

CHAPTER 105.

EMPLOYMENT AGENTS.

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105.01 Definition of "employment agent." The term "employment agent" shall mean and include all persons, firms, corporations or associations which furnish to persons seeking employment, information enabling or tending to enable such persons to secure the same, or which furnish employers seeking laborers or other help of any kind, information enabling or tending to enable such employers to secure such help, or which 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; but this term shall not include 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.

An agency supplying temporary help to and makes deductions before paying the employe. 55 Atty. Gen. 217.
 other employers is subject to this chapter
 even though it collects the employe's pay

105.02 False statements and representation. No person, firm, association or corporation, or any employe or agent thereof, 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 circumstances surrounding the said 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. No person, firm, corporation or association 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 persons to act as live models or to model for photography, without first having obtained a license from the industrial commission of Wisconsin and executing a bond as hereinafter provided. Said 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 persons whatever, or inure to the benefit of any person other than the licensee.

105.06 Application; bond. Application for the foregoing license shall be made to the industrial commission and shall be accompanied by a bond in due form to the state of Wisconsin for the penal sum of one thousand dollars issued by a surety company licensed to do business in this state to be approved by the industrial commission, conditioned that the agent will conform to and not violate any of the duties, terms, conditions or requirements of sections 105.01 to 105.15, inclusive, of the statutes.

105.07 Annual fees. (1) Each such license shall expire on June thirtieth, next following the date of issue and may be renewed annually. The fee for such license or renewal shall be as follows: One per cent on the first five thousand dollars of the fees, charges, commissions or other compensation actually received during the life of the license or renewal by an employment agent for service as such; three-fourths of one per cent on the second five thousand dollars of such receipts; and one-half of one per cent of all such receipts in excess of ten thousand dollars; provided, that in no event shall such fee be less than twenty-five dollars nor more than one hundred and fifty dollars.

(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 industrial commission within the first ten days of July in each year, 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, if any, of such license fee due the state. Such fees shall be paid to the industrial commission, and shall be paid by it into the general fund of the state treasury within one week of receipt.

105.08 Authority of industrial commission. The industrial commission 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 orders designed to prevent fraud, misrepresentations, false statements, or other unauthorized acts of such employment agent.

105.09 Visitorial power of commission. Any commissioner or deputy of the commission 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 commission, or any failure on the part of such employment agent to comply therewith. No employment agent shall refuse to admit any commissioner or deputy of the commission to his place of business.

105.10 Inquisition. Any employment agent receiving from the commission any blanks calling for information required by it to carry into effect the provisions of sections 105.01 to 105.15, inclusive, of the statutes, 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 two witnesses, and returned to the commission at its office within the period fixed by the commission.

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 commission, within a time fixed by the commission, 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 industrial commission and when changed shall be filed with such commission. 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 commission, and no employment agent shall charge a registration fee without permission from the industrial commission.

105.12 Employment bureaus for women; records. (1) Every person managing or operating any employment bureau for women, in this state, shall make and file in his office application cards to be signed by any applicant for help, on which shall be stated the business of the place to which an employe is to be furnished, the nature of the work to be performed by the employe, and the wages to be paid.

(2) No such licensed person shall knowingly send or cause to be sent any female help, servant, inmate, performer, or any other person to enter any questionable place of bad repute, house of ill fame or assignation house, or to any place of amusement in which im-

moral practices are permitted, or place resorted to for the purpose of prostitution, or any gambling house, the character of which such places the licensing person knows either directly or by reputation or which he might obtain by reasonable effort.

(3) No such licensed person shall knowingly permit any questionable character, prostitute, gambler, intoxicated person or procurer to frequent such agency.

(4) Every such licensed person shall keep a permanent record and index with names and post-office addresses of all persons placed in service by him, with reference to the facts contained in the application, which record shall be open to the inspection of the officers of the law and the parent or guardian of such person.

105.13 Refusal to issue and revocation of license. It shall be the duty of the industrial commission, and it shall have power, jurisdiction and authority to issue licenses to employment agents, and to refuse to issue such license whenever, after due investigation, the commission or a majority of the members thereof 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 commission, 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 two 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 employees. Any such license granted by the commission 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 sections 105.01 to 105.15, inclusive, of the statutes, or with any lawful orders of the commission, shall be deemed due cause to revoke such license.

The commission could not deny a license to an applicant proposing to offer a testing and counseling service in the absence of a finding that others were offering such services or that the area did not need such services. *Harding v. Industrial Comm.* 12 W (2d) 274, 107 NW (2d) 273.

The legislature intended that competent and well-regulated agencies which would add to the quality and quantity of employment services so as to supply a need sought by employers or employees should be granted an employment agency license. The fact that services available in the community might to some degree overlap with those proposed by the petitioner would not negate the inference that the quality and quantity of the services to be performed will be beneficial to employers and employees. *Silverberg v. Industrial Comm.* 24 W (2d) 144, 128 NW (2d) 674.

105.14 Regulations; records; reports. The commission 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 sections 105.01 to 105.15, inclusive, of the statutes; 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 sections 105.01 to 105.15, inclusive, of the statutes, 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 commission, 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 employees seeking help, against fraud, misrepresentation, or any other unauthorized act of any employment agent.

105.15 General powers of commission applicable; penalties. Such investigations, classifications and orders shall be made pursuant to the proceeding in sections 101.01 to 101.28, which are hereby made a part hereof, so far as not inconsistent with the provisions of sections 105.01 to 105.15, and every order of the said commission shall have the same force and effect as the orders issued pursuant to said sections 101.01 to 101.28 and the penalties therein shall apply to and be imposed for any violation of sections 105.01 to 105.11, 105.13 to 105.15. Said orders shall be subject to review in the manner provided in chapter 227.

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 section 105.05 of the statutes, 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 twenty-five 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 industrial commission, to be by them compiled as part of the general employment statistics of the state.