
HOUSE BILL 2043

State of Washington 52nd Legislature 1991 Regular Session

By Representative Dellwo.

Read first time February 20, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to employment agencies; amending RCW 19.31.020,
2 19.31.030, 19.31.040, 19.31.150, 19.31.170, and 19.31.190; and adding
3 a new section to chapter 19.31 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 19.31.020 and 1990 c 70 s 1 are each amended to read
6 as follows:

7 Unless a different meaning is clearly required by the context, the
8 following words and phrases, as hereinafter used in this chapter, shall
9 have the following meanings:

10 (1) "Employment agency" is synonymous with "agency" and shall mean
11 any business in which any part of the business gross or net income is
12 derived from a fee received from applicants, and in which any of the
13 following activities are engaged in:

14 (a) The offering, promising, procuring, or attempting to procure
15 employment for applicants; ((or))

1 (b) The giving of information regarding where and from whom
2 employment may be obtained;

3 (c) The sale of a list of jobs, or a list of names of persons
4 accepting applications for specific positions, in any form.

5 In addition the term "employment agency" shall mean and include any
6 person, bureau, employment listing or employment referral service,
7 organization, or school which for profit, by advertisement or
8 otherwise, offers, as one of its main objects or purposes, to procure
9 employment for any person who pays for its services, or which collects
10 tuition, or charges for service of any nature, where the main object of
11 the person paying the same is to secure employment. It also includes
12 any business that provides a resume to an individual and provides that
13 person with a list of names compiled by the business to whom the resume
14 may be sent or provides that person with preaddressed envelopes to be
15 mailed by the individual or by the business itself. The term
16 "employment agency" shall not include labor union organizations,
17 temporary service contractors, proprietary schools, theatrical
18 agencies, farm labor contractors, or the Washington state employment
19 agency.

20 (2) "Temporary service contractors" shall mean any person, firm,
21 association, or corporation conducting a business which consists of
22 employing individuals directly for the purpose of furnishing such
23 individuals on a part time or temporary help basis to others.

24 (3) "Theatrical agency" means any person who, for a fee or
25 commission, procures or attempts to procure on behalf of an individual
26 or individuals, employment or engagements for circus, vaudeville, the
27 variety field, the legitimate theater, motion pictures, radio,
28 television, phonograph recordings, transcriptions, opera, concert,
29 ballet, modeling, or other entertainments, exhibitions, or
30 performances.

1 (4) "Farm labor contractor" means any person, or his or her agent,
2 who, for a fee, employs workers to render personal services in
3 connection with the production of any farm products, to, for, or under
4 the direction of an employer engaged in the growing, producing, or
5 harvesting of farm products, or who recruits, solicits, supplies, or
6 hires workers on behalf of an employer engaged in the growing,
7 producing, or harvesting of farm products or who provides in connection
8 with recruiting, soliciting, supplying, or hiring workers engaged in
9 the growing, producing, or harvesting of farm products, one or more of
10 the following services: Furnishes board, lodging, or transportation
11 for such workers, supervises, times, checks, counts, sizes, or
12 otherwise directs or measures their work; or disburses wage payments to
13 such persons.

14 (5) "Employer" means any person, firm, corporation, partnership, or
15 association employing or seeking to enter into an arrangement to employ
16 a person through the medium or service of an employment agency.

17 (6) "Applicant", except when used to describe an applicant for an
18 employment agency license, means any person, whether employed or
19 unemployed, seeking or entering into any arrangement for his or her
20 employment or change of his or her employment through the medium or
21 service of an employment agency.

22 (7) "Person" includes any individual, firm, corporation,
23 partnership, association, company, society, manager, contractor,
24 subcontractor, bureau, agency, service, office, or an agent or employee
25 of any of the foregoing.

26 (8) "Director" shall mean the director of licensing.

27 (9) "Resume" means a document of the applicant's employment history
28 that is approved, received, and paid for by the applicant.

29 (10) "Fee" means anything of value. The term includes money or
30 other valuable consideration or services or the promise of money or

1 other valuable consideration or services, received directly or
2 indirectly by an employment agency from a person seeking employment, in
3 payment for the service.

