

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2143  
(Senators Klein, Fischer, Thane)  
(Representatives R. Kelsch, Stenehjem)

AN ACT to amend and reenact sections 34-13-01, 34-13-02, and subsection 1 of section 34-13-13.1 of the North Dakota Century Code, relating to employment agencies.

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

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

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

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

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

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

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

**34-13-02. License required - Penalty.** ~~No~~ A person may not open or carry on an employment agency if that person has a physical presence or location within the state, unless such that person

first procures a license from the commissioner. ~~Any~~ A person opening or conducting any such agency without first procuring a license is guilty of a class B misdemeanor.

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

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

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2143.

Senate Vote:      Yeas    43          Nays    0          Absent    6

House Vote:      Yeas    96          Nays    0          Absent    1

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1997,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State