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LABOR & INDUSTRIAL RELATIONS

HOUSE FILE
BY RANTS

521

Passed House, ^(P. 871) Date 3/25/99
Vote: Ayes 97 Nays _____
Approved _____

Passed Senate, Date 4/13/99 ^(P. 1085)
Vote: Ayes 48 Nays 0

A BILL FOR

1 An Act relating to the licensure and operation of employment
2 agencies and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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5

HOUSE FILE 521

H-1192

1 Amend House File 521 as follows:
2 1. Page 2, line 24, by inserting after the word
3 "employee" the following: "or an application of an
4 employee".

By DOTZLER of Black Hawk

H-1192 FILED MARCH 23, 1999

Adopted
3-25-99
(P. 871)

HOUSE FILE 521

H-1193

1 Amend House File 521 as follows:
2 1. Page 3, line 20, by striking the word
3 "willfully".
4 2. Page 3, line 21, by striking the word
5 "willfully".

By DOTZLER of Black Hawk

H-1193 FILED MARCH 23, 1999

Adopted
3-25-99 (P. 871)

HF 521

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1 Section 1. NEW SECTION. 94A.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Applicant" means a person applying for a private
5 employment agency license.

6 2. "Commissioner" means the labor commissioner, appointed
7 pursuant to section 91.2, or the labor commissioner's
8 designee.

9 3. "Employee" means a person who seeks employment or who
10 obtains employment through an employment agency.

11 4. "Employer" means a person who seeks one or more
12 employees or who obtains one or more employees.

13 5. "Employment agency" means a person who brings together
14 those desiring to employ and those desiring employment and who
15 receives a fee, privilege, or other consideration directly or
16 indirectly from an employee for the service. "Employment
17 agency" does not include furnishing or procuring theatrical,
18 stage, or platform attractions or amusement enterprises.

19 Sec. 2. NEW SECTION. 94A.2 LICENSING.

20 1. An employment agency shall obtain a license from the
21 commissioner prior to transacting any business. Licenses
22 expire on June 30 of each year.

23 2. A license application shall be in the form prescribed
24 by the commissioner and shall be accompanied by all of the
25 following:

26 a. A surety company bond in the sum of thirty thousand
27 dollars, to be approved by the commissioner and conditioned to
28 pay any damages that may accrue to any person due to a
29 wrongful act or violation of law on the part of the applicant
30 in the conduct of business.

31 b. The schedule of fees to be charged by the employment
32 agency.

33 c. All contract forms to be signed by an employee.

34 d. An application fee of seventy-five dollars.

35 3. The commissioner shall grant or deny a license within

1 thirty days from the filing date of a completed application.

2 4. The commissioner may revoke, suspend, or annul a
3 license in accordance with chapter 17A upon good cause.

4 Sec. 3. NEW SECTION. 94A.3 GENERAL REQUIREMENTS.

5 Each employment agency shall do all of the following:

6 1. Keep an employee record, which shall include the name
7 of each employee signing a contract or agreement, the name and
8 address of the employer, if employment is found, and the fee
9 charged, paid, or refunded. Each record shall be maintained
10 for at least two years.

11 2. Prior to referral to an employer, provide an employee
12 with a copy of the contract or agreement, which specifies the
13 fee or consideration to be paid by the employee.

14 Sec. 4. NEW SECTION. 94A.4 PROHIBITIONS.

15 1. A person shall not require an employee to pay a fee as
16 a condition of application with an employer or an employment
17 agency.

18 2. An employee shall not be required to pay a fee to an
19 employer as a condition of hire.

20 3. An employer shall not require an employee to reimburse
21 the employer for a fee the employer paid to an employment
22 agency when the employee was hired.

23 4. An employment agency shall not do any of the following:

24 a. Send an employee to an employer who has not applied to
25 the employment agency for help or labor.

26 b. Through false notice, advertisement, or other means,
27 fraudulently promise or deceive a person seeking help or
28 employment with regard to the service to be rendered by the
29 employment agency.

30 c. Divide a fee received from an employee with an employer
31 or any member of an employer's staff. The division of fees
32 between one or more employment agencies that provided services
33 is not prohibited.

34 d. Charge an employee any fee greater than the fee
35 schedule on file with the commissioner without prior consent

1 of the commissioner.

2 e. Charge a fee greater than fifteen percent of the
3 employee's annual gross earnings.