4 **Sec. 2.** RCW 19.31.030 and 1969 ex.s. c 228 s 3 are each amended to
5 read as follows:

6 Each employment agency shall keep records of all services rendered
7 employers and applicants. These records shall contain the name and
8 address of the employer by whom the services were solicited; the name
9 and address of the applicant; kind of position ordered by the employer;
10 kind of position accepted by the applicant; probable duration of the
11 employment, if known; rate of wage or salary to be paid the applicant;
12 amount of the employment agency's fee; dates and amounts of refund if
13 any, and reason for such refund; and the contract agreed to between the
14 agency and applicant. An employment referral and listing service need
15 not keep records pertaining to kind of position accepted by the
16 applicant and probable duration of the employment.

17 The director shall have authority to demand and to examine, at the
18 employment agency's regular place of business, all books, documents,
19 and records in its possession for inspection. Unless otherwise
20 provided by rules or regulation adopted by the director, such records
21 shall be maintained for a period of three years from the date in which
22 they are made.

23 **Sec. 3.** RCW 19.31.040 and 1985 c 7 s 83 are each amended to read
24 as follows:

25 An employment agency shall provide each applicant with a copy of
26 the contract between the applicant and employment agency which shall
27 have printed on it or attached to it a copy of RCW 19.31.170 as now or
28 hereafter amended. Such contract shall contain the following:

1 (1) The name, address, and telephone number of the employment
2 agency;

3 (2) Trade name if any;

4 (3) The date of the contract;

5 (4) The name of the applicant;

6 (5) The amount of the fee to be charged the applicant, or the
7 method of computation of the fee, and the time and method of payments:
8 PROVIDED, HOWEVER, That if the provisions of the contract come within
9 the definition of a "retail installment transaction", as defined in RCW
10 63.14.010, the contract shall conform to the requirements of chapter
11 63.14 RCW, as now or hereafter amended;

12 (6) A notice in eight-point bold face type or larger directly above
13 the space reserved in the contract for the signature of the buyer. The
14 caption, "NOTICE TO APPLICANT--READ BEFORE SIGNING" shall precede the
15 body of the notice and shall be in ten-point bold face type or larger.
16 The notice shall read as follows:

17 "This is a contract. If you accept employment with any employer
18 through [name of employment agency] you will be liable for the payment
19 of the fee as set out above. Do not sign this contract before you read
20 it or if any spaces intended for the agreed terms are left blank. You
21 must be given a copy of this contract at the time you sign it."

22 The notice for an employment listing and referral service shall
23 read as follows:

24 "This is a contract. The [name of employment listing or referral
25 service] does not guarantee that you will obtain employment through its
26 services. You are liable for the payment of the fee when you receive
27 the list or referral. Do not sign this contract before you read it or

1 if any spaces intended for the agreed terms are left blank. You must
2 be given a copy of this contract at the time you sign it."

3 **Sec. 4.** RCW 19.31.150 and 1969 ex.s. c 228 s 15 are each amended
4 to read as follows:

5 (1) No employment agency shall charge or accept a fee or other
6 consideration except as otherwise provided from an applicant without
7 complying with the terms of a written contract as specified in RCW
8 19.31.040, and then only after such agency has been responsible for
9 referring such job applicant to an employer or such employer to a job
10 applicant and where as a result thereof such job applicant has been
11 employed by such employer.

12 (2) Employment referral and listing services may charge or accept
13 a fee when they provide the applicant with the job listings or the
14 referrals.

15 **Sec. 5.** RCW 19.31.170 and 1977 ex.s. c 51 s 7 are each amended to
16 read as follows:

17 (1) If an applicant accepts employment by agreement with an
18 employer and thereafter never reports for work, the gross fee charged
19 to the applicant shall not exceed: (a) Ten percent of what the first
20 month's gross salary or wages would be, if known; or (b) ten percent of
21 the first month's drawing account. If the employment was to have been
22 on a commission basis without any drawing account, then no fee may be
23 charged in the event that the applicant never reports for work.

