

## CHAPTER 105

## EMPLOYMENT AGENTS

105.01	Definition of "employment agent".	105.10	Inquisition
105.02	False statements and representation.	105.11	Schedule of fees or charges.
105.03	Agent must inquire as to truth of statements.	105.12	Prohibited practices.
105.04	Fee-splitting.	105.13	Refusal to issue and revocation of license.
105.05	License.	105.14	Regulations; records; reports.
105.06	Application; bond.	105.15	General powers of department applicable; penalties.
105.07	Annual fees.	105.16	Clerks of municipalities to aid in placing farm labor.
105.08	Authority of department.		
105.09	Visitorial power.		

**105.01 Definition of "employment agent".** The term "employment agent":

(1) Means all persons who furnish to persons seeking employment, information enabling or tending to enable such persons to secure the same, or who furnish employers seeking laborers or other help of any kind, information enabling or tending to enable such employers to secure such help, or who keep a register of persons seeking employment or help as aforesaid, whether such agents conduct their operations at a fixed place of business, on the streets or as transients, and also whether such operations constitute the principal business of such agents or only a side line or an incident to another business.

(2) Does not include:

(a) Any employer who procures help for himself only or an employe of such an employer who procures help for him and does not act in a similar capacity for any other employer.

(b) Any temporary help service defined as any person employing individuals to render part-time or temporary services to, for or under the direction of a 3rd person, if the person employing the individuals in addition to wages or salaries pays federal social security taxes, state and federal unemployment, contributions or taxes, carries workmen's compensation insurance as required by state law and maintains liability insurance covering the acts of its employes while rendering services to, for or under the direction of a 3rd person.

(c) Any hiring hall operated by a bona fide labor union.

(d) Any theatrical or booking agent.

**105.02 False statements and representation.** No person or his employe or agent, shall make any false statement to any person furnishing or seeking employment, knowing the same to be false, in regard to any employment, work or situation, its nature, location, duration, wages or salary attached thereto, or the circum-

stances surrounding the employment, work or situation. No employment agent shall offer or hold himself out as in a position to secure or furnish employment without having an order therefor from an employer; and no employment agent shall misrepresent any other material matter in connection with any employment, work or situation he may offer or hold himself out in a position to secure.

**105.03 Agent must inquire as to truth of statements.** Every employment agent shall assure himself beyond a reasonable doubt that any representations whatsoever, whether spoken, written or advertised in printed form, which he makes with regard to any employment, work or situation, and which leads or may lead persons to seek such employment, work or situation, are true and cover all the material facts affecting the employment in question.

**105.04 Fee-splitting.** No employment agent or any employe or agent thereof, shall divide or offer to divide, or share directly or indirectly, any fee, charge or compensation received from any applicant for employment, with any employer, superintendent, manager, foreman, or any other person who hires help or to whom help is furnished by an employment agent; and it shall be unlawful for any employer, superintendent, manager, foreman, or any other person who hires help to receive any compensation or any valuable consideration from any applicant for employment or from any employment agent for giving employment to said applicant or to any employes furnished by said employment agent.

**105.05 License.** (1) No person shall engage in the business of an employment agent for profit, or receive any fee, charge, commission or other compensation, directly or indirectly, for services as an employment agent, including modeling agencies which secure work for per-

sons to act as live models or to model for photography, without first having obtained a license from the department of industry, labor and human relations and executing a bond as hereinafter provided. The license shall constitute a license from this state to operate as an employment agent for compensation and shall not be transferable to any other person or inure to the benefit of any person other than the licensee.

(2) If the department receives a complaint and determines that there is probable cause to believe that fraud, misrepresentation or deceit in violation of s. 105.02 were committed by a combination or conspiracy of a temporary help service and an employment agent, the department shall have the right of entry and audit under ss. 105.08 and 105.09 to such temporary help service with respect to such matter.

Employment agency counselors employed by a licensed employment agent must be licensed. 59 Atty. Gen. 142.

**105.06 Application; bond.** Application for the foregoing license shall be made to the department and shall be accompanied by a bond in due form to the state for the penal sum of \$5,000 issued by a surety company licensed to do business in this state to be approved by the department, conditioned that the agent will conform to and not violate any of the duties, terms, conditions or requirements of ss. 105.01 to 105.15.

**105.07 Annual fees.** (1) Each such license shall be renewed annually. The fee for such license or renewal shall be one per cent of all fees, charges, commissions or other compensation actually received during the life of the license or renewal by an employment agent for service as such but in no event shall such fee be less than \$50 nor more than \$300.

(2) The minimum fee shall be paid before a license or renewal thereof is issued. Each employment agent to whom a license has been issued under this chapter shall file with the department within 10 days after the previous license has expired, a verified statement showing the actual fees, charges, commission or other compensation received by him for services as such agent during the preceding year and with such statement shall pay the balance of such license fee due the state. Such fees shall be paid to the department and deposited in the general fund.

