



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE
DEVELOPMENT **DEPARTMENT OF LABOR STANDARDS**
www.mass.gov/dols/

Employment Agency Law
Massachusetts General Laws
Chapter 140, Sections 46A to 46R, inclusive

Chapter 140: Section 46A. Definitions.

Section 46A. As used in this section and in sections forty-six B to forty-six R, inclusive, the following words shall have the following meanings:--

"Commissioner", the commissioner of labor and industries.

"Employment agency", any person who conducts in whole or in part an agency for the purpose of procuring or attempting to procure permanent or temporary help or employment or engagements, or for the registration of persons seeking such help, employment or engagement, or for giving information as to where and of whom such help, employment or engagement may be procured, where a fee is exacted or attempted to be collected for such service; provided, however, that except with respect to the inspection authority of the commissioner under section forty-six Q, the term "employment agency" shall not include a firm none of whose fees or charges are paid either directly or indirectly by any applicant for employment, unless such firm is engaged in providing domestic employees, nor shall such definition apply to any person conducting a business which consists of employing individuals directly for the purpose of furnishing part time or temporary help to others or to any person conducting a business which consists solely of providing employers or prospective employers, by electronic means, biographical information, background and experience of applicants for temporary employment, help or engagement.

"Fee" (a) Any money or other valuable consideration paid or promised to be paid either by an applicant for employment or by an employer of an applicant for services rendered or to be rendered by any person conducting an employment agency under this chapter.

(b) the difference between the amount of money received by any person who furnishes employees and the amount paid by him to such employee.

"Recruiting domestic employment agency", any agency which, for a fee, procures or attempts to procure, from outside the commonwealth but within the United States one or more employees to do domestic or household work in the commonwealth.

"Emigrant agent", any person who, on behalf of an employment agency and for a fee, procures or attempts to procure domestic or household employment in the commonwealth for persons outside the commonwealth seeking such employment, or, domestic or household employees from outside the commonwealth for employers in the commonwealth seeking the services of such employees.

"Placement employee", any placement manager, placement director, counsellor, interviewer, or any other person employed by an employment agency who spends a substantial part of his time interviewing, counselling or conferring with job applicants.

"Person", any individual, company, society, association, corporation, manager, contractor, subcontractor, or their agents or employees but shall not include any labor organization, as defined in section two of chapter one hundred and fifty A; nor any agency operated by a religious, charitable, nonprofit organization or accredited educational institution no part of the earnings of which inures to the benefit of any private shareholder or individual; nor any agency operated by the federal, state or municipal governments; nor any person validly licensed pursuant to section one hundred and eighty C; provided, however, the provisions of sections forty-six L through forty-six O, inclusive, shall apply to such person.

"Applicant", any applicant for employment residing within the United States. It shall be immaterial for coverage under this section whether the applicant is paid by the employment agency or by his employer.

Chapter 140: Section 46B. Employment agencies; license; necessity; posting; governing provisions.

Section 46B. Notwithstanding the other provisions of this chapter no person shall open, keep, maintain, carry on, or advertise any employment agency unless he has been issued a license therefor under section forty-six D from the commissioner; provided, however, that a license validly issued pursuant to section one hundred and eighty C shall suffice for the purposes of this section. Such license shall be posted in a conspicuous place in each employment agency conducted by such person. Licensing of theatrical booking agents, personal agents and managers shall be governed by sections one hundred and eighty A to one hundred and eighty G, inclusive. A firm specifically excluded by section forty-six A as an employment agency shall by mail notify the commissioner of its name and address and any change thereof.

Chapter 140: Section 46C. Application for license.

Section 46C. Any person desiring to obtain a license to establish, conduct or keep an employment agency shall make application for such license to the commissioner. Such application shall be made by the owner or owners of the employment agency, and if the employment agency is owned by a corporation, such application shall be made by the president and treasurer thereof. Each application shall be in writing and in a form prescribed by the commissioner, and shall contain the name and address of the applicant; the name under which the employment agency is to be conducted; the street and number of the building or place where the business is to be conducted; the former business or occupations of the applicant; the name and address of the individual who will actually direct and operate the placement activities of the agency, whether such individual be the applicant or another; the length of time such individual has spent as a placement employee; a description of the duties of such individual as a placement employee. Such application shall be accompanied by samples or accurate facsimiles of each and every form which the applicant for a license will require applicants for employment to execute, and such forms shall be approved by the commissioner before a license may be issued. The commissioner shall not approve any such form unless it fairly, clearly and fully represents the contractual terms and conditions between the proposed employment agency and an applicant for employment. Each application for a license shall be accompanied by the affidavits of two reputable residents of the commonwealth that the applicant is a person of good moral character.

