

Ind 77

Filed April 21, 1967  
10:30 am

STATE OF WISCONSIN )  
DEPT. OF INDUSTRIAL COMMISSION ) SS.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Stephen J. Reilly, Secretary of the Industrial Commission of Wisconsin, and custodian of the official records of said Commission, do hereby certify that the attached amendments to Wisconsin Administrative Code Ind 77 were adopted by the Industrial Commission on April 19, 1967.

I further certify that said copy has been compared by me with the original on file in this Commission and that the same is a true copy thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the Capitol, in the city of Madison, this 21st day of April, A.D., 1967.

  
Executive Secretary

## ORDER OF THE INDUSTRIAL COMMISSION

Pursuant to authority vested in the Industrial Commission by section 101.01 to 101.29 Wis. Stats., the Industrial Commission hereby repeals, recreates, and adopts rules as follows:

**Ind 77.01 APPLICATION FOR A LICENSE.** Application for a license as an employment agent under Chapter 105 shall be in writing, on a form furnished by the Industrial Commission, showing such information deemed necessary.

**Ind 77.02 LICENSEE.** A license to operate as an employment agent under Chapter 105 of the Wisconsin Statutes shall be issued to, and shall inure to the benefit of, an individual, except as herein provided. An individual licensee may transfer the license to a corporation only if, prior to such transfer, the individual licensee and corporate officers agree in writing to the following conditions which shall become a part of said license and all subsequent renewals:

- (1) The corporation shall be licensed to do business in the State of Wisconsin, shall maintain all records with respect to the agency within the State of Wisconsin, and shall appoint a manager or managers who shall reside in Wisconsin, and who shall consent to service of process by certified mail addressed to the agency.
- (2) The manager(s) of the agency shall post a personal bond in the amount required by the Wisconsin Statutes for an employment agent.
- (3) The manager(s) of the agency shall satisfy the requirements of Character set forth in Section 77.03 herein, shall work actively in the affairs of the agency, and shall have supervisory control over all persons employed at the agency's place of business.
- (4) The corporation shall file with the Industrial Commission a certified statement setting forth the names of all officers, directors, and stockholders of the corporation and their respective interests therein. Any changes in the officers, directors, or stockholders of the corporation, and any changes in the interests of the stockholders therein, shall be reported in writing to the Industrial Commission within thirty days of the occurrence thereof.
- (5) Upon any sale, transfer, assignment, or other encumbrance of the controlling interest in the corporation, the Industrial Commission shall have the power to review the requirements for Character, Premises, and Needs, as set forth in Sections 77.03-77.05 herein and, upon due notice and hearing, may revoke the license in the event such requirements are not met.

- (6) The Industrial Commission may revoke the license of the corporation if, upon due notice and hearing, it finds that the agency manager(s) or any officer, director, or adult stockholder does not meet the requirements of moral character, business integrity, and financial responsibility set forth herein.
- (7) An individual license may be transferred to a partnership or association, provided that the above requirements are satisfied wherever applicable.

Ind 77.03 CHARACTER. "Character," as used in Section 105.13, Wis. Stats., includes components of an applicant's ability to be an agent such as his moral character, education, business integrity, fiscal integrity, training and knowledge of the employment business, capability of staff, and the extent of his participation in operating the agency.

Ind 77.04 PREMISES. "Premises," as used in Section 105.13, Wis. Stats., means the location and size of the place of business, the neighborhood, public access, lease, purchase of premises, or other physical arrangements.

Ind 77.05 NEEDS. "Needs," as used in Section 105.13, Wis. Stats., means that both employers and employees in the proposed licensed area will utilize the employment agent to fill their requirements. Inquiry by the Commission into an application may be directed to the quantity of public and private agencies in the area; the quality and type of operations including job service and testing, the volume of placements and other services performed by such agencies, as well as the needs and desires of the employees and employers the applicant proposes to serve.

Ind 77.06 LICENSE COVERAGE. Private employment agency licenses expire annually and are limited by the terms set forth thereon. Except as provided in Section 77.02 above, no license or interest therein shall be sold, transferred, or assigned without the prior approval of the Industrial Commission. Application for such sale, transfer, or assignment shall be made to the Industrial Commission, and the Commission will withhold its approval if, upon due notice and hearing, it finds that the buyer, transferee, or assignee and the operation of the agency will not meet the requirements of accountability under Section 77.02 and Character, Premises, and Needs set forth in Sections 77.03-77.05 herein.

Ind 77.07 RENEWAL OF LICENSE.

- (1) Ten days before the expiration date of the license, application for renewal must be submitted to the Industrial Commission with the following:
  - (a) Minimum fee.
  - (b) Required bond.
  - (c) Forms used in making placements, including the contract and fee schedule.

(2) Within ten days after the expiration date of the license the applicant shall submit to the Commission the following information concerning the license year:

- (a) Number of placements made.
- (b) Gross receipts.
- (c) Balance of license fee due, if any.
- (d) Upon due notice and hearing, the license shall be suspended until the information is furnished and/or the license fee is paid.

Ind 77.08 LICENSES WITHHELD OR REVOKED. The license may be withheld or revoked by the Commission if the applicant or licensee fails to meet the requirements of Ind 77.02, Ind 77.03, Ind 77.04, Ind 77.05, Ind 77.11 and Ind 77.12.

Ind 77.09 MOVING PLACE OF BUSINESS. No agent shall open, conduct, or maintain an office at any place of business other than that approved by the Industrial Commission. Once approved, a place of business shall not be moved unless the agent first obtains the written consent of the Industrial Commission. No branch or additional place of business shall be opened without the prior approval of the Industrial Commission. Upon application for a branch or an additional place of business, the Industrial Commission may withhold approval unless it finds, upon due notice and hearing, that Character, Premises and Needs as set forth in Sections 77.03-77.05 are satisfied.

Ind 77.10 RECORDS TO BE KEPT. For a period of seven (7) years, all employment agents shall keep a register or record, in a form approved by the Industrial Commission, of all accepted applications for employment and for help of all persons referred to employers, whether they are hired or not; and if a fee has been paid, the amount of such fee and by whom paid.

Ind 77.11 FEE SCHEDULE AND OTHER CHARGES. No agent shall charge any fee in excess of the approved schedule on file with the Industrial Commission. Every applicant for a new or renewal license shall file with the Industrial Commission a schedule of fees for which approval is requested. The following schedule is presumed reasonable, and application for same will be approved without supporting materials. In the event an applicant submits a schedule of fees above the following schedule, the applicant shall file a supporting statement specifying the reasons for, and reasonableness of, the requested variance. In such cases, the Industrial Commission will deny the request if it finds, upon due notice and hearing, that the requested schedule is unreasonable.

No agent shall request or accept any placement fee or charge until the placement is made.

- (1) General Placement Agencies - Includes occupations in clerical, sales, technical, professional, etc.

- (a) For placements of three calendar months or more duration, regarded as a permanent position by both parties, the total fee charged may not exceed the following schedule:
1. Positions paying less than \$416.66 per month - 50% of the first month's salary.
  2. Positions paying \$416.67 through \$499.99 per month - 60% of the first month's salary.
  3. Positions paying \$500.00 through \$583.33 per month - 72% of the first month's salary.
  4. Positions paying \$583.34 through \$666.66 per month - 84% of the first month's salary.
  5. Positions paying \$666.67 through \$749.99 per month - 96% of the first month's salary.
  6. Positions paying \$750.00 through \$833.33 per month - 108% of the first month's salary.
  7. Positions paying \$833.34 or more per month - 120% of the first month's salary.
- (b) For placements of less than three calendar months duration, regarded as short-time or temporary by both parties, or where an employe remains in a position less than three calendar months through no fault of his own, the total fee charged may not exceed 20% of amount earned, and not more than 75% of the fee charged for a permanent position.
- (c) If an applicant accepts a permanent position to which he was referred by an agency and either fails to report for work or voluntarily leaves the position within three calendar months, the total fee charged may not exceed that listed in Part (i)(a).
- (2) Domestic Help Agencies - Includes babysitters, child care, and companions to aged.
- (a) The fee charged may not exceed 20% of the amount received by the applicant.
- (3) Model and Theatrical Agencies - Includes models, hostesses, and entertainers.
- (a) The fee charged may not exceed 10% of the amount received by the applicant.

(4) Nurses Registry Agencies - Includes licensed practical nurses and registered nurses.

(a) The fee charged may not exceed 5% of the amount received by the applicant.

Ind 77.12 RECEIPTS, REFUNDS, AND OTHER CONTRACT PROVISIONS.

(1) The agency shall give every person from whom a fee is received for services rendered a receipt which will include:

- (a) Name of the person paying the fee.
- (b) Amount of the fee.
- (c) Date of payment of the fee.
- (d) Balance due, if any.

(2) If an applicant is entitled to a refund from the fee paid, the agency shall make such refund in cash or negotiable check within a reasonable time.