**105.08 Authority of department.** The department is vested with the power and jurisdiction to have such supervision of every employment agent as may be necessary adequately to enforce and administer all laws and lawful or-

ders designed to prevent fraud, misrepresentations, false statements, or other unauthorized acts of such employment agent.

**105.09 Visitorial power.** Any commissioner or deputy may enter any employment office or the place of business of any employment agent for the purpose of collecting facts and statistics, examining the records or registers kept by such employment agent, and bringing to the attention of such agent any law or any order of the department, or any failure on the part of such employment agent to comply therewith. No employment agent shall refuse to admit any commissioner or deputy to his place of business.

**105.10 Inquisition.** Any employment agent receiving from the department any blanks calling for information required by it to carry into effect ss. 105.01 to 105.15, with directions to fill the same, shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case he is unable to answer any question, he shall give a good and sufficient reason for such failure, and said answer shall be verified by 2 witnesses, and returned to the department at its office within the period fixed by the department.

**105.11 Schedule of fees or charges.** Every applicant for a license to engage in the business of an employment agent shall file with the department, within a time fixed by the department, a schedule of the fees or charges made by such employment agent both to applicants for employment and for help for any services rendered to such applicants, together with all rules or regulations that may, in any manner, affect the fees charged or to be charged for any service. No license shall be issued to such applicant unless such fees and such rules or regulations are reasonable. Such fees and such rules or regulations may be changed only with the approval of the department and when changed shall be filed with the department. It shall be unlawful for any employment agent to charge, demand, collect or receive a greater compensation for any service performed by him than is specified in the schedule filed with the department, and no employment agent shall charge a registration fee without permission from the department.

**105.12 Prohibited practices.** No applicant shall be placed in any employment by an employment agent in violation of any statute or of any order, rule or regulation of the department.

**105.13 Refusal to issue and revocation of license.** The department may issue licenses to employment agents, and refuse to issue such license whenever, after due investigation, the commission finds that the character of the applicant makes him unfit to be an employment agent, or when the premises for conducting the business of an employment agent is found upon investigation to be unfit for such use, or whenever, upon investigation by the department, it is found and determined that the number of licensed employment agents or that the employment agency operated by the United States, the state or by the municipality or by 2 or more thereof jointly in the community in which the applicant for a permit proposes to operate is sufficient to supply the needs of employers and employes. Any such license granted by the department may also be revoked by it upon due notice to the holder of said license, and upon due cause shown. Failure to comply with the duties, terms, conditions or provisions of ss. 105.01 to 105.15 or with any lawful orders of the department, shall be deemed due cause to revoke such license.

**105.14 Regulations; records; reports.** The department shall have power, jurisdiction and authority to fix and order such reasonable rules for the conduct of the business of any employment agent as may be necessary adequately to carry out ss. 105.01 to 105.15; to ascertain and fix reasonable classifications of employments or positions and to fix a reasonable scale of fees to be charged by said employment agent or agents for each such classification under the restrictions contained in ss. 105.01 to 105.15, and fix reasonable classifications of the business of employment agents, and to make its rules and orders conform to such classifications. It may prescribe the form of books, registers or records to be kept by the employment agent,

the receipts or copies of contracts to be handed to persons referred to employment, the reports to be made to the department, the refunds to be made to applicants who failed to secure employment; and it may order any other measures reasonably necessary to protect the public, or persons seeking employment, or employes seeking help, against fraud, misrepresentation, or any other unauthorized act of any employment agent.

**105.15 General powers of department applicable; penalties.** Such investigations, classifications and orders shall be made pursuant to the proceeding in ss. 101.01 to 101.25, which are hereby made a part hereof, so far as not inconsistent with ss. 105.01 to 105.15, and every order of the department shall have the same force and effect as the orders issued pursuant to said ss. 101.01 to 101.25 and the penalties therein shall apply to and be imposed for any violation of ss. 105.01 to 105.11, 105.13 to 105.15. Said orders shall be subject to review in the manner provided in ch. 227.

**History:** 1971 c. 228 s. 43.

**105.16 Clerks of municipalities to aid in placing farm labor.** The clerk of every city, town and village, in which there is no licensed or public employment agency as provided in s. 105.05, shall solicit, receive and record applications of persons seeking employment on farms for any period of time, and of persons desiring to employ such labor, and every such employer shall pay to any such clerk 25 cents for each time he assists in furnishing such labor. The clerk of every city, town and village, serving under the terms of this section, shall, on or before the first day of each month, report all placements made by him to the department, to be by it compiled as part of the general employment statistics of the state.