Chapter 140: Section 46D. Investigation of applicants; hearing; grant or denial of license; duration of license; prohibited locations.

Section 46D. Upon the receipt of an application for such license, the commissioner shall cause the name and address of the applicant, the name under which the employment agency is to be conducted, and the street and number of the place where it is to be conducted, to be posted in a conspicuous place in his office. The commissioner shall within one week cause to be inserted in a newspaper of general circulation in the city or town in which the agency will be located notice of such application stating the time and place for a hearing on such application. Notice thereof by mail shall be given to each licensed employment agency in the city or town in which the applicant's office is to be located or in any city or town contiguous thereto. The commissioner shall investigate or cause to be investigated the character and responsibility of the applicant and shall examine or cause to be examined the place in which the applicant proposes to conduct such agency. Within one week after such application is so posted, published and notice thereof sent, any person may file a written protest against the issuance of such license, which protest shall be signed by the person filing the same or his authorized agent or attorney, and shall state the reasons why the said license should not be issued. The commissioner shall appoint a time and place for a hearing of such application and shall give at least five days notice thereof to the applicant and to any person filing such protest. The commissioner may administer oaths, subpoena witnesses and take testimony in respect to the matters contained in such application and protest and may receive evidence in the form of affidavits pertaining to such matters. If after such investigation, examination or hearing the commissioner finds the applicant is not a person of good character or responsibility; that he or the individual who will actually direct and operate the placement activities of the employment agency has not had at least two years' experience as a placement employee, or as a person engaged in personnel management, or in related activities which similarly tend to establish the competence of such individual to operate the placement activities of the agency; that the individual who will actually direct and operate the agency does not have a knowledge and understanding of the provisions contained in sections forty-six A to forty-six R, inclusive; or that the place where the employment agency is to be conducted is not suitable therefor; or that the applicant has not complied with the provisions of section forty-six C, the said application shall be denied and a license shall not be granted. Each application shall be granted or denied within forty days from the date of its filing. Any license issued hereunder by the commissioner shall be in full force and effect until one year following the date thereof, unless sooner revoked or suspended. Each license shall be renewed upon payment of the annual license fee and posting of the penal bond. No license shall be issued by the commissioner if the place in which the business of the employment agency is to be conducted is a room used for living purposes or where boarders or lodgers are kept or where meals are served or where persons sleep or in connection with a building or premises where intoxicating liquors are sold to be consumed on the premises, excepting cafes and restaurants in office buildings.

Chapter 140: Section 46E. Assignment or transfer of license; locations; number of licenses.

Section 46E. A license issued under section forty-six D shall not be assigned or transferred without the prior written approval of the commissioner. Application for such approval shall be made in the same manner as an application for a license, as provided in sections forty-six C and forty-six D. The location of an employment agency shall not be changed without the prior written consent of the commissioner and such change of location shall be endorsed upon the license. More than one such license may be issued to the same person. If an applicant desires to establish or keep an employment agency at more than one location, he must apply for a license for each location at which he intends to conduct said employment agency, as provided in section forty-six C.

Chapter 140: Section 46F. Fees; bond.

Section 46F. Each person licensed under section forty-six D to carry on the business of an

employment agency shall before such license issues pay to the commissioner a license fee, the amount of which shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven for the filing thereof. Each licensee shall, before his license is issued or renewed, deposit with the commissioner a bond in a penal sum of three thousand dollars with two or more sureties or a duly authorized surety company, to be approved by the commissioner. The bond shall be payable to the people of the commonwealth and shall be on condition that the licensee will comply with the provisions of sections forty-six B to forty-six R, inclusive, and shall pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud or deceit, or any unlawful act or omission of said licensee, his agents or employees, while acting within the scope of their employment, and made, committed or omitted in the business conducted under such license.

Chapter 140: Section 46G. Claims or suits against licensee.

