

LABOR AND EMPLOYMENT

CHAPTER 329

HOUSE BILL NO. 1450
(Metzger)

REGULATING EMPLOYMENT AGENCIES

AN ACT to create and enact a new subsection to section 34-13-01 of the North Dakota Century Code, relating to the licensing of employment agencies and to the establishment of maximum fees which may be charged for services, and to amend and reenact sections 34-13-02, 34-13-03, 34-13-04, 34-13-05, 34-13-07, 34-13-08, 34-13-09, 34-13-10, 34-13-11, and 34-13-12, and subsection 4 of section 34-13-15 of the North Dakota Century Code, relating to the transfer of the regulation of employment agencies from the attorney general to the commissioner of labor.

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

SECTION 1.) A new subsection to section 34-13-01 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

The term "commissioner" means the commissioner of labor.

SECTION 2. AMENDMENT.) Section 34-13-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-02. LICENSES REQUIRED.) No person, firm, corporation, or association shall open or carry on an employment agency in the state, unless such person, firm, corporation, or association shall first procure a license from the commissioner. Any person, firm, corporation, or association who shall open or conduct any such agency without first procuring a license, shall be guilty of a misdemeanor and punished by a fine of not less than twenty-five dollars, and not more than one hundred dollars, or by imprisonment for a period not to exceed ninety days, or both, at the discretion of the court.

SECTION 3. AMENDMENT.) Section 34-13-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-03. WRITTEN APPLICATION FILED.) On or before July first of each year, every applicant for a license shall

file with the commissioner a written application stating the name and address of the applicant, the kind of license desired, the street and number of the building in which the employment agency is to be maintained, the name of the person who is to have the general management of the office, the name under which the business of the office is to be carried on, whether or not the applicant is pecuniarily interested in any other business of a like nature, and if so, where. Such application shall also state whether the applicant is the only person pecuniarily interested in the business to be carried on under the license, and shall be signed by the applicant and sworn to before a notary public. If the applicant is a corporation, the application shall state the names and addresses of the officers and directors of the corporation, and shall be signed and sworn to by the president and treasurer thereof. If the applicant is a partnership, the application shall also state the names and addresses of all partners therein, and shall be signed and sworn to by all of them. The application shall also state whether or not the applicant is, at the time of making application, or has at any previous time been, engaged or interested in, or employed by anyone engaged in the business of conducting an employment agency, either in this state or any other, and if so, when and where. The application shall also give as reference the names and addresses of at least three persons of reputed business or professional integrity, located in the city or town where such applicant intends to conduct his business. Every applicant for a license to engage in the business of an employment agent shall, at the time of making application for said license, file with the commissioner a schedule of the fees or charges to be collected by such employment agent for any services rendered, together with all rules and regulations that may in any way affect the fees charged or to be charged for any service. Such fees and such rules or regulations may thereafter be changed by filing an amended or supplemental schedule showing such charges, with the commissioner. It shall be unlawful for any employment agent to charge, demand, collect, or receive a greater compensation for any service performed by him than is specified in such schedule filed with the commissioner.

It shall be the duty of the commissioner, and he shall have power, jurisdiction, and authority to issue licenses to employment agents, and to refuse to issue such license whenever, after due investigation, he finds that the character of the applicant makes him unfit to be an employment agent, or when the premises for conducting the business of an employment agent are found upon investigation to be unfit for such use. Any such license granted by the commissioner may also be revoked by him upon due notice to the holder of said license, and upon due cause shown. Failure to comply with the duties, terms, conditions, or provisions of this chapter, or any lawful orders of the commissioner shall be deemed due cause to revoke such license.

SECTION 4. AMENDMENT.) Section 34-13-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended

and reenacted to read as follows:

34-13-04. LICENSE - FEES.) All such licenses shall endure for a period of one year only, and annual fees therefor shall be paid as follows: Every employment agent engaged in placing female persons only in employment shall pay a license fee of seventy-five dollars. Every employment agent engaged in placing male persons only in employment shall pay a license fee of one hundred dollars. Every employment agent placing both male and female persons shall pay a license fee of one hundred fifty dollars. All license fees prescribed in this chapter shall be paid to the chief clerk under the direction and supervision of the commissioner and by him shall be paid promptly to the state treasurer, who shall deposit all such moneys in the general fund of this state.

SECTION 5. AMENDMENT.) Section 34-13-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-05. APPLICANTS TO FURNISH BONDS.) Every application for a license shall be accompanied by a bond in the penal sum of two thousand dollars, with one or more sureties or a duly authorized surety company, to be approved by the commissioner and filed in his office, conditioned that the agent will conform to and not violate any of the terms or requirements of this chapter or violate the covenants of any contract made by such agent in the conduct of said business. Action on this bond may be brought by and prosecuted in the name of any person damaged by any breach or any condition thereof, and successive actions may be maintained thereon.

SECTION 6. AMENDMENT.) Section 34-13-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-07. DURATION OF LICENSE.) Every license, unless previously revoked, shall remain in force until one year after its issue, and every employment agent shall, upon payment of the amount of the license fee required and the filing of a new bond, have issued to it a license for the ensuing year, unless the commissioner shall refuse to do so for any of the reasons stated in this chapter.

SECTION 7. AMENDMENT.) Section 34-13-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-08. SUSPENSION OR REVOCATION OF LICENSE.) If the commissioner shall find that the employment agent has violated any of the provisions of this chapter, or has acted dishonestly in connection with his business, or has improperly conducted his business, or that any other good and sufficient reason exists within the meaning and purpose of this chapter, the commissioner

may suspend or revoke his license, or refuse to grant a new license to the employment agent upon the termination thereof; but in any case no such action shall be taken until a written notice has been sent to the employment agent specifying the charges against him and he has been given a hearing, if he requests, and a reasonable opportunity to disprove or explain the charges.

SECTION 8. AMENDMENT.) Section 34-13-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-09. TRANSFER OF LICENSE - CONSENT TO OTHERS BECOMING CONNECTED WITH LICENSEE.) No license granted under the terms of this chapter shall be transferable, except with the consent of the commissioner. No employment agent shall permit any person not mentioned in the license to become connected with the business as a partner or as an active officer of a licensed corporation unless the consent of the commissioner shall first be obtained. Such consent may be withheld for any reason for which an original application for a license might have been rejected, if the person in question had been mentioned therein. If such consent is given, the names of the persons so becoming connected with the employment agency shall be endorsed upon the license and, if such license is renewed, shall be substituted for or added to the names of the persons originally mentioned therein.

SECTION 9. AMENDMENT.) Section 34-13-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-10. PLACES OF BUSINESS.) No employment agent shall open, conduct, or maintain an employment agency at any other place than that specified in the license without first obtaining the consent of the commissioner. Such consent may be withheld for any reason for which an original application might have been rejected, if such place had been mentioned therein. If such consent is given, it shall be endorsed upon the license and, if such license is renewed, such other place shall be substituted for the place originally named in the license. So long as any employment agent shall continue to act as such under his license he shall maintain and keep open an office or place of business at the place specified in the license.

SECTION 10. AMENDMENT.) Section 34-13-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-11. LICENSES CLASSIFIED.) Licenses granted under the provisions of this chapter shall be designated as class one, class two, or class three.

A class one license shall entitle the holder thereof to engage in a business of serving those seeking employment and those seeking employees as woodsmen, agricultural hands, coachmen, grooms, hostlers, seamstresses, cooks, waiters, waitresses, scrubwomen, laundresses, maids, and all domestics and servants, unskilled workers, and general laborers.

A class two license shall entitle the holder thereof to engage in the business of serving those seeking employment and those seeking employees in technical (engineering or otherwise), educational, clerical, executive, hospital, medical, dental, and like pursuits not provided for under either a class one or a class three license.

A class three license shall entitle the holder thereof to engage in the business of serving those seeking employment and those seeking employees in circus, vaudeville, theatrical, or other entertainments, exhibitions, or performances, or allied pursuits.