(3) No interest or carrying charges, except for payment of delinquent fees or charges, for placement services may be made that would cause the total placement fee to be paid to exceed the schedules on file with the Industrial Commission. No agent shall charge an applicant interest for failure to make payment of fees when due, unless the interest requirement and the interest rate are stated on a written contract signed by the applicant. An agent may be reimbursed for any disbursements made on behalf of an applicant or employer where authorization for disbursements and reimbursement has been given.

(4) An agent may include as part of the agency contract a provision that, if an applicant is referred to an employer for a permanent position and fails to get that position but, within six months does secure employment with that employer as a result of the referral, he may be liable for the fee to the agency.

(5) The agency and applicant may agree on a schedule of payment of the fee for a permanent placement such that not more than 60% of any month's salary may be applied to the total fee, if the total fee exceeds that amount.

(6) An agency which requires an applicant to sign a contract shall give the applicant a copy of the signed contract.

(7) Upon every contract and every receipt shall be printed the following statement: "Complaints against employment agents may be made to the Industrial Commission of Wisconsin."

Ind 77.13 WRITTEN ORDER FROM EMPLOYERS. Every employment agent who sends an applicant for employment to apply for the same more than 25 miles outside of the metropolitan area in which the employment office is located shall have a written order from the employer giving the following information:

- (1) Employer's name and address.
- (2) Number and the kind of workers wanted.
- (3) Probable duration of the employment.
- (4) Rate of wages.
- (5) Cost of board and lodging if these are furnished by the employer or if he deducts the cost of these from the wages.
- (6) Whether a strike is on at that place of employment.

An employment agent may send applicants outside of the metropolitan area in response to a telephone order, provided that the employment agent has obtained verbally the required information from the employer and if the employer promises to confirm the order in writing within two days. The employment agent also may send applicants outside of the metropolitan area in response to mail orders which do not include the above information, provided that the employment agent has obtained the required information by phone and the employer promises to confirm it in writing within two days. The requirements of this Section 77.13 shall only apply to positions paying a salary of less than \$500.00 per month.

Ind 77.14 INTRODUCTION CARD OR LETTER. Every employment agent who sends any applicant for employment to apply for a position at any place outside of the metropolitan area in which the office of the employment agent is located shall give to such applicant a card or letter stating the following:

- (1) Name and address of the person to whom the applicant is referred.
- (2) Kind of work supposed to be obtainable.
- (3) Name of the applicant for the position.
- (4) Probable duration of employment.

Nothing contained herein shall prevent an employment agent from referring an applicant for employment to a place of possible employment by means of the telephone, and without any card or letter, in case prompt action is necessary. The requirements of this Section 77.14 shall apply only to positions paying a salary of less than \$500.00 per month.

Ind 77.15 PROMISES OF POSITIONS. Whenever any employment agent induces a person to come to a city from a distance on the promise of a position, or whenever any employment agent sends a person to a distant place outside of the city where his office is located on the promise of a position, if the applicant fails to secure employment through no fault of his own, the employment agent shall pay all the necessary expenses incurred by such person; provided, however, that the employment agent shall not be liable for these expenses if he has informed the applicant in writing that the applicant travels at his own risk.

Ind 77.16 DISCHARGE OF EMPLOYEES. No employment agent shall persuade, induce or procure, or attempt to persuade, induce or procure any employer or agent of any employer to discharge any employe; or persuade or induce any employe to break a contract with his employer.

Ind 77.17 REPORTS TO INDUSTRIAL COMMISSION. On the last day of each month, every licensed employment agent shall send to the Industrial Commission, a report in such form as the Commission may prescribe, giving the number of applications for employment and for help, and the number of positions filled during that month by industries and occupations.


Ind 77.18 POSTING OF LICENSE, SCHEDULE AND RULES.

- (1) License, schedule of fees, Chapter 105, Wis. Stats., together with all rules and orders of the Industrial Commission issued in pursuance thereof shall be posted in a conspicuous place in the main room of the agency.
- (2) The name of the agent and the fact that he is licensed shall be posted on the outside door or window of the agency.
- (3) All stationery and advertising shall contain the name of the employment agency and a statement that the agency is licensed.

Ind 77.19 REGISTRATION FEES. No registration fee shall be charged the applicant.

The rules as repealed and recreated shall become effective on June 1, 1967 as provided in Section 227.

INDUSTRIAL COMMISSION OF WISCONSIN

  
Stephen J. Reilly  
Executive Secretary

April 21, 1967