Section 46G. All claims or suits brought in any court against a licensee may be brought in the name of the person damaged upon the bond deposited by the licensee. If such licensee has departed from the commonwealth with the intent to defraud his creditors or to avoid the service of summons in any action brought under this section, or if the presence within the commonwealth of such licensee cannot be discovered by the exercise of reasonable diligence, service shall be made upon the surety and by mailing one copy of the summons to the last known post office address or residence of the licensee within or without the commonwealth and a copy of the summons to the place where he conducted such employment agency as shown by the records of the commissioner.

Chapter 140: Section 46H. Register; contents; record of receipts and income; charges; monthly reports to commissioner.

Section 46H. Each licensee shall keep a register or other record-keeping device approved by the commissioner, in which shall be entered under the penalties of perjury the date of each application for employment and the name and address of each applicant, a file designation for each such applicant, and the name and address of a former employer of the applicant, or of a person to whom such applicant is known. The licensee shall also enter in the same register or shall enter under the penalties of perjury in a separate register, approved by the commissioner, the name and address of every employer from whom a fee is received or charged, the date of such employer's request or assent that applicants be furnished, the kind of position for which applicants are requested, the names of the applicants sent, the total amount of the fee received or charged, and the rate of salary or wages agreed upon. Each licensee shall keep complete and accurate written records of all receipts and income received or derived directly from the operation of his employment agency. Each licensee or his duly authorized agent or employee shall communicate with at least one of the persons given as reference by an applicant for domestic or household work and the result of such communication shall be kept on file in such agency for a period of at least three years. Every register shall be retained on the premises of the agency concerned for three years following the date of the last entry therein. Each employment agency shall also enter into its register the last home address; the name and address of the emigrant agent, if any, through whom such applicant was obtained; the name and address of all persons to whom the employment agency has made payments in connection with the recruitment of the applicant, and the amounts of such payments; and the total charges made in the employment agency to the applicant. Said charges shall be separately stated by such agency and shall include: (a) charges for transportation, (b) other charges and (c) the agency fee.

Each recruiting domestic employment agency shall furnish the commissioner on the first Wednesday of each month, in writing, the following information with respect to each out-of-state resident engaged as a domestic or household employee and placed by that agency during the preceding month: (a) the name, and out-of-state home address of the applicant and the file designation assigned to the applicant by the agency; (b) the rate of wage to be paid the applicant, and an itemization of all charges which the employment agency has made to the applicant for its services; and (c) the name and address of any emigrant agent, or other person or organization to whom the employment agency has made any payment, or who or which helped recruit the applicant.

Chapter 140: Section 46I. Information furnished to applicant for employment; copy of contract; receipt for charges.

Section 46I. Each employment agency shall furnish in writing each applicant for employment: (1) information as to the name and address of the person for whom the applicant is to apply for such employment, the kind and character of the employment, the anticipated rate of wages or compensation, the agency fee, whether such employment is permanent or temporary, the name and address of the person authorizing the hiring of such applicant, and the estimated cost of transportation if the services are required outside of the town where such agency is located; and the total fee to be exacted by the employment agency from the applicant, provided that nothing in this paragraph shall be construed to prohibit a licensed employment agency from directing an applicant to employment by telephone, but such telephone message shall comply with the disclosure requirements of this paragraph and shall be, within one day, confirmed in writing by the employment agency and sent to the applicant; a carbon copy of such confirmation shall be kept by the employment agency for a period of at least one year; (2) a true copy of every contract executed between it and such applicant, which shall have printed thereon or attached thereto a copy of section forty-six L; and (3) a receipt for every

charge made by the employment agency to the applicant and which the applicant has paid.

The original or duplicate original copy of each such contract and a duplicate receipt for any charges by the employment agency to the applicant shall be retained by the employment agency for three years following the date on which the contract is executed or the payment is made, and shall be made available for inspection by the commissioner or his duly authorized agent or inspector, upon his request.

Chapter 140: Section 46J. List of emigrant agents; necessity of license; transportation of applicants for employment; lodging and meals; statement to prospective employee.

Section 46J. Each recruiting domestic agency which directly or indirectly engages or uses the services of an emigrant agent, shall furnish the commissioner a list containing the name and address of all emigrant agents from whom it accepts job applicants. If such emigrant agents are required to be licensed in the places in which they recruit employees, no employment agency, directly or indirectly, shall accept applicants from other than duly licensed emigrant agents.

Each recruiting domestic employment agency which is responsible, directly or indirectly, for bringing into the commonwealth applicants from out of the commonwealth but within the United States and which has arranged for their transportation to the city or town in the commonwealth where the agency is licensed to conduct business shall provide that the transportation of such applicants be by duly licensed common carriers of passengers.

Each recruiting domestic employment agency responsible for bringing into the commonwealth an applicant for employment from out of the commonwealth but within the United States shall provide at its own expense suitable lodging and meals for any such applicant who is not placed in employment the day he arrives at the office of the employment agency from the time he reports at such agency until he is placed, or is returned to the place from which he was recruited, or is given the option of returning to such place as hereinafter provided.

Each recruiting domestic employment agency responsible for bringing into the commonwealth an applicant for employment from out of the commonwealth but within the United States shall provide the return fare and reasonable allowance for one day's meals to any such applicant who was not placed in employment, or who was placed in employment and said employment terminated within thirty days thereafter, and who is without employment, and desires to return to the place from which he was recruited.

The bond required to be deposited under section forty-six F shall secure performance of the provisions of the preceding two paragraphs. No domestic recruiting employment agency shall bring into the commonwealth any applicant for employment without the commonwealth but within the United States unless and until such agency has given such applicant a written statement, on a form approved by the commissioner showing the nature and duties of the job for which the applicant is recruited, the anticipated wages, the amount of the agency fee, the amount for transportation that the applicant will have to repay if such amount has been advanced by the agency, and the amount of any other advances or charges. Such statement shall indicate when such amounts are payable to the agency. A copy of such statement shall be kept on file by the agency, and the copy shall have indicated on it the date when, and by whom, the original statement was given to the applicant.

Chapter 140: Section 46K. Prohibited activities or conduct.

Section 46K. An employment agency shall not engage in any of the following activities or conduct:

- (1) Publish or cause to be published any false, fraudulent or misleading information, representation, promise, notice or advertisement;
- (2) Advertise in newspapers or otherwise, or use letterheads or receipts or other written or printed matter, unless such advertising or other matter contains the name and address of the employment agency and the word "agency" or other language which clearly shows that the advertiser is an employment agency, employment consultant, personnel consultant, employment counsellor or other person who conducts an employment agency.
- (3) Direct an applicant to an employer for the purpose of obtaining employment without having first obtained a recent bona fide order therefor; provided, that a qualified applicant may be directed to an employer who has previously requested that he regularly be accorded interviews with applicants of certain qualifications if a confirmation of the order is sent to the employer; and provided, further, that an employment agency may attempt to sell the services of an applicant to an employer from whom no job order has been received as long as this fact is told to the applicant before he is directed to the employer. Any applicant who is referred to an employer contrary to the provisions of clause (3) without obtaining employment thereby, shall be reimbursed by the employment agency for all ordinary and necessary travel expenses incurred by the applicant as a result of such referral, within twenty-four hours of making a demand therefor;
- (4) Send or cause to be sent any person to any employer where the employment agency knows, or reasonably should have known, that the prospective employment is or would be in violation of state or federal laws governing minimum wages or child labor or in violation of the law relating to compulsory education;
- (5) Send or cause to be sent any person to any place which the employment agency knows or reasonably should have known is maintained for immoral or illicit purposes; nor send or cause to be sent any female to any place which the employment agency knows or should have known permits persons known to be prostitutes, gamblers or procurers or intoxicated persons to frequent such place;
- (6) Compel any person to enter such agency for any purpose by use of force or otherwise;

- (7) Require applicants for employees or employment to subscribe to any publication or incidental service or contribute to the cost of advertising;
- (8) Refuse to return on demand of an applicant any baggage or personal property belonging to such applicant;
- (9) Send or cause to be sent any applicant to any place which the agency knows or should know is on strike unless the fact of such strike is told to the applicant;
- (10) Solicit, persuade, induce or attempt to induce any employee to leave an employment if such soliciting, persuading or inducing is for the purpose of securing a new fee from such employee, providing that nothing herein shall prohibit notifying an applicant that a position exists where the applicant has requested the agency to place him;
- (11) Divide or share, or offer to divide or share service fees with employer clients; or
- (12) Solicit, persuade, induce or attempt to induce any employer to create a vacancy by discharge.

Chapter 140: Section 46L. Fees; restrictions on charge or acceptance.

Section 46L. (A) An employment agency shall not charge to or accept from an applicant a fee or other consideration unless in accordance with the terms of a written contract with a job applicant and unless such agency has been responsible for referring such job applicant to an employer or such employer to a job applicant and where as a result thereof such job applicant has been employed by such employer.

