

Chapter 658

1957 REPLACEMENT PART

Employment Agencies

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CROSS REFERENCES

Administrative procedures governing state agencies, 183.310 to 183.510
Public employment service, 657.705

658.195
Employer filing false statement with employment agency, 659.260
Fraudulently accepting advancement and refusing to work, 659.250

658.005 Definitions. As used in this chapter:

(1) "Charge for services" means:

(a) Any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by an employment agency.

(b) Any money received by any employment agency in excess of what has been paid out by it for transportation, transfer of baggage or board and lodging.

(c) The difference between the amount of money received by any employment agency which has furnished employes, performers or entertainers for circus, vaudeville, theatrical or other similar entertainments, exhibitions or performances, and the amount paid by the employment agency to such employe, performer or entertainer.

(d) The difference between the amount of money received or to be received by any employment agency which furnishes farm laborers to others for a valuable consideration and the amount paid by the employment agency to the farm laborers.

(e) The difference between the amount received by a labor contractor and the amount paid by him to the person employed to render personal services to, for or under the direction of a third person.

(2) "Commissary privileges" means the furnishing of those commodities commonly known as commissary privilege, including food, supplies, tools or shelter to contract laborers.

(3) "Employment agency" includes:

(a) The business of conducting an office or type of agency which procures, offers, promises or attempts to procure employment for others, or which provides for the registration of persons seeking to procure or retain employment, or which participates in the giving of information regarding where and from whom employment may be secured, if a charge for service is exacted, directly or indirectly.

(b) Any person, bureau, organization or school which for profit, by advertisement or otherwise, offers, as one of its main objects or purposes, to procure employment for any person who pays for its services, or which collects tuition, or charges for service of any nature, where the main object of the person paying the same is to secure employment.

(c) Any labor contractor.

(4) "Labor Commissioner" means the Commissioner of the Bureau of Labor.

(5) "Labor contractor" means any person who, for a charge for service, employs any person or group of persons to work for or under a third person, but does not include a central hiring establishment, registry or agency maintained without charge for service to applicants for employment maintained by groups of employers or groups of employes.

(6) "Licensee" means a person licensed under this chapter. [1953 c.694 §1]

658.010 [Repealed by 1953 c.694 §30]

658.015 Exemptions from chapter. This chapter does not apply to an agency exclusively placing teachers nor does it apply to any nonprofit organization or corporation, organized for the purpose of economic adjustment, civic betterment, or for giving vocational guidance and placement to its members, when all of the following requirements are met:

(1) None of its directors, officers or employes are deriving any profit beyond a reasonable salary for services performed on its behalf.

(2) Membership dues and fees are used solely for the maintenance of the organization or corporation. [1953 c.694 §25]

658.020 [Repealed by 1953 c.694 §30]

658.025 Operation of employment agency without license prohibited; posting license. No person shall establish or maintain an employment agency without a valid license. The license shall be posted conspicuously in the place serving as office of the employment agency. [1953 c.694 §2]

658.030 [Repealed by 1953 c.694 §30]

658.035 Application for license. Applications for licenses to maintain an employment agency shall be made to the Labor Commissioner on forms prepared for that purpose and furnished by the Labor Commissioner, and shall contain the following information:

(1) The business name and address of the employment agency.

(2) The address where the business of the employment agency is to be conducted.

(3) Whether the applicant plans to maintain a lodging house for the unemployed separate from the employment agency.

(4) The business or occupation of the applicant for the two years immediately preceding the date of application.

(5) The names and addresses of all persons, except bona fide employes on regular salaries, who are financially interested in the operation of the employment agency to be licensed, together with the amount of their respective financial interests. [1953 c.694 §3]

658.040 [Repealed by 1953 c.694 §30]

658.045 Citizenship and character of applicant. Any applicant for a license shall be a citizen of the United States and of good moral character. The application shall be accompanied by affidavits of five freeholders of the State of Oregon who are residents of the city or county where the employment agency is to be maintained, stating that the applicant is of good moral character. [1953 c.694 §4]

658.050 [Repealed by 1953 c.694 §30]

658.055 Investigation of applicant. Upon receipt of an application for a license, the Labor Commissioner may cause an investigation to be made concerning:

- (1) The matters stated in the application.
- (2) The moral character and responsibility of the applicant.
- (3) The suitability of the premises designated in the application as the place where the employment agency is to be maintained. [1953 c.694 §5]

658.060 [Repealed by 1953 c.694 §30]

658.065 License not to be granted for certain locations or persons; action on application to be taken within 30 days. (1) No license shall be granted when the employment agency is to be maintained:

- (a) In rooms also used for living or sleeping quarters or in such rooms connected by an entrance thereto.
- (b) Where boarders or lodgers are kept.
- (c) Where meals are served.
- (d) Where intoxicating liquors are sold or consumed.
- (e) In connection with pool rooms or soft drink parlors.
- (f) By a person whose license has been revoked within three years from the date of application.

