

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2143

Introduced by

Senators Klein, Fischer, Thane

Representatives R. Kelsch, Stenehjem

1 A BILL for an Act to amend and reenact sections 34-13-01, 34-13-02, and subsection 1 of
2 section 34-13-13.1 of the North Dakota Century Code, relating to employment agencies.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 34-13-01 of the 1995 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **34-13-01. Definitions.** As used in this chapter, unless the context or subject matter
7 otherwise requires:

- 8 1. "Commissioner" means the commissioner of labor.
- 9 2. "Employee" means any person, whether employed or unemployed, seeking or
10 entering into any arrangement for employment or change of employment through
11 the medium of service of an employment agent.
- 12 3. "Employer" means any person, firm, corporation, limited liability company, or
13 association employing or seeking to enter into an arrangement to employ any
14 person through the medium or service of an employment agent.
- 15 4. "Employment agent" or "employment agency" means any person, firm, corporation,
16 limited liability company, or association in this state engaged for hire or
17 compensation in the business of furnishing:
 - 18 a. Persons seeking employment or changing employment, with information or
19 other service enabling or tending to enable such persons to procure
20 employment, by or with employers, other than such employment agent; or
 - 21 b. Any other person, firm, corporation, limited liability company, or association
22 who may be seeking to employ or may be in the market for help of any kind,
23 with information enabling or tending to enable such other person, firm,
24 corporation, limited liability company, or association to procure such help.

1 The term "employment agent" or "employment agency" does not include any
2 person, firm, corporation, limited liability company, or association employing
3 individuals to render part-time or temporary services to or for a third person, if the
4 person, firm, corporation, limited liability company, or association employing the
5 individuals, in addition to wages or salaries, pays social security and
6 unemployment insurance taxes, provides workers' compensation coverage, and is
7 responsible for the acts of the employees while rendering services to or for a third
8 person.

9 5. "Gross misconduct" means misconduct involving assault and battery, the malicious
10 destruction of property, or the theft of money or property.

11 **SECTION 2. AMENDMENT.** Section 34-13-02 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **34-13-02. License required - Penalty.** ~~No~~ A person may not open or carry on an
14 employment agency ~~in~~ if that person has a physical presence or location within the state,
15 unless ~~such~~ that person first procures a license from the commissioner. ~~Any~~ A person opening
16 or conducting any such agency without first procuring a license is guilty of a class B
17 misdemeanor.

18 **SECTION 3. AMENDMENT.** Subsection 1 of section 34-13-13.1 of the 1995
19 Supplement to the North Dakota Century Code is amended and reenacted as follows:

20 1. If an employment position terminates or the employee is fired or laid off before the
21 end of ninety calendar days, the employee shall receive a refund of all service
22 charges paid in excess of twenty percent of the gross wages actually received
23 prior to termination or release. If the employee has a signed contract accepting an
24 employment position but does not start employment, quits the job voluntarily, or is
25 terminated for gross misconduct, the refund does not apply. Nothing contained in
26 this section restricts an agency from receiving full-service charges at the time of
27 the referral, subject to the refund herein provided.