(B) No fee shall be charged or accepted for the registration of applicants for employees or employment.

(C) The total fee charged to the job applicant shall not exceed the amounts enumerated in the schedules set forth in this section. An employment agency shall not require an employee to pay any fee at a rate faster than four equal installments each of which shall be payable at the end of the first four pay periods following the employment or within a period of eight weeks, whichever is shorter.

MAXIMUM FEES.

(1) For domestics or household employees, other than domestics or household employees described in paragraph (a), unskilled or untrained manual workers and laborers, and agricultural workers the following shall be the maximum total fee to be charged or accepted in percentage of the first full months salary or wages actually received:

If no meals or lodging are provided	10%
If one meal per working day is provided	12%
If two meals per working day are provided	14%
If three meals and lodging per working day are provided	18%

(a) For domestics or household employees from outside of Massachusetts and within the United States in connection with whose employment the recruiting domestic agency has engaged an emigrant agent and who receive from their employer three meals per day and lodging -- not more than one week's salary plus twenty-one dollars; provided, that no fee under this paragraph shall exceed sixty-five dollars, if the employee is paid two hundred dollars or less per month; nor shall it exceed eighty dollars, if the employee is paid over two hundred dollars per month.

(b) Where all parties to the employment agreement understand or agree at the time such employment is entered into that it shall be for a period shorter than one month, the gross fee shall not exceed ten, twelve, fourteen or eighteen per cent of the salary or wages actually paid.

(2) For nonprofessional trained or skilled industrial workers or mechanics the total fee charged or accepted shall not exceed one week's wages.

Where all parties to the employment contract agree and understand at the time such employment contract is entered into that it shall be for a period shorter than ten weeks, the gross fee shall not exceed ten per cent of the wages or salary actually received.

(3) For models the gross fee to the agency from all sources shall not exceed ten per cent of the amount payable to the applicant, provided, that the applicant is advised in writing of such fees; and provided, further, that model agencies engaged in fields other than radio, television, film, video tape, film commercials, or transcriptions, may charge an employer of an applicant for ancillary services provided that the applicant is notified in writing of all such additional ancillary services.

(4) For all other employment the gross fee shall not exceed in percentage of the first full month's salary or wages the following:

(a) Where such first full month's salary or wages is:

(1) less than \$225	25%
(2) at least \$225 but less than \$270	35%
(3) at least \$270 but less than \$300	40%
(4) at least \$300 but less than \$330	45%
(5) at least \$330 but less than \$365	50%
(6) at least \$365 but less than \$400	55%
(7) at least \$400	60%

(b) Where such other employment is such that the applicant will be paid on a straight commission

basis or on the basis of a drawing account plus commissions, the total fee shall be based on the percentages in the above schedule applied to an amount equivalent to one twelfth of the computed first year earnings as estimated by the employer.

(c) Where all parties to the employment contract agree and understand at the time such employment contract is entered into that it shall be for a period shorter than four months, the gross fee shall not exceed fifty per cent of the fee prescribed in the above schedule or ten per cent of the wages or salary actually received, whichever is less.

(D) The fees established under this section shall be based upon the wage or salary at which the applicant is hired.

If an applicant accepts employment, and fails to report initially for work, the total fee charged to such applicant shall not exceed twenty-five per cent of the maximum fee allowed under this section; provided, however, if the applicant remains with his same employer the fee shall not exceed fifty percent.

In no case shall an employment agency receive any fees from employees which, when added to the employer's fees to the employment agency exceed the fees specified in this section. Each applicant shall be advised in writing by the agency of the total amount of any fee paid it by the employer for placing such applicant.

The provisions of this section shall not apply to applicants who are hired at an annual wage of over forty thousand dollars, nor shall they apply to any agency which is paid solely by employer clients. Any contract in violation of this section shall be void.

Chapter 140: Section 46M. Receipt of fees or payments contrary to sec. 46L; return.

Section 46M. Any employment agency which collects, receives or retains a fee, deposit or other payment contrary to or in excess of the provisions of section forty-six L, shall return the excess portion thereof within seven days of the receipt of a demand therefor.

Chapter 140: Section 46N. Contract between prospective employee and agency.