24 (2) If an applicant accepts employment on a commission basis
25 without any drawing account, then the gross fee charged such applicant
26 shall be a percentage of commissions actually earned.

27 (3) If an applicant accepts employment and if within sixty days of
28 his or her reporting for work the employment is terminated, then the

1 gross fee charged such applicant shall not exceed twenty percent of the
2 gross salary, wages or commission received by ((him)) the applicant.

3 (4) If an applicant accepts temporary employment as a domestic,
4 household employee, baby sitter, agricultural worker, or day laborer,
5 then the gross fee charged such applicant shall not be in excess of
6 twenty-five percent of the first full month's gross salary or wages:
7 PROVIDED, That where an applicant accepts employment as a domestic or
8 household employee for a period of less than one month, then the gross
9 fee charged such applicant shall not exceed twenty-five percent of the
10 gross salary or wages paid.

11 (5) Any applicant requesting a refund of a fee paid to an
12 employment agency in accordance with the terms of the approved fee
13 schedule of the employment agency pursuant to this section shall file
14 with the employment agency a form requesting such refund on which shall
15 be set forth information reasonably needed and requested by the
16 employment agency, including but not limited to the following:
17 Circumstances under which employment was terminated, dates of
18 employment, and gross earnings of the applicant.

19 (6) Refund requests which are not in dispute shall be made by the
20 employment agency within thirty days of receipt.

21 (7) This section is not applicable to employment listing and
22 referral services.

23 **Sec. 6.** RCW 19.31.190 and 1977 ex.s. c 51 s 8 are each amended to
24 read as follows:

25 In addition to the other provisions of this chapter the following
26 rules shall govern each and every employment agency:

27 (1) Every license or a verified copy thereof shall be displayed in
28 a conspicuous place in each office of the employment agency;

1 (2) No fee shall be solicited or accepted as an application or
2 registration fee by any employment agency solely for the purpose of
3 being registered as an applicant for employment;

4 (3) No licensee or agent of the licensee shall solicit, persuade,
5 or induce an employee to leave any employment in which the licensee or
6 agent of the licensee has placed the employee; nor shall any licensee
7 or agent of the licensee persuade or induce or solicit any employer to
8 discharge any employee;

9 (4) No employment agency shall knowingly cause to be printed or
10 published a false or fraudulent notice or advertisement for obtaining
11 work or employment. All advertising by a licensee shall signify that
12 it is an employment agency solicitation except that an employment
13 referral and listing service may advertise that it is a listing or
14 referral service;

15 (5) No licensee shall fail to state in any advertisement, proposal
16 or contract for employment that there is a strike or lockout at the
17 place of proposed employment, if he or she has knowledge that such
18 condition exists;

19 (6) No licensee or agent of a licensee shall directly or indirectly
20 split, divide, or share with an employer any fee, charge, or
21 compensation received from any applicant who has obtained employment
22 with such employer or with any other person connected with the business
23 of such employer;

24 (7) When an applicant is referred to the same employer by two
25 licensees, the fee shall be paid to the licensee who first contacted
26 the applicant concerning the position for that applicant: PROVIDED,
27 That the licensee has given the name of the employer to the applicant
28 and has within five working days arranged an interview with the
29 employer and the applicant was hired as the result of that interview;

1 (8) No licensee shall require in any manner that a potential
2 employee or an employee of an employer make any contract with any
3 lending agency for the purpose of fulfilling a financial obligation to
4 the licensee;

5 (9) All job listings and referrals shall be current;

6 (10) Any aggrieved person, firm, corporation, or public officer may
7 submit a written complaint to the director charging the holder of an
8 employment agency license with violation of this chapter and/or the
9 rules and regulations adopted pursuant to this chapter.

10 NEW SECTION. Sec. 7. A new section is added to chapter 19.31 RCW
11 to read as follows:

12 No political subdivision of the state or private party shall
13 discriminate between the forms of employment agencies as defined in
14 this chapter.