

Chapter Ind 77

**PRIVATE EMPLOYMENT AGENTS REQUIRED TO
BE LICENSED UNDER CHAPTER 105,
WIS. STATS.**

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History: Chapter Ind 77 as it existed on March 31, 1968 was repealed and a new chapter Ind 77 was created, Register, March, 1968, No. 147, effective April 1, 1968.

Ind 77.01 Application for a License. Application for a license as an employment agent under chapter 105, Wis. Stats., shall be in writing, on a form furnished by the department of industry, labor and human relations, showing such information deemed necessary.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

Ind 77.02 Licensee. A license to operate as an employment agent under chapter 105, Wis. Stats., 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 Wis. Adm. Code section Ind 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 department of industry, labor and human relations a certified statement setting forth the names of all officers, directors, and stockholders of the corporation and their respective interest therein. Any changes in the officers, directors, or stockholders of the corporation, and any changes in the interests of

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the stockholders therein, shall be reported in writing to the department of industry, labor and human relations within 30 days of the occurrence thereof.

(5) Upon any sale, transfer, assignment, or other encumbrance of the controlling interest in the corporation, the department of industry, labor and human relations shall have the power to review the requirements for character, premises, and needs, as set forth in sections Ind 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 department of industry, labor and human relations 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.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

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.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

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.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

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 department 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. The department shall consider affidavits or allegations by employers of their needs for services of an agency in granting and renewal of licenses; such needs may be measured by the ability of such employers to train their own forces as an alternative.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

Ind 77.06 License coverage. (1) Private employment agency licenses expire annually and are limited by the terms and/or classifications set forth thereon.

(2) Except as provided in section Ind 77.02 above, no license or interest therein shall be sold, transferred, or assigned without the prior approval of the department of industry, labor and human relations.

(3) Application for such sale, transfer, or assignment shall be made to the department of industry, labor and human relations, and the

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department will withhold its approval if, upon due notice and/or hearing, it finds that the buyer, transferee, or assignee and the operation of the agency will not meet the requirements of accountability, character, premises and needs, under sections Ind 77.02, 77.03, 77.04 and 77.05.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

Ind 77.07 Renewal of license. (1) At least 10 days before the expiration date of the license, application for renewal must be submitted to the department of industry, labor and human relations with the following:

- (a) Minimum fee
- (b) Required bond
- (c) Forms used in making placements, including the contract and fee schedule.

(2) Within 10 days after the expiration date of the license the applicant shall submit to the department 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/or hearing, the license may be suspended until the information is furnished and/or the license fee is paid.

(3) The department in granting renewals shall consider whether the needs of all applicants for employment are being met without regards to age, race, color, sex, creed, national origin, ancestry or handicap.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

Ind 77.08 Licenses withheld or revoked. The license may be withheld or revoked by the department if the applicant or licensee fails to meet the requirements of sections Ind 77.02, 77.03, 77.04, 77.05, 77.11 and 77.12.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

Ind 77.09 Moving place of business. (1) No agent shall open, conduct or maintain an office at any place of business other than that approved by the department of industry, labor and human relations.

(2) A place of business shall not be moved unless the agent first obtains the written consent of the department of industry, labor and human relations.

(3) No branch or additional place of business shall be opened without the prior approval of the department of industry, labor and human relations.

(4) Upon application for a branch or an additional place of business, the department of industry, labor and human relations may withhold approval until it finds that character, premises and needs as set forth in sections Ind 77.03, 77.04 and 77.05 are satisfied.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

Ind 77.10 Records to be kept. For a period of 2 years, all employment agents shall keep a register or record, in a form approved by the department of industry, labor and human relations, of all accepted

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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.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

Ind 77.11 Classifications, fee schedule and other charges. No agent shall charge any fee in excess of the approved schedule on file with the department of industry, labor and human relations. Every applicant for a new or renewal license shall file with the department 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 or agent submits a schedule of fees above the following schedule, the applicant or agent shall file a supporting statement specifying the reasons for, and reasonableness of, the requested variance. In such cases, the department will deny the request if it finds that the requested schedule is unreasonable. No agent shall request or accept any placement fee or charge until the placement is made. Employment agencies are classified and maximum fees are set as follows:

(1) Class 1 agencies (administrative, clerical, commercial, executive, professional, sales, technical, etc., including trained or skilled industrial workers or mechanics)

(a) For placements of 3 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) If an applicant accepts a permanent position to which he was referred by an agency with the understanding that the fee was to be paid entirely by the employer, and he leaves that position for any reason, he shall not be liable to the agency for any part of the placement fee, notwithstanding contractual provisions to the contrary.

(c) For placements of less than 3 calendar month's duration, regarded as short-time or temporary by both parties, or where an employe remains in a position less than 3 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.

(d) 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 3 calendar months, the total fee charged may not exceed that listed in subsection (1) (a).

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(2) Class II agencies (domestic, household employes, unskilled or untrained)

(a) The fee charged for permanent placements of three months or more shall not exceed 50% of the first month's salary.

(b) The fee for temporary placements of less than three months may not exceed 20% of the amount received by the applicant. The total fee charged to an applicant for a placement shall not exceed the fee charged for a permanent position.

(3) Class III agencies (model and theatrical engagements, including models, hostesses and entertainers)

(a) The fee charged may not exceed 10% of the amount received by the applicant.

(4) Class IV agencies (nurses registries, including licensed practical nurses and registered nurses)

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

(b) The fee for all other placements shall not exceed those prescribed in subsection (1).

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

Ind 77.12 Receipts, refunds, and other contract provisions applicable to all classes. (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 department of industry, labor and human relations. 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 6 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 State of Wisconsin Department of Industry, Labor and Human Relations."

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

Ind 77.13 Written order from employers. (1) 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:

- (a) Employer's name and address.
- (b) Number and the kind of workers wanted
- (c) Probable duration of the employment
- (d) Rate of wages
- (e) Cost of board and lodging if these are furnished by the employer or if he deducts the cost of these from the wages
- (f) Whether a strike is on at that place of employment

(2) 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 2 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 2 days. The requirements of this section shall only apply to positions paying a salary of less than \$500.00 per month.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

Ind 77.14 Introduction card or letter. (1) 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:

- (a) Name and address of the person to whom the applicant is referred.
- (b) Kind of work supposed to be obtainable
- (c) Name of the applicant for the position
- (d) Probable duration of employment

(2) 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 requirement of this section shall apply only to positions paying a salary of less than \$500.00 per month.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

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

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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.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

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 employee; or persuade or induce any employee to break a contract with his employer.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

Ind 77.17 Reports to department of industry, labor and human relations. On the last day of each month, every licensed employment agent shall send to the department of industry, labor and human relations, a report in such form as the department 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.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

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 department of industry, labor and human relations 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.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.

Ind 77.19 Registration fees. No registration fee shall be charged the applicant.

History: Cr. Register, March, 1968, No. 147, eff. 4-1-68.