

Chapter 658

Employment Agencies

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CROSS REFERENCES

Public employment service, 657.705

658.160

Unlawful acts by employers and employes, 659.250, 659.260

658.170

Necessity for specific biennial appropriation notwithstanding continuing appropriation, 291.240

658.180

Rules and regulations of administrative agencies, Ch. 183

658.010 Who is an employment agent.

Every person, other than an employe working for salary or wages only and not otherwise financially interested in the business of procuring employment for others, who, for compensation, procures, or in any manner assists in procuring, employment or help for another, or furnishes intelligence or information to persons securing or seeking employment or help, or acts as a labor contractor and, for a fee or other compensation, employs any individual, crew or group of persons to work for or under the direction of a third person, shall be deemed and considered an employment agent.

658.020 Licensing of employment agents required. (1) No person shall operate an employment agency for hire or compensation or otherwise than is specified in this chapter without first securing a license as provided in this chapter.

(2) This chapter does not apply to persons hiring or furnishing employment or giving information leading to the hiring or furnishing of employment for which no fee is charged or received from applicant, nor to persons hiring or furnishing employment or giving information leading to the hiring or furnishing employment to any school teacher, or to persons in any professional or clerical position.

658.030 Application for license; contents; affidavit. (1) Application for an employment agent's license shall be filed in writing with the Commissioner of the Bureau of Labor at least 30 days in advance of the date on which the license is to be issued.

(2) The application shall set forth:

(a) That the applicant is a citizen of the United States.

(b) The name and address of the applicant.

(c) The street and number of the building or place where the business is to be conducted.

(d) The names and addresses of all persons financially interested in the operation of the business either as partners, associates or profit sharers therein.

(3) The application shall be accompanied by the affidavits of at least 10 freeholders of the state, to the effect that they believe the applicant to be a person of good moral character and capable of exercising an employment agent's license according to the terms of this chapter.

658.040 Investigation of applicant; time limit for issuance; limitations on licenses. (1) Upon receipt of an application made pursuant to ORS 657.030, the Commissioner of the Bureau of Labor may cause an investigation to be made as to the character and responsibility of the applicant and of the premises designated in the application as the place in which it is proposed to conduct such agency.

(2) The commissioner or his deputies may administer oaths, subpoena witnesses and take testimony in respect to matters contained in such application and in respect to complaints of any character against the applicant for such license, and upon proper hearing may refuse to grant a license.

(3) Each application shall be granted or refused within 30 days from date of filing.

(4) In all towns and cities containing more than 15,000 inhabitants, no license shall be granted to a person to conduct the business of an employment agency in rooms used for living purposes, or where boarders or lodgers are kept, or where meals are served, or where persons sleep, or by any person who is interested in or benefits from the sale of railroad and stage transportation.

(5) Licenses are valid only to protect the person to whom they are issued.

658.050 Bond of applicant. Before a license is issued to the employment agent, the applicant shall first file a bond with the state in the office of the Commissioner of the Bureau of Labor in the sum provided in ORS 658.060 with at least one good and sufficient surety to be approved by the commissioner, conditioned that the applicant shall fully comply with the laws of this state regulating employment agencies and shall pay all judgments recovered against him for any violation of those laws, together with such judgments and costs as may be recovered against him by any laborer, worker or applicant for position on account of any wilful misrepresentations, or for wilfully deceiving any laborer, worker or applicant for position transacting business with him as such employment agent, and pay all damages by reason of any violation of this chapter.

658.060 Issuance of license; schedule of license fees and bond. (1) The Commissioner of the Bureau of Labor may, if the applicant for such license is a fit and proper person to conduct an employment agency, and

upon the payment of an annual license fee and filing of a bond in the amounts provided in this section, when such bond has been approved by the commissioner, issue to the employment agent a license for the period of one year.

(2) The amount of the license fee to be paid and the bond to be furnished by the employment agent shall be in proportion to the population of the city or town in which the employment agency has its principal place of business according to the last census of the United States, and as indicated by the following schedule:

Population of City	License	Bond
100,000 and over	\$100	\$3,000
50,000 to 100,000	100	2,000
Less than 50,000	50	1,000

(3) If the employment agency for which the application is made is not to be operated in any incorporated city or town, then the applicant shall file the minimum bond and pay the minimum license specified in the schedule.

