Chapter 658

1973 REPLACEMENT PART

Employment Agencies and Contractors; Occupational Counseling and Training

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EMPLOYMENT AGENCIES

658.005 Definitions for ORS 658.005 to 658.245. As used in ORS 658.005 to 658.245, unless the context requires otherwise:

(1) "Applicant" means an individual who proposes actively to engage in the operation of an employment agency and who is applying for a license under ORS 658.005 to 658.245, except as provided in subsection (2) of ORS 658.035.

(2) "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.

(3) "Employment agency" or "agency" means any of the following:

(a) The business of conducting in any capacity an intelligence office, employment agency, registry or any agency, business or office that procures, offers, promises or attempts to procure employment or engagements for others, or that registers persons seeking to procure or retain employment or engagement, or that gives information as to where and from whom such help, employment or engagement may be procured, or that provides employment or engagements, where a fee or other valuable consideration is exacted or attempted to be collected from the applicant for employment, directly or indirectly, for such services and regardless of where such business is conducted.

(b) Any person, service, bureau, organization or club that by advertisement or otherwise offers, as one of its main objects or purposes, to procure employment for any person who will pay for its services, or that collects dues, tuition or membership or registration fees of any sort, where the main object of the person paying the same is to secure employment.

(4) "Employment agency" or "agency" does not include a nursing school, business school or vocational school that does not charge a fee for placement.

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

(6) "Licensee" means a natural person licensed under ORS 658.005 to 658.245, except as provided in subsection (3) of ORS 658.025.

[1953 c.694 §1; 1959 c.395 §15; 1961 c.380 §1; 1973 c.678 §1]

658.008 Policy. The purpose of ORS 658.005 to 658.245 is to protect the health, safety and general welfare of the people of Oregon in their dealings with employment agencies. To accomplish this purpose the Legislative Assembly intends to provide a procedure:

(1) For determining where and by whom employment agencies will be operated in this state.

(2) To assure the public that persons operating employment agencies in this state are continuously qualified by experience, training, good character and responsibility.

(3) To assure the public that the practices and procedures of employment agencies will result in individuals acquiