

Every coroner or other official performing like functions shall submit to the state toxicologist a blood sample taken from all drivers and all pedestrians (~~age fifteen years and older~~) who are killed in any traffic accident where the death occurred within four hours after the accident. Blood samples shall be taken and submitted in the manner prescribed by the state toxicologist. The state toxicologist shall analyze these blood samples to determine the concentration of alcohol and, where feasible, the presence of drugs or other toxic substances. The reports and records of the state toxicologist relating to analyses made pursuant to this section shall be confidential (~~(,and shall not be utilized as evidence in any civil or criminal action, except that the results of these analyses shall be reported to the state patrol, and may be made available to the prosecuting attorney or law enforcement agencies having jurisdiction in any case in which an autopsy or post mortem is performed)~~) : PROVIDED, That the results of these analyses shall be reported to the state patrol and made available to the prosecuting attorney or law enforcement agency having jurisdiction: PROVIDED FURTHER, That the results of these analyses may be admitted in evidence in any civil or criminal action where relevant and shall be made available to the parties to any such litigation on application to the court.

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CHAPTER 51

[Engrossed Senate Bill No. 2263]

EMPLOYMENT AGENCIES

AN ACT Relating to employment agencies; amending section 2, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.020; amending section 4, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.040; amending section 6, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.060; amending section 9, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.090; amending section 10, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.100; amending section 11, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.110; amending section 17, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.170; amending section 19, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.190; amending section 20, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.200; adding a new section to chapter 19.31 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 2, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.020 are each amended to read as follows:

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

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

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

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

In addition the term "employment agency" shall mean and include any person, bureau, organization, or school which for profit, by advertisement or otherwise, offers, as one of its main objects or purposes, to procure employment for any person who pays for its services, or which collects tuition, or charges for service of any nature, where the main object of the person paying the same is to secure employment. The term "employment agency" shall not include labor union organizations, temporary service contractors, proprietary schools, theatrical agencies, farm labor contractors, or the Washington state employment agency.

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

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

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

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

~~((4))~~ (6) "Applicant", except when used to describe an applicant for an employment agency license, means any person, whether employed or unemployed, seeking or entering into any arrangement for his employment or change of his employment through the medium or service of an employment agency.

~~((5))~~ (7) "Person" includes ~~((an))~~ any individual, ((a)) firm, ((a)) corporation, partnership ((or)), association, company, society, manager, contractor, sub-contractor, bureau, agency, service, office, or an agent or employee of any of the foregoing.

~~((6))~~ (8) "Director" shall mean the director of the department of motor vehicles.

Sec. 2. Section 4, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.040 are each amended to read as follows:

An employment agency shall provide each applicant with a copy of the contract between the applicant and employment agency which shall have printed on it or

attached to it a copy of RCW 19.31.170 as now or hereafter amended. Such contract shall contain the following:

- (1) The name, address, and telephone number of the employment agency;
- (2) Trade name if any;
- (3) The date of the contract;
- (4) The name of the applicant;
- (5) The amount of the fee to be charged the applicant, or the method of computation of the fee, and the time and method of payments: **PROVIDED, HOWEVER,** That if ~~((any service charge is to be charged))~~ the provisions of the contract come within the definition of a "retail installment transaction", as defined in RCW 63.14.010(5) as now or hereafter amended, the contract shall conform to the requirements of chapter 63.14 RCW, as now or hereafter amended;

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

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

Sec. 3. Section 6, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.060 are each amended to read as follows:

No employment agency shall send any applicant on an interview with a prospective employer without having first obtained, either orally or in writing, a bona fide request from such employer for the interview: **PROVIDED, HOWEVER,** That, it shall be the duty of every employment agency to give to each applicant for employment, orally or in writing, before being sent on an interview, information as to the name and address of the person to whom the applicant is to apply for such employment, the kind of service to be performed, the anticipated rate of wages or compensation, the agency's fee based on such anticipated wages or compensation, whether such employment is permanent or temporary, and the name and address of the natural person authorizing the interviewing of such applicant.

Sec. 4. Section 9, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.090 are each amended to read as follows:

- (1) Before conducting any business as an employment agency each licensee shall file with the director a surety bond in the sum of two thousand dollars running to the state of Washington, for the benefit of any person injured or damaged as a result of any violation by the licensee or his agent of any of the provisions of this chapter or of any rule or regulation adopted by the director pursuant to RCW 19.31.070(1).

- (2) In lieu of the surety bond required by this section the license applicant may file with the director a cash deposit or other negotiable security acceptable to the director: **PROVIDED, HOWEVER,** If the license applicant has filed a cash deposit, the director shall deposit such funds ~~((in a special trust savings account in a commercial bank, mutual savings bank, or savings and loan association and shall~~

pay annually to the depositor the interest derived from such account)) with the state treasurer. If the license applicant has deposited cash or other negotiable security with the director, the same shall be returned to the licensee at the expiration of one year after the employment agency's license has expired or been revoked, if no legal action has been instituted against the licensee or the surety deposit at the expiration of the year.

(3) Any person having a claim against an employment agency for any violation of the provisions of this chapter or any rule or regulation promulgated thereunder may bring suit upon such bond or deposit in an appropriate court of the county where the office of the employment agency is located or of any county in which jurisdiction of the employment agency may be had. Action upon such bond or deposit shall be commenced by serving and filing of the complaint within one year from the date of expiration of the employment agency license in force at the time the act for which the suit is brought occurred. A copy of the complaint shall be served by registered or certified mail upon the director at the time the suit is started, and the director shall maintain a record, available for public inspection, of all suits so commenced. Such service on the director shall constitute service on the surety and the director shall transmit the complaint or a copy thereof to the surety within five business days after it shall have been received. The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond, but in case claims pending at any one time exceed the amount of the bond, claims shall be satisfied in the order of judgment rendered. In the event that any final judgment shall impair the liability of the surety upon bond so furnished or the amount of the deposit so that there shall not be in effect a bond undertaking or deposit in the full amount prescribed in this section, the director shall suspend the license of such employment agency until the bond undertaking or deposit in the required amount, unimpaired by unsatisfied judgment claims, shall have been furnished.

(4) In the event of a final judgment being entered against the deposit or security referred to in subsection (2) of this section, the director shall, upon receipt of a certified copy of the final judgment, order said judgment to be paid from the amount of the deposit or security.

Sec. 5. Section 10, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.100 are each amended to read as follows:

(1) Every applicant for an employment agency's license or a renewal thereof shall file with the director a written application stating the name and address of the applicant; the street and number of the building in which the business of the employment agency is to be conducted; the name of the person who is to have the general management of the office; the name under which the business of the office is to be carried on; whether or not the applicant is pecuniarily interested in the business to be carried on under the license; shall be signed by the applicant and sworn to before a notary public; and shall identify anyone holding over twenty percent interest in the agency. If the applicant is a corporation, the application shall state the names and addresses of the officers and directors of the corporation, and shall be signed and sworn to by the president and secretary thereof. If the applicant is a partnership, the application shall also state the names and addresses of all partners therein, and shall be signed and sworn to by all of them. The application

shall also state whether or not the applicant is, at the time of making the application, or has at any previous time been engaged in or interested in or employed by anyone engaged in the business of an employment agency.

(2) The application shall require a certification that no officer or holder of more than twenty percent interest in the business has been convicted of a felony within ten years of the application which directly relates to the business for which the license is sought, or had any judgment entered against such person in any civil action involving fraud, misrepresentation, or conversion.

(3) All applications for employment agency licenses shall be accompanied by a copy of the form of contract and fee schedule to be used between the employment agency and the applicant.

(4) No license to operate an employment agency in this state shall be issued, transferred, renewed, or remain in effect, unless the person who has or is to have the general management of the office has qualified pursuant to this section. The director may, for good cause shown, waive the requirement imposed by this section for a period not to exceed one hundred and twenty days. Persons who have been previously licensed or who have operated to the satisfaction of the director for at least one year prior to the effective date of this 1977 amendatory act as a general manager shall be entitled to operate for up to one year from such date before being required to qualify under this section. In order to qualify, such person shall, through testing procedures developed by the employment agency advisory board, show to the director's satisfaction that such person has a knowledge of this law, pertinent labor laws, and laws against discrimination in employment in this state and of the United States. Said examination shall be given at least once each quarter and a fee for such examination shall be established by the director. Nothing in this chapter shall be construed to preclude any one natural person from being designated as the person who is to have the general management of up to three offices operated by any one licensee.

Sec. 6. Section 11, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.110 are each amended to read as follows:

An employment agency license shall expire June 30th. Any such license not renewed may be reinstated if the employment agency can show good cause to the director for renewal of the license and present proof of intent to continue to act as an employment agency: PROVIDED, That no license shall be issued upon such application for reinstatement until all fees and penalties previously accrued under this chapter have been paid.

Sec. 7. Section 17, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.170 are each amended to read as follows:

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

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

(3) If an applicant accepts employment and if within ~~((ninety))~~ sixty days of his reporting for work the employment is terminated ~~((without his fault))~~, then the gross fee charged such applicant shall not exceed ~~((ten))~~ twenty percent of the gross salary, wages or commission received by him.

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

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

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

Sec. 8. Section 19, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.190 are each amended to read as follows:

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

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

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

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

(4) No employment agency shall knowingly cause to be printed or published a false or fraudulent notice or advertisement for obtaining work or employment. All advertising by a licensee shall signify that it is an employment agency solicitation;

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

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

(7) When an applicant is referred to the same ~~((position))~~ employer by two licensees, the fee shall be paid to the licensee who first contacted the applicant concerning the ~~((specific opening. PROVIDED, That he has given the name of the employer to the applicant and has arranged an interview or submitted a resume to~~

~~the employer within ten days of such contact)) position for that applicant: PROVIDED, That the licensee has given the name of the employer to the applicant and has within five working days arranged an interview with the employer and the applicant was hired as the result of that interview;~~

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

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

Sec. 9. Section 20, chapter 228, Laws of 1969 ex. sess. and RCW 19.31.200 are each amended to read as follows:

(1) There is hereby created a board to be known as the employment agency advisory board whose duty shall be to advise the director as to the administration of the provisions of this chapter and the issuance of reasonable rules and regulations for enforcing and carrying out the provisions and purposes of this chapter. Such board shall consist of eight members, seven members thereof to be appointed by the governor, five from among those persons owning or managing employment agencies, the sixth member shall be a representative of ((employers)) management, and the seventh shall be a representative of ((the majority of workmen employed in the state)) labor. The attorney general or his designee shall serve as a nonvoting ex officio member of the board.

(2) Each member of the board shall hold office for four years and until his successor is appointed ~~((; except that with respect to the first board two members shall be appointed for four years, two members for three years, three members for two years))~~;

(3) Any member of the board shall be removed by the director for suspension or revocation of any license issued to him under this chapter. Vacancies in the membership of the board shall be filled by appointment by the director for the unexpired term;

(4) The board shall meet at the call of the director and consult with him on the issuance of any proposed rules and regulations for enforcing and carrying out the provisions and purposes of this chapter. The decision of the director, after such consultation, shall be final. The board is also authorized to conduct its own meetings at the call of its chairman;

(5) The board shall elect annually from its members a chairman, vice chairman and secretary;

(6) The board members shall be compensated pursuant to RCW 43.24.060 as now or hereafter amended;

(7) The board may inquire into the needs of the employment agency industry, and make such recommendations as may be deemed important and necessary for the welfare of the state, and progress of the employment agency industry, and how employment agencies may best serve the state and the public. In carrying out the foregoing, the board may collect such information and data as the board deems necessary. The board shall be responsible for the preparation of a written examination designed to demonstrate that the person who is to have the responsibility for

the general management of the office has sufficient knowledge of the applicable laws and regulations relating to the operation of employment agencies, pertinent labor laws and laws against discrimination in employment in this state and of the United States. Members of the board shall be exempt from the examination requirement.

NEW SECTION. Sec. 10. There is added to chapter 19.31 RCW a new section to read as follows:

(1) No employment agency may bring or maintain a cause of action in any court of this state for compensation for, or seeking equitable relief in regard to, services rendered employers and applicants, unless such agency shall allege and prove that at the time of rendering the services in question, or making the contract therefor, it was the holder of a valid license issued under this chapter.

(2) Any person who shall give consideration of any kind to any employment agency for the performance of employment services in this state when said employment agency shall not be the holder of a valid license issued under this chapter shall have a cause of action against the employment agency. Any court having jurisdiction may enter judgment therein for treble the amount of such consideration so paid, plus reasonable attorney's fees and costs.

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CHAPTER 52

[Senate Bill No. 2295]

ADMINISTRATIVE PROCEDURES ACT—JUDICIAL REVIEW—JOINDER—CROSS-PETITION

AN ACT Relating to judicial review of administrative agencies; and amending section 13, chapter 234, Laws of 1959 as amended by section 6, chapter 237, Laws of 1967 and RCW 34.04.130.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 13, chapter 234, Laws of 1959 as amended by section 6, chapter 237, Laws of 1967 and RCW 34.04.130 are each amended to read as follows:

(1) Any person aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form, is entitled to judicial review thereof only under the provisions of this 1967 amendatory act, and such person may not use any other procedure to obtain judicial review of a final decision, even though another procedure is provided elsewhere by a special statute or a statute of general application. Where the agency's rules provide a procedure for rehearing or reconsideration, and that procedure has been invoked, the agency decision shall not be final until the agency shall have acted thereon.

(2) Proceedings for review under this chapter shall be instituted by filing a petition in the superior court, at the petitioner's option, for (a) Thurston county, (b) the county of the petitioner's residence or principal place of business, or (c) in any county where the property owned by the petitioner and affected by the contested