

NON-ENGLISH SPEAKING EMPLOYEES

91E.1 Definitions.

As used in this chapter:

1. "*Commissioner*" means the commissioner of the division of labor services of the department of workforce development.
2. "*Employee*" means a natural person who is employed in this state for wages paid on an hourly basis by an employer. An employee does not include a person engaged in agriculture as defined in section 91A.2 or a person engaged in agriculture on a seasonal basis. However, this exemption shall not apply to farm owners who hire workers to work on cropland other than their own.
3. "*Employer*" means a person, as defined in chapter 4, who in this state employs for wages, paid on an hourly basis, one hundred or more natural persons. An employer does not include a client, patient, customer, or other person who obtains professional services from a licensed person who provides the services on a fee service basis or as an independent contractor, or the state, or an agency or governmental subdivision of the state.
4. "*Non-English speaking employee*" means an employee who does not speak, read, write, or understand English to the degree necessary for comprehension of the terms, conditions, and daily responsibilities of employment.
5. "*Farm owner*" does not include a person who uses cropland for research or experimental purposes, testing, developing, or producing seeds or plants for sale or resale.

90 Acts, ch 1134, §2; 96 Acts, ch 1186, § 23

91E.2 Non-English speaking employees employer obligations.

If more than ten percent of an employer's employees are non-English speaking and speak the same non-English language, the employer shall provide all of the following:

1. An interpreter available at the work site for each shift during which non-English speaking employees are employed.

If a Spanish-speaking interpreter is needed, the employer shall select an interpreter from a list of interpreters developed by the department of workforce development, drawn from the commission of Latino affairs' statewide list of interpreters qualified to serve Iowa courts and administrative agencies.

2. A person employed by the employer whose primary responsibility is to serve as a referral agent to community services.

90 Acts, ch 1134, §3; 96 Acts, ch 1186, § 23

91E.3 Employer recruiting practices.

1. An employer or a representative of an employer who actively recruits non-English speaking residents of other states more than five hundred miles from the place of employment, for employment as employees for wages paid on an hourly basis in this state, must have on file, a copy of which must be provided to the employee, a written statement signed by the employer and the employee which provides relevant information regarding the position of employment, including but not limited to the following information:

- a. The minimum number of hours the employee can expect to work on a weekly basis.
- b. The hourly wages of the position of employment including the starting hourly wage.
- c. A description of the responsibilities and tasks of the position of employment.
- d. The health risks, known to the employer, to the employee involved in the position of employment.
- e. That possession of forged documentation authorizing the person to stay or be employed in the United States is a class "D" felony.

2. If an employee who resigns from employment with an employer within four weeks of the employee's initial date of employment requests, within three business days of termination, transportation to return to the location from which the employee was recruited and the location from which the employee was recruited is five hundred or more miles from the place of employment, the employer shall provide the employee with transportation at no cost to the employee.

90 Acts, ch 1134, §4; 96 Acts, ch 1181, § 1

91E.4 Penalties for violation of recruitment practice requirements.

- 1. An employer who violates section 91E.3 is subject to a civil penalty of up to one thousand dollars.
- 2. A corporate officer of an employer who, through repeated violation of section 91E.3, demonstrates a pattern of abusive recruitment practices commits a serious misdemeanor.
- 3. An employer who, through repeated violation of section 91E.3, demonstrates a pattern of abusive recruitment practices may be ordered to pay punitive damages.

90 Acts, ch 1134, §5

91E.5 Duties and authority of the commissioner.

- 1. The commissioner shall adopt rules to implement and enforce this chapter and shall provide further exemptions from the provisions of this chapter where reasonable.
- 2. In order to carry out the purposes of this chapter, the commissioner or the commissioner's representative, upon presenting appropriate credentials to the owner, operator, or agent in charge, may:
 - a. Inspect employment records relating to the total number of employees and non-English speaking employees, and the services provided to non-English speaking employees.
 - b. Interview an employer, owner, operator, agent, or employee, during working hours or at other reasonable times.

90 Acts, ch 1134, §6

91E.6 Collective bargaining agreements.

Compliance with the minimum standards required in this chapter shall not be subject to or considered in collective bargaining.