Section 46N. An employment agency other than one recruiting domestic employees shall contract in writing with the applicant (employee) for services in securing employment for the payment by the applicant of a service fee, in an amount mutually agreed upon between the applicant and such employment agency, and shall file with the commissioner for approval a sample copy of the agreement to be entered into between the applicant and the employment agency. The licensee or his authorized representative shall verbally make clear to the applicant the terms and conditions of the contract, with particular emphasis upon the fee to be paid for services to be rendered. Every applicant shall be given a copy of the contract he has entered into or is to enter into with the employment agency, and such contract shall carry the statement

"I have thoroughly read my contract with (Name of agency) and accept its terms." (Signature of Applicant)

In addition to the above, the following schedule ranging from \$55 a week to \$200 a week must be reproduced on cards or paper, the size of which should allow for legible reading. Each applicant must be given a copy complete with service charges indicated beside the weekly salary and a copy signed by the applicant must be retained by the employment agency.

NAME OF AGENCY		ADDRESS OF AGENCY			
Weekly Salary	Service Charge	Weekly Salary	Service Charge	Weekly Salary	Service Charge
\$ 55.00	\$.....	\$105.00	\$.....	\$155.00	\$.....
\$ 60.00	\$.....	\$110.00	\$.....	\$160.00	\$.....
\$ 65.00	\$.....	\$115.00	\$.....	\$165.00	\$.....
\$ 70.00	\$.....	\$120.00	\$.....	\$170.00	\$.....
\$ 75.00	\$.....	\$125.00	\$.....	\$175.00	\$.....
\$ 80.00	\$.....	\$130.00	\$.....	\$180.00	\$.....
\$ 85.00	\$.....	\$135.00	\$.....	\$185.00	\$.....
\$ 90.00	\$.....	\$140.00	\$.....	\$190.00	\$.....
\$ 95.00	\$.....	\$145.00	\$.....	\$195.00	\$.....
\$100.00	\$.....	\$150.00	\$.....	\$200.00	\$.....

The contract fee must be based only upon the original wage or salary at which the applicant was hired.

Where employment is temporary, the employment agency shall be entitled to an amount equivalent to ten per cent of the gross weekly wages paid or fraction thereof, but in no case where employment is temporary shall a fee be charged in excess of the fee for permanent employment.

Permanent employment shall be defined as employment which in itself is good for ten weeks or more. Temporary employment is employment which in itself is good for less than ten weeks.

When a contract entered into between the employment agency and the applicant for employment clearly stipulates that voluntary resignation from employment or acceptance of employment and failure to report for work by the applicant does not relieve the applicant from paying to the employment agency the same fee he would have paid had he reported for duty or remained in employment for a period of ten weeks or more, then the employment agency shall be entitled to collect the full service fee, provided the applicant's failure to report for duty or his voluntary resignation is not occasioned by extenuating circumstances. Any question as to what constitutes "extenuating circumstance" shall be decided by the commissioner. Acceptance of other employment shall not fall within the meaning of "extenuating circumstances". Any employee supplied by an employment agency shall be paid at a rate not less than the applicable minimum wage or the applicable collective bargain rate for that position, whichever is greater.

Chapter 140: Section 46O. Refunds by employment agencies; conditions; reduction of fees; restriction on deductions from wages.

Section 46O. Refunds shall be made by employment agencies under the following conditions:

(a) If an applicant furnished employment is discharged within one month after the time of entering upon such employment and such discharge is not for just cause, the employment agency shall on demand refund to the applicant that portion of the fee paid in excess of ten per cent of the gross wages paid to the applicant.

(b) Should it be determined that no employment of the kind applied for was open at the place to which the applicant was directed or as specified by the employment agency, then all of the fee paid together with cost of transportation in going to and returning from such place of employment shall be refunded. An employment agency shall not be responsible to an applicant or an employer for any expense incurred in connection with an interview unless the employment agency has failed to truthfully inform the employer and the applicant of facts related to the applicant or employment with which the employment agency is in possession.

(c) If an applicant for employment was unable to accept employment or to keep engagement for unavoidable reasons, all of the fee paid shall be refunded.

(d) If an applicant for employment was unable to find the place of employment because of insufficient address or directions all of the fee paid is to be refunded.

(e) The maximum fee shall be reduced to the extent that payment would result in the applicant's average hourly wages for that period falling below the rates established by any applicable federal or state minimum wage provision or by any applicable collective bargaining agreement.