(4) No other license fee shall be required of any such licensee by any city, town, county or other political subdivision thereof.

658.070 Permits for agency employees; bond. (1) In towns and cities containing more than 15,000 inhabitants, no licensee shall employ or permit any person to operate an employment agency under such license except a bona fide clerk or employee receiving a stated salary or wage, who shall, before entering upon such employment, obtain from the Commissioner of the Bureau of Labor a permit authorizing him so to do.

(2) A fee of \$5 shall be exacted and paid for such permit, and the applicant therefor, if found to be of good moral character and a fit and proper person to transact business as such clerk or employee, may be granted such permit, good for one year from date of issuance, upon executing to the state a good and sufficient bond of \$100, to be approved by the Labor Commissioner and conditioned that such clerk or employee shall honestly and faithfully comply with, observe and obey all the laws of this state regulating employment agents.

(3) Such permits may be renewed annually upon the payment of a like fee and the execution of a like bond.

658.080 Revocation of license; reissuance restricted. (1) After investigation by the Commissioner of the Bureau of Labor at which the employment agent may be repre-

sented in person or by counsel, the license of any employment agent may be revoked after proof that such agent has continued wilfully to conduct the employment business in violation of this chapter.

(2) No license shall be granted to a person whose license has been revoked within one year from the date of such revocation.

658.090 Appeal from refusal or revocation of license. (1) Any person, aggrieved by the decision of the Commissioner of the Bureau of Labor either refusing or revoking a license under this chapter, may appeal from such decision to the Circuit Court for Marion County.

(2) Appeal shall be taken by serving a notice of appeal and giving a bond of \$500, within the time and in the manner provided for appeals from justice of the peace or district courts, and upon the trial in the circuit court the case shall be tried de novo. The bond shall be conditioned for the payment of the costs and disbursements of the appeal and the costs and disbursements shall be allowed and taxed as in other cases as provided by law. Upon the trial in the circuit court the appellant shall be the plaintiff.

658.100 Agent's receipt; form. Every employment agent shall, upon receiving any compensation for services, give to the person for whom the same is received, a receipt therefor in writing, which shall be in the following form, and must contain at least all the facts set forth in said form:

_____, _____, _____, _____, 19____
 Received from _____, the sum of _____ dollars, for which we agree to furnish correct information by which the above-named employe or applicant shall be entitled to secure a situation as _____ with _____ at _____ wages and _____ amount charged board per day or month. Failing to do which we promise to refund the above amount paid and also the fare for transportation (unless such fare is furnished or offered to the said applicant) to and from the place where said applicant is sent by said agent, on the return of this receipt together with the written statement from the employer or other evidence that the applicant has applied in person at the place to which he is directed herein, and to the person to whom he is directed herein, or his agent, and could not get the situation. If the employe is discharged within two days, we promise to refund the amount paid as fee. If the employe is dis-

charged after two days and within six days, we promise to refund one-half of said fee, unless he is discharged by reason of intoxication or other good and sufficient cause.

charged or quit position of his own accord, how long applicant worked, and if applicant was discharged or quit. State fully and clearly facts and reasons therefor.

Employment Agent

Employer
By _____

658.110 Charges by agency for services; limitations. (1) No person acting as an employment agent or conducting the business of an employment agency shall charge or collect as a fee or compensation for such service in excess of the following:

(a) For positions for females where the salary or wages of the position secured is not to exceed \$50 per month, the fee or compensation of the employment agent shall not exceed five percent of one month's earnings in said position, and where the salary or wages of the position secured is more than \$50 and not to exceed \$100 per month, the fee or compensation shall not exceed \$5, and where the salary is more than \$100 per month the fee shall not exceed \$7.50.

(b) For positions for males where the salary or wages of the position secured is not to exceed \$60 per month the fee or compensation of the employment agent shall not exceed five percent of one month's earnings in said position.

(c) For positions for males where the salary or wages of the position secured is more than \$60 and not to exceed \$100 per month, the fee or compensation of the employment agent shall not exceed \$5.

(d) For positions for males where the salary or wages of the position secured is more than \$100 per month, the fee or compensation shall not exceed \$7.50.