(2) Licenses shall be granted or refused within 30 days from the date of filing application. [1953 c.694 §6]

658.070 [Repealed by 1953 c.694 §30]

658.075 Bond of licensee. Before a license is issued or renewed for any employment agency, the applicant shall file with the Labor Commissioner a surety bond of \$1,000, payable to the people of the State of Oregon, conditioned that the applicant will comply with this chapter and will pay all sums legally owing to any person when the employment agency or its agents have received such sums, and will pay all damages occasioned to any person by reason of any wilful misrepresentation, fraud, deceit, or other unlawful act or omission by the employment agency or its agents or employes, while acting within the scope of their employment. [1953 c.694 §7]

658.080 [Repealed by 1953 c.694 §30]

658.085 License fees. (1) Every applicant for issuance or renewal of a license for an employment agency shall also pay to the Labor Commissioner an annual license fee in accordance with the size of the city or town, according to the latest census of the United States, in which the principal place of business of the employment agency is located, as follows:

Population of City or Town	License Fee
Over 100,000	\$100
50,000 to 100,000	\$ 50
Under 50,000	\$ 25

(2) Fees for new licenses shall be prorated on the basis of one-twelfth of the amount provided in this section multiplied by the number of months remaining in the calendar year.

(3) All license fees received pursuant to this section shall be credited to the Bureau of Labor Account and shall be used only for the administration of this chapter. [1953 c.694 §8; 1957 c.465 §12]

658.090 [Repealed by 1953 c.694 §30]

658.095 Expiration of license; renewal. (1) Licenses shall expire on December 31 of each year, unless sooner revoked.

(2) Applications for renewal shall be made on or before January 1 of each year by filing a renewal application, posting a new bond and paying the license fees. Applications for renewal need contain only the matters listed in subsections (1), (2) and (5) of ORS 658.035. [1953 c.694 §9]

658.100 [Repealed by 1953 c.694 §30]

658.105 Licenses not transferable; applicable only to place stated in application. Licenses under this chapter are not transferable and apply only to the employment agency for which they are issued at the place stated in the application. [1953 c.694 §10]

658.110 [Repealed by 1953 c.694 §30]

658.115 Suspension or revocation of licenses. The Labor Commissioner shall revoke or suspend any license issued under this chapter whenever it shall appear to said commissioner that if the licensee were then applying for a license his application should be denied under ORS 658.045 or 658.065 or whenever the licensee has violated any provision of this chapter. [1953 c.694 §11]

658.120 [Repealed by 1953 c.694 §30]

658.125 Appeals from orders of Labor Commissioner. (1) A person aggrieved by an order of the Labor Commissioner refusing to issue or renew a license or revoking or suspending a license may obtain a review thereof by filing a written petition for review with the clerk of the circuit court in the county in which the business is conducted within 30 days after the entry of said order.

(2) The petition shall state the grounds upon which the review is asked and shall pray that the order of the commissioner be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon the commissioner and thereupon the commissioner shall certify and file in the court a transcript of the findings upon which the order complained of was entered.

(3) The case shall then be tried de novo and the parties shall be permitted to introduce evidence and to file briefs. The court may affirm, modify or set aside the commissioner's order in whole or in part, or may remand the case to the commissioner for further evidence, and may, in its discretion, stay the effect of the commissioner's order pending its determination of the case. The court's decision shall have the force and effect of a decree in equity.

(4) Either party may appeal from judgment of the circuit court to the Supreme Court in the manner as civil actions may be appealed thereto. [1953 c.694 §12]

658.130 [Repealed by 1953 c.694 §30]

658.135 Notice to commissioner before transfer of right to participate in profits of agency. No licensee shall sell, transfer or give away any interest in or the right to par-

ticipate in the profits of the employment agency without giving notice to the Labor Commissioner. [1953 c.694 §13]

658.140 [Repealed by 1953 c.694 §30]

658.145 Filing schedule of charges with commissioner; effective date of schedule changes. (1) Every employment agency shall file with the Labor Commissioner a schedule of charges for service to be collected in the conduct of its business. In the schedule, the various employments shall be classified according to the nature of the work, and in each classification the maximum fee shall be fixed and shall include the charges for services of every kind rendered by the agency in each case or transaction on behalf of the prospective employer and a prospective employe.