(f) Any employer who utilizes an employment agency or who obtains applicants from an employment agency shall not directly or indirectly deduct any part of the fees paid to an employment agency from the wages or salary of any of his employees placed by such employment agency.

Chapter 140: Section 46P. Posting of copy of secs. 46AC46O.

Section 46P. Each employment agency shall post in a conspicuous place in such agency a copy of sections forty-six A to forty-six O, inclusive, which shall be printed in large type in languages in which persons commonly doing business with such office can understand. Such poster shall also contain the name and address of the commissioner charged with the enforcement of said sections.

Chapter 140: Section 46Q. Inspection of premises and books; rules and regulations; procedure upon complaint against licensee; suspension or revocation of licenses.

Section 46Q. The commissioner, or any duly authorized agent or inspector designated by him, shall have authority to inspect the premises, registers, contract forms, receipt books, application forms, referral forms, reference forms, reference reports, financial and other records of fees charged and refunds made of each employment agent, which are essential to the operation of such agency, and of each applicant for an employment agency license; but in no event shall any employment agency be inspected less frequently than once every six months. The commissioner may suspend or revoke the license of any employment agency if it fails to furnish information required under this section, or if such agency or any of its employees hinders or interferes with any such duly authorized agent or inspector while in the performance of his duties as hereinbefore provided. The commissioner or any such agent or inspector may make a record of such information, and may require each agency to furnish quarterly, on a form supplied by the department of labor and industries, any or all such information.

The commissioner may, subject to the provisions of chapter thirty A, establish such rules and regulations as he deems necessary to carry out the provisions of sections forty-six B to forty-six R, inclusive.

Any complaint against any person licensed as an employment agency shall be made to the commissioner by any interested person. The commissioner shall give reasonable notice thereof, not later than five days thereafter, to said licensed person by serving upon him either personally, by registered mail, at his last place of residence, or by leaving with the person in charge of his office, a concise statement of the facts constituting such complaint. The commissioner shall hold a hearing on such complaint not later than two weeks from the date of the notice of such complaint. The commissioner when investigating any matter pertaining to the issuance, transfer, revocation or suspension of a license may take such testimony as may be necessary on which to base official action. When taking

such testimony he may subpoena witnesses and also direct the production before him of necessary material, books and papers. A calendar of all hearings shall be kept by the commissioner and shall be posted in a conspicuous place in his office for at least one day before the date of such hearings. The commissioner shall render his decision within eight days from the time the matter is finally submitted to him. Said commissioner shall keep a record of all such complaints and hearings.

If such hearings reveal that the employment agency or any employee thereof is guilty of any immoral, fraudulent or illegal conduct in connection with the operation of such agency, or of any violation of the provisions of sections forty-six B to forty-six R, inclusive, the commissioner may suspend or revoke the license of such employment agency. If the commissioner suspends or revokes the license of any employment agency, said action shall be subject to judicial review in proceedings brought pursuant to chapter thirty A. If a license is revoked, another license shall not be issued within three years from the date of such revocation to said licensed person or his representative.

Chapter 140: Section 46R. Penalties.

Section 46R. Whoever violates any provision of sections forty-six B, forty-six C, forty-six E, forty-six F, forty-six J, forty-six K, forty-six L, forty-six M, forty-six N and forty-six O, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the house of correction for not more than one year, or both. Whoever violates any provision of sections forty-six H, forty-six I, and forty-six P, shall be punishable by a fine of not more than twenty-five dollars. The commissioner may institute proceedings based upon any such violation. Each violation of said sections shall constitute a separate offense. Criminal prosecution for any such violation shall not preclude any person from recovering money unlawfully collected, in a civil action. In addition to the penalties provided for in this paragraph, the commissioner may issue a written warning or a civil citation for violations of these sections. Subsections (c) to (i), inclusive, of section 6F½ of chapter 149 shall apply to these citations. The director of labor may adopt regulations for the issuance of the written warnings and citations and for the enforcement thereof.

Information secured pursuant to sections forty-six A to forty-six Q shall be confidential and for the exclusive use and information of the commissioner in the discharge of his duties hereunder. Whoever, except with the authority of the commissioner or pursuant to his rules or regulations, or as otherwise required or authorized by law, shall disclose the same, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months, or both; provided, that nothing herein shall be construed to prevent the commissioner from conducting any investigation or hearing as provided for in said sections.

For more information, contact:

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