4 f. Require an employee to pay a fee in advance of
5 earnings. If an employee wishes to pay a fee in advance of
6 earnings, the contract between the employee and employment
7 agency shall state that any advance payment by the employee is
8 voluntary. If an employee works less than one year at the
9 referred employment, the employment agency shall refund any
10 amount in excess of fifteen percent of the employee's gross
11 earnings from the referred employment.

12 Sec. 5. NEW SECTION. 94A.5 POWERS AND DUTIES OF THE
13 COMMISSIONER.

14 1. At any time, the commissioner may examine the records,
15 books, and any papers relating to the conduct and operation of
16 an employment agency.

17 2. The commissioner shall adopt rules pursuant to chapter
18 17A to administer this chapter.

19 Sec. 6. NEW SECTION. 94A.6 VIOLATIONS.

20 1. A person who willfully violates a provision of this
21 chapter or who willfully refuses the commissioner access to
22 records, books, and papers pursuant to an examination under
23 section 94A.5 shall be guilty of a simple misdemeanor.

24 2. If a person violates a provision of this chapter or
25 refuses the commissioner access to records, books, and papers
26 pursuant to an examination under section 94A.5, the
27 commissioner shall assess a civil penalty against the person
28 in an amount not greater than two thousand dollars.

29 Sec. 7. Section 84A.5, subsection 3, Code 1999, is amended
30 to read as follows:

31 3. The division of labor services is responsible for the
32 administration of the laws of this state relating to
33 occupational health and safety, the inspection of amusement
34 rides, the removal and encapsulation of asbestos, the
35 inspection of boilers, wage payment collection, registration

1 of construction contractors, the minimum wage, non-English
2 speaking employees, child labor, employment agency licensing,
3 boxing and wrestling, inspection of elevators, and hazardous
4 chemical risks under chapters 88, 88A, 88B, 89, 89A, 89B, 90A,
5 91, 91A, 91C, 91D, 91E, 92, 94, and 95 94A. The executive
6 head of the division is the labor commissioner, appointed
7 pursuant to section 91.2.

8 Sec. 8. Section 91.4, subsection 5, Code 1999, is amended
9 to read as follows:

10 5. The director of the department of workforce
11 development, in consultation with the labor commissioner,
12 shall, at the time provided by law, make an annual report to
13 the governor setting forth in appropriate form the business
14 and expense of the division of labor services for the
15 preceding year, the number of disputes or violations processed
16 by the division and the disposition of the disputes or
17 violations, and other matters pertaining to the division which
18 are of public interest, together with recommendations for
19 change or amendment of the laws in this chapter and chapters
20 88, 88A, 88B, 89, 89A, 89B, 90A, 91A, 91C, 91D, 91E, 92, 94,
21 and 95 94A, and the recommendations, if any, shall be
22 transmitted by the governor to the first general assembly in
23 session after the report is filed.

24 Sec. 9. Chapters 94 and 95, Code 1999, are repealed.

25 EXPLANATION

26 This bill repeals Code chapters 94 and 95 relating to the
27 state free employment service and employment agencies. The
28 bill creates new Code chapter 94A relating to the licensure
29 and operation of employment agencies.

30 The bill defines an employment agency as a person who
31 brings together those desiring to employ and those desiring
32 employment and who receives a fee, directly or indirectly,
33 from an employee for the service. The bill requires an
34 employment agency to be licensed by the labor commissioner and
35 provides a general application process for an employment

1 agency. The bill provides recordkeeping requirements for an
2 employment agency and provides notification requirements
3 regarding fees to be paid by an employee.

4 The bill provides that a person shall not require an
5 employee to pay a fee as a condition of application with an
6 employer or an employment agency, an employee shall not be
7 required to pay a fee to an employer as a condition of hire,
8 and an employer shall not require an employee to reimburse the
9 employer for a fee the employer paid to an employment agency
10 when the employee was hired. The bill provides several
11 prohibitions regarding the charging and division of fees,
12 fraudulent promises and deception, and making a referral to an
13 employer who has not applied to the employment agency.

14 The bill provides that the commissioner may examine the
15 records, books, and any papers relating to the conduct and
16 operation of an employment agency. The bill provides that a
17 person willfully violating a provision of new Code chapter 94A
18 or willfully refusing the commissioner access to the records,
19 books, and papers of an employment agency shall be guilty of a
20 simple misdemeanor. The bill also provides that if a person
21 violates a provision of new Code chapter 94A or refuses the
22 commissioner access to records, books, and papers of the
23 employment agency, the commissioner shall assess a civil
24 penalty against the person in an amount not greater than
25 \$2,000.

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HOUSE FILE 521
BY RANTS

(As Amended and Passed by the House, March 25, 1999)

Passed House, Date 4/22/99 (p.1594) Passed Senate, Date 4/13/99 (p.1085)
Vote: Ayes 93 Nays 0 Vote: Ayes 48 Nays 0
Approved May 17, 1999

A BILL FOR

- 1 An Act relating to the licensure and operation of employment
- 2 agencies and providing a penalty.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 521

S-3202

- 1 Amend House File 521, as amended, passed, and
 - 2 reprinted by the House, as follows:
 - 3 1. Page 2, line 22, by inserting after the word
 - 4 "agency" the following: "or other person or entity".
- By COMMITTEE ON BUSINESS AND
LABOR RELATIONS
LARRY MCKIBBEN, Chairperson

Adopted 4/13/99 (p.1085)

S-3202 FILED MARCH 31, 1999

SENATE AMENDMENT TO HOUSE FILE 521

H-1580

- 1 Amend House File 521, as amended, passed, and
 - 2 reprinted by the House, as follows:
 - 3 1. Page 2, line 22, by inserting after the word
 - 4 "agency" the following: "or other person or entity".
- RECEIVED FROM THE SENATE

H-1580 FILED APRIL 13, 1999

House Concurred 4/22/99 (p.1594)

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HF 521

1 Section 1. NEW SECTION. 94A.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Applicant" means a person applying for a private
5 employment agency license.

6 2. "Commissioner" means the labor commissioner, appointed
7 pursuant to section 91.2, or the labor commissioner's
8 designee.

9 3. "Employee" means a person who seeks employment or who
10 obtains employment through an employment agency.

11 4. "Employer" means a person who seeks one or more
12 employees or who obtains one or more employees.

13 5. "Employment agency" means a person who brings together
14 those desiring to employ and those desiring employment and who
15 receives a fee, privilege, or other consideration directly or
16 indirectly from an employee for the service. "Employment
17 agency" does not include furnishing or procuring theatrical,
18 stage, or platform attractions or amusement enterprises.

19 Sec. 2. NEW SECTION. 94A.2 LICENSING.

20 1. An employment agency shall obtain a license from the
21 commissioner prior to transacting any business. Licenses
22 expire on June 30 of each year.

23 2. A license application shall be in the form prescribed
24 by the commissioner and shall be accompanied by all of the
25 following:

26 a. A surety company bond in the sum of thirty thousand
27 dollars, to be approved by the commissioner and conditioned to
28 pay any damages that may accrue to any person due to a
29 wrongful act or violation of law on the part of the applicant
30 in the conduct of business.

31 b. The schedule of fees to be charged by the employment
32 agency.

33 c. All contract forms to be signed by an employee.

34 d. An application fee of seventy-five dollars.

35 3. The commissioner shall grant or deny a license within

1 thirty days from the filing date of a completed application.

2 4. The commissioner may revoke, suspend, or annul a
3 license in accordance with chapter 17A upon good cause.

4 Sec. 3. NEW SECTION. 94A.3 GENERAL REQUIREMENTS.

5 Each employment agency shall do all of the following:

6 1. Keep an employee record, which shall include the name
7 of each employee signing a contract or agreement, the name and
8 address of the employer, if employment is found, and the fee
9 charged, paid, or refunded. Each record shall be maintained
10 for at least two years.

11 2. Prior to referral to an employer, provide an employee
12 with a copy of the contract or agreement, which specifies the
13 fee or consideration to be paid by the employee.

14 Sec. 4. NEW SECTION. 94A.4 PROHIBITIONS.

15 1. A person shall not require an employee to pay a fee as
16 a condition of application with an employer or an employment
17 agency.

18 2. An employee shall not be required to pay a fee to an
19 employer as a condition of hire.

20 3. An employer shall not require an employee to reimburse
21 the employer for a fee the employer paid to an employment
22 agency when the employee was hired.

23 4. An employment agency shall not do any of the following:

24 a. Send an employee or an application of an employee to an
25 employer who has not applied to the employment agency for help
26 or labor.

27 b. Through false notice, advertisement, or other means,
28 fraudulently promise or deceive a person seeking help or
29 employment with regard to the service to be rendered by the
30 employment agency.

31 c. Divide a fee received from an employee with an employer
32 or any member of an employer's staff. The division of fees
33 between one or more employment agencies that provided services
34 is not prohibited.

35 d. Charge an employee any fee greater than the fee

1 schedule on file with the commissioner without prior consent
2 of the commissioner.

3 e. Charge a fee greater than fifteen percent of the
4 employee's annual gross earnings.

5 f. Require an employee to pay a fee in advance of
6 earnings. If an employee wishes to pay a fee in advance of
7 earnings, the contract between the employee and employment
8 agency shall state that any advance payment by the employee is
9 voluntary. If an employee works less than one year at the
10 referred employment, the employment agency shall refund any
11 amount in excess of fifteen percent of the employee's gross
12 earnings from the referred employment.

13 Sec. 5. NEW SECTION. 94A.5 POWERS AND DUTIES OF THE
14 COMMISSIONER.

15 1. At any time, the commissioner may examine the records,
16 books, and any papers relating to the conduct and operation of
17 an employment agency.

18 2. The commissioner shall adopt rules pursuant to chapter
19 17A to administer this chapter.

20 Sec. 6. NEW SECTION. 94A.6 VIOLATIONS.

* 21 1. A person who violates a provision of this chapter or
* 22 who refuses the commissioner access to records, books, and
23 papers pursuant to an examination under section 94A.5 shall be
24 guilty of a simple misdemeanor.

25 2. If a person violates a provision of this chapter or
26 refuses the commissioner access to records, books, and papers
27 pursuant to an examination under section 94A.5, the
28 commissioner shall assess a civil penalty against the person
29 in an amount not greater than two thousand dollars.

30 Sec. 7. Section 84A.5, subsection 3, Code 1999, is amended
31 to read as follows:

32 3. The division of labor services is responsible for the
33 administration of the laws of this state relating to
34 occupational health and safety, the inspection of amusement
35 rides, the removal and encapsulation of asbestos, the

1 inspection of boilers, wage payment collection, registration
2 of construction contractors, the minimum wage, non-English
3 speaking employees, child labor, employment agency licensing,
4 boxing and wrestling, inspection of elevators, and hazardous
5 chemical risks under chapters 88, 88A, 88B, 89, 89A, 89B, 90A,
6 91, 91A, 91C, 91D, 91E, 92, 94~~7~~ and 95 94A. The executive
7 head of the division is the labor commissioner, appointed
8 pursuant to section 91.2.

9 Sec. 8. Section 91.4, subsection 5, Code 1999, is amended
10 to read as follows:

11 5. The director of the department of workforce
12 development, in consultation with the labor commissioner,
13 shall, at the time provided by law, make an annual report to
14 the governor setting forth in appropriate form the business
15 and expense of the division of labor services for the
16 preceding year, the number of disputes or violations processed
17 by the division and the disposition of the disputes or
18 violations, and other matters pertaining to the division which
19 are of public interest, together with recommendations for
20 change or amendment of the laws in this chapter and chapters
21 88, 88A, 88B, 89, 89A, 89B, 90A, 91A, 91C, 91D, 91E, 92, 94~~7~~
22 and 95 94A, and the recommendations, if any, shall be
23 transmitted by the governor to the first general assembly in
24 session after the report is filed.

25 Sec. 9. Chapters 94 and 95, Code 1999, are repealed.

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AN ACT

RELATING TO THE LICENSURE AND OPERATION OF EMPLOYMENT
AGENCIES AND PROVIDING A PENALTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 94A.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Applicant" means a person applying for a private employment agency license.
2. "Commissioner" means the labor commissioner, appointed pursuant to section 91.2, or the labor commissioner's designee.
3. "Employee" means a person who seeks employment or who obtains employment through an employment agency.
4. "Employer" means a person who seeks one or more employees or who obtains one or more employees.
5. "Employment agency" means a person who brings together those desiring to employ and those desiring employment and who receives a fee, privilege, or other consideration directly or indirectly from an employee for the service. "Employment agency" does not include furnishing or procuring theatrical, stage, or platform attractions or amusement enterprises.

Sec. 2. NEW SECTION. 94A.2 LICENSING.

