division, by serving upon said person  
362 either personally or by certified mail, at the person's place of residence, or by leaving with the  
363 person in charge of the person's office, a concise statement of the contents of the complaint. The  
364 commissioner shall investigate such complaint and may hold a hearing, take testimony, subpoena

365 witnesses, and direct the production before him or her of necessary records, books, papers,  
366 receipts and other records. If such investigation reveals that a person, business or registered  
367 employment agency is in violation of the provisions of sections 46B to 46L, inclusive, the  
368 commissioner may exercise authority under section 46M.

369 (c) The commissioner may, subject to the provisions of chapter 30A, establish such rules  
370 and regulations as he deems necessary to carry out the provisions of sections 46B to 46N,  
371 inclusive.

372 Section 46M. Whoever violates any provision of sections 46B, 46C, 46E, 46F, 46G,  
373 46H, 46I, 46J, 46K or 46L, shall be punished by a fine of not more than \$500, or by  
374 imprisonment in the house of correction for not more than 1 year, or both. The commissioner  
375 may institute proceedings based upon any such violation. Each violation of said sections shall  
376 constitute a separate offense. Criminal prosecution for any such violation shall not preclude any  
377 person from recovering money unlawfully collected, in a civil action. In addition to the penalties  
378 provided for in this paragraph, the commissioner may issue a written warning or a civil citation  
379 for violations of these sections. Subsections (c) to (i), inclusive, of section 6F<sup>1/2</sup> of chapter 149  
380 shall apply to these citations. The commissioner may adopt regulations for the issuance of the  
381 written warnings and citations and for the enforcement thereof.

382 Information secured pursuant to sections 46A to 46L shall be confidential and for the  
383 exclusive use and information of the commissioner in the discharge of the duties hereunder.  
384 Whoever, except with the authority of the commissioner or pursuant to rules or regulations, or as  
385 otherwise required or authorized by law, shall disclose the same, shall be punished by a fine of  
386 not more than \$100 or by imprisonment for not more than 6 months, or both; provided, that  
387 nothing herein shall be construed to prevent the commissioner from conducting any investigation

388 or hearing as provided for in said sections, and provided further, that nothing herein shall prevent  
389 the division from making available to the public, lists of registered employment agency names  
390 and locations and information about penalties assessed in accordance with section 46M and  
391 subsections (c) to (i), inclusive, of section 6F<sup>1</sup>/<sub>2</sub> of chapter 149.