(2) In no case shall board be included as part of the salary or wages.

658.120 Indorsement to be printed on agent's receipt and filled out by employer in certain circumstances. Each receipt for fees given by the employment agent to the applicant shall have printed on the back the following indorsement to be filled out by the employer in the event that the applicant is not given employment, or is discharged within six days:

TO THE EMPLOYER.

(Kindly fill out the blank below and return this receipt to the applicant in case you do not employ him, or if he is discharged for any reason within six days after being employed.)

State clearly whether applicant was dis-

658.130 Records to be kept by agency. Every employment agent shall keep a true and correct record of the names of all applicants, the nature of work, the date of furnishing such work, the amount of money received from each and the place of employment. This record shall at all times be open to inspection of the Commissioner of the Bureau of Labor or any of his authorized deputies.

658.140 Recovery of charges and fare by applicant in certain circumstances. (1) Any employment agent who sends an applicant for employment to any place where the supposed employment is to be had on information that is incorrect or not as stated in the receipt for fee paid by the applicant for employment, or if the position which the applicant is to take has already been taken and is not procurable for such applicant, shall be liable for the fee paid by the applicant and the return of same, and for the return of the fare or transportation to and from the place where the applicant is sent. However, if transportation is furnished or offered the applicant by either employer or the employment agent, the applicant shall recover only his fee.

(2) Any applicant who obtains employment and is discharged within two days shall be entitled to the return of his entire fee from the employment agent. If the applicant is discharged after two days and within six days he is entitled to one-half of the fee, except in case where it is specifically stated on the face of the employment ticket that the employment is for six days or less.

(3) However, the applicant shall have no right to recover, against either the employer or the employment agent, either the transportation, fees or other costs, in the event that the applicant voluntarily refuses to go to work in the position stated in the receipt, or is discharged by reason of intoxication or other good and sufficient cause.

658.150 Civil liability of employer for refusing to employ or wrongfully discharging applicant. Any employer who requests an employment agent to supply labor, who

refuses to accept such labor so supplied, or who discharges such labor without cause, shall be liable to the employment agent and to the applicant for damages thereby sustained. The applicant may proceed against either the employer or the employment agent.

658.160 Unlawful acts of employment agents, employers or their agents. (1) No employment agent shall share the fee received from any applicant with any employer or the agent of any employer or enter into contract, either verbal or written, with an employer or agent of any employer, whereby the employment agent is to pay or remunerate the employer, or any agent of any employer for the furnishing of employment.

(2) No employment agent shall send any applicant for employment on information known to be incorrect or not as stated in the receipt for the fee paid by such applicant for employment.

(3) No employment agent shall conduct his business of supplying labor in any saloon or other place where intoxicating liquors or beverages are sold, or in any room or building connected by a door or passageway with a saloon or place in which intoxicating liquors or beverages are sold.

(4) No employer or his agent shall receive any remuneration or division of fees from any employment agent supplying labor or agree, either orally or in writing, to receive any remuneration or division of fees for the supplying of labor within the meaning of this chapter.

(5) No employer or agent of any em-

ployer shall order men from any employment agency and refuse to accept such men so supplied or discharge such men in less than six days without good and sufficient cause, unless such men are specifically ordered for a shorter length of time, as provided in this chapter.

(6) No employer or the agent of any employer shall order men from any employment agency upon information known to be incorrect.

658.170 Appropriation of fund for administration. The sum of \$600 or so much thereof as may be necessary is set aside and appropriated annually from the fund made up of license fees under ORS 658.060 for the use of the Commissioner of the Bureau of Labor to defray the expenses of investigation and adjusting grievances made as to violations of this chapter by employers, employes or employment agencies.

658.180 Rules and regulations; forms. The Labor Commissioner may make all needful rules and regulations for the administration of this chapter and provide forms for applications and such other forms as may be from time to time necessary in the administration of this chapter.

658.990 Penalties. Violation of ORS 658.020 or 658.160 is punishable, upon conviction, by a fine of not less than \$25 nor more than \$200 or by imprisonment in the county jail for not less than five days nor more than 60 days. Justice courts, district courts and circuit courts have concurrent jurisdiction in all cases arising out of a violation of this chapter.