1. An employment agency shall obtain a license from the commissioner prior to transacting any business. Licenses expire on June 30 of each year.
2. A license application shall be in the form prescribed by the commissioner and shall be accompanied by all of the following:

- a. A surety company bond in the sum of thirty thousand dollars, to be approved by the commissioner and conditioned to pay any damages that may accrue to any person due to a wrongful act or violation of law on the part of the applicant in the conduct of business.

- b. The schedule of fees to be charged by the employment agency.

- c. All contract forms to be signed by an employee.

- d. An application fee of seventy-five dollars.

3. The commissioner shall grant or deny a license within thirty days from the filing date of a completed application.

4. The commissioner may revoke, suspend, or annul a license in accordance with chapter 17A upon good cause.

Sec. 3. NEW SECTION. 94A.3 GENERAL REQUIREMENTS.

Each employment agency shall do all of the following:

1. Keep an employee record, which shall include the name of each employee signing a contract or agreement, the name and address of the employer, if employment is found, and the fee charged, paid, or refunded. Each record shall be maintained for at least two years.

2. Prior to referral to an employer, provide an employee with a copy of the contract or agreement, which specifies the fee or consideration to be paid by the employee.

Sec. 4. NEW SECTION. 94A.4 PROHIBITIONS.

1. A person shall not require an employee to pay a fee as a condition of application with an employer or an employment agency.

2. An employee shall not be required to pay a fee to an employer as a condition of hire.

3. An employer shall not require an employee to reimburse the employer for a fee the employer paid to an employment agency or other person or entity when the employee was hired.

4. An employment agency shall not do any of the following:

a. Send an employee or an application of an employee to an employer who has not applied to the employment agency for help or labor.

b. Through false notice, advertisement, or other means, fraudulently promise or deceive a person seeking help or employment with regard to the service to be rendered by the employment agency.

c. Divide a fee received from an employee with an employer or any member of an employer's staff. The division of fees between one or more employment agencies that provided services is not prohibited.

d. Charge an employee any fee greater than the fee schedule on file with the commissioner without prior consent of the commissioner.

e. Charge a fee greater than fifteen percent of the employee's annual gross earnings.

f. Require an employee to pay a fee in advance of earnings. If an employee wishes to pay a fee in advance of earnings, the contract between the employee and employment agency shall state that any advance payment by the employee is voluntary. If an employee works less than one year at the referred employment, the employment agency shall refund any amount in excess of fifteen percent of the employee's gross earnings from the referred employment.

Sec. 5. NEW SECTION. 94A.5 POWERS AND DUTIES OF THE COMMISSIONER.

1. At any time, the commissioner may examine the records, books, and any papers relating to the conduct and operation of an employment agency.

2. The commissioner shall adopt rules pursuant to chapter 17A to administer this chapter.

Sec. 6. NEW SECTION. 94A.6 VIOLATIONS.

1. A person who violates a provision of this chapter or who refuses the commissioner access to records, books, and papers pursuant to an examination under section 94A.5 shall be guilty of a simple misdemeanor.

2. If a person violates a provision of this chapter or refuses the commissioner access to records, books, and papers pursuant to an examination under section 94A.5, the commissioner shall assess a civil penalty against the person in an amount not greater than two thousand dollars.

Sec. 7. Section 84A.5, subsection 3, Code 1999, is amended to read as follows:

3. The division of labor services is responsible for the administration of the laws of this state relating to occupational health and safety, the inspection of amusement rides, the removal and encapsulation of asbestos, the inspection of boilers, wage payment collection, registration of construction contractors, the minimum wage, non-English speaking employees, child labor, employment agency licensing, boxing and wrestling, inspection of elevators, and hazardous chemical risks under chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 92, 94, and 95 94A. The executive head of the division is the labor commissioner, appointed pursuant to section 91.2.

Sec. 8. Section 91.4, subsection 5, Code 1999, is amended to read as follows:

5. The director of the department of workforce development, in consultation with the labor commissioner, shall, at the time provided by law, make an annual report to the governor setting forth in appropriate form the business and expense of the division of labor services for the preceding year, the number of disputes or violations processed by the division and the disposition of the disputes or violations, and other matters pertaining to the division which

are of public interest, together with recommendations for change or amendment of the laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91A, 91C, 91D, 91E, 92, 94, and 95 94A, and the recommendations, if any, shall be transmitted by the governor to the first general assembly in session after the report is filed.

Sec. 9. Chapters 94 and 95, Code 1999, are repealed.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 521, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 17, 1999

THOMAS J. VILSACK
Governor