Nothing in this chapter shall be construed to prohibit an employment agent holding a class one license from serving those included under a class two license, provided the business is conducted in accordance with the rules and regulations applicable to a class one license; and under no circumstances shall a licensee be allowed to conduct a theatrical agency under any but a class three license.

Any question of classification arising under the provisions of this chapter shall be determined by the commissioner.

SECTION 11. AMENDMENT.) Section 34-13-12 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-12. LICENSES POSTED - SCHEDULE OF CHARGES POSTED AND PRINTED ON RECEIPTS - SECTIONS OF LAW POSTED.) Every employment agent licensed under a class one license shall post in a conspicuous place in every room used for business purposes in the employment office conducted by him, and shall have printed on the back of every receipt given, a schedule showing the amount of the service charges to be made to either employees, employers, or both. In no case shall the amount collected exceed the schedule of charges so indicated.

Every employment agent licensed under a class one license shall post in a conspicuous place in every room used for business purposes in the employment office conducted by him, a copy of sections 34-13-12 and 34-13-15, to be furnished the employment agent by the commissioner.

No employment agent holding a class one license shall direct any applicant to apply for employment at any place outside of the office of such employment agent without first giving

to such applicant, in written form, the name and address of the employment agent, the name of the applicant, the name and address of the person to whom the applicant is referred, and the kind of employment supposed to be obtainable at such place. Nothing herein shall be construed to prohibit an employment agent from directing an applicant by telephone to apply for employment, but such telephone message must be confirmed in writing by the employment agent within twenty-four hours after the telephone conversation, and a carbon copy of such confirmation shall be kept on file at the place of business of the employment agent for a period of one year.

SECTION 12. AMENDMENT.) Subsection 4 of section 34-13-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Every employment agent shall keep a record of all services rendered employers and employees. This record shall contain the name and address of the employer by whom the services were solicited, the name and address of the employee, kind of position offered by the employer, kind of position accepted by the employee, probable duration of the employment, rate of wage or salary to be paid the employee, amount of the employment agent's service charge, dates and amounts of payments, date and amount of refund, if any, and for what, and a space for remarks under which shall be recorded anything of an individual nature to amplify the foregoing report and as information in the event of any question arising concerning the transaction. Such records shall during business hours be open to the inspection of the commissioner at the address where the employment agency is conducted for the purpose of satisfying the commissioner that they are being kept in conformity with this rule. Upon written complaint being made, the commissioner may require of the employment agent against whom the complaint is made a detailed account under oath in writing of the transaction referred to in the complaint. In the event the commissioner has reason to question the detailed report so submitted by the employment agent, the commissioner shall have authority to demand of the employment agent the production of these records for examination by him, or his agent, at such place as the commissioner may designate.

Approved March 12, 1971

CHAPTER 330

SENATE BILL NO. 2316
(Litten)

REGULATING WORKING HOURS OF WOMEN

AN ACT to create and enact subsection 5 of section 34-06-06 and to amend and reenact subsection 4 of section 34-06-06 of the North Dakota Century Code, relating to females holding management positions, and to the hours of employment of female workers during emergency periods.

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

SECTION 1. AMENDMENT.) Subsection 4 of section 34-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Females who are required to work in cases of emergency. In cases arising under subdivisions a, b, and c of this subsection, females may be employed for ten hours in any one day and seven days in one week, but shall not be employed for more than forty-eight hours in any one week. An emergency is deemed to exist under the provisions of this subsection:
 - a. In the case of the sickness of more than one female employee in which case a doctor's certificate must be furnished showing that it will not be dangerous to human life to continue employment in the establishment involved;
 - b. When such employment is required in connection with a banquet, convention, celebration, or because a session of the legislative assembly is in progress;
 - c. In the case of the employment of a female as a reporter in any of the courts of this state;
 - d. When such employment is required to provide the service furnished or supplied by a public utility during a disaster, a severe storm, mechanical failure, or epidemic, which adversely affects the provision of such service.

SECTION 2.) Subsection 5 of section 34-06-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

5. Females holding positions of management.

Approved March 27, 1971