(2) Changes in the schedule may be made, but no change shall become effective until seven days after the date of filing thereof with the Labor Commissioner and until posted for not less than seven days in a conspicuous place in the agency. [1953 c.694 §14]

658.150 [Repealed by 1953 c.694 §30]

658.155 Posting schedule of charges at agency; charge in excess of schedule prohibited. (1) A copy of the schedule of charges for service in effect with the changes noted thereon shall be kept posted in each room of the employment agency frequented by applicants for help or employment. The posted schedule and the changes therein shall be in lettering or printing of not less than 12-point type. The date of the taking effect of the schedule and of each change therein shall appear on the posted copies and a certificate thereof shall be procured from the Labor Commissioner and kept posted in a conspicuous place in the agency.

(2) No charge for service to be collected shall be in excess of the schedule in force at the time of issuing of the contract for employment. [1953 c.694 §15]

658.160 [Repealed by 1953 c.694 §30]

658.165 Order necessary before charge to be made. No employment agency shall accept a charge for service from any applicant for employment or refer any applicant without having obtained, orally or in writing, a bona fide order therefor. [1953 c.694 §16]

658.170 [Repealed by 1953 c.694 §30]

658.175 Repaying charge when applicant for employment fails to obtain employment. (1) If the applicant for employment paying a cash charge for service fails to obtain employment, the employment agency shall, upon demand therefor, repay the amount of the charge for service to the applicant. Unless the charge for service is returned within 48 hours after demand, the employment agency shall pay to the applicant double the amount of the charge for service. A statement to this effect shall be in the schedule of charges for services posted in the office of the employment agency.

(2) Nothing in this section shall apply to controversies arising by reason of other provisions of this chapter. [1953 c.694 §17]

658.180 [Repealed by 1953 c.694 §30]

658.185 Returning part of charge to applicant when employment lasts less than 14 days. In cases where the applicant is employed and the employment lasts less than 14 days, the employment agency shall return to the applicant that part of the charge for service paid which exceeds 10 percent of the amount earned. [1953 c.694 §18]

658.195 Giving false information or making false representations; advertisements. (1) No employment agency shall knowingly publish or cause to be published any false, fraudulent or misleading information, representation, notice or advertisement.

(2) All advertisements of an employment agency by means of cards, circulars or signs, and in newspapers and other publications, and all letterheads, receipts and blanks shall contain the licensed name and address of the employment agency.

(3) No employment agency shall knowingly give any false information or make any false promises or representations concerning an engagement or employment to any applicant who registers or applies for employment or help. [1953 c.694 §19]

658.205 Sending persons to illegally operated businesses prohibited. No employment agency shall send or cause to be sent any person as an employe to any illegally operated business the character of which the agency could have ascertained upon reasonable inquiry. [1953 c.694 §20]

658.215 Sending minors to places where intoxicating liquors consumed. No employment agency shall refer any minor under the age of 21 years for employment to any place where intoxicating liquors are to be consumed on the premises. [1953 c.694 §21]

658.225 Sending persons to place where labor dispute exists. No employment agency shall refer any applicant for employment to any place where a strike, lockout or other labor dispute exists without notifying the applicant of such conditions and shall in addition thereto make a written statement of such facts, a copy of which is to be given to the applicant. [1953 c.694 §22]

658.235 Division of charges with other persons. No employment agency shall divide charges for services with an employer, agent or employe of an employer or person to whom applicants are referred for employment. [1953 c.694 §23]

658.245 Actions upon licensee's bond. All actions brought in any court against any employment agency may be brought in the name of the person damaged upon the bond deposited according to ORS 658.075 and may be transferred and assigned as other claims for damages. The amount of damages claimed by the plaintiff determines the jurisdiction of the court in which action is to be brought. [1953 c.694 §24]

658.250 to 658.985 [Reserved for expansion]

658.990 [Repealed by 1953 c.694 §30]

658.991 Penalties. Violation of this chapter is punishable, upon conviction, by a fine of not less than \$25 nor more than \$250 or by imprisonment in the county jail for not more than 60 days, or by both. [1953 c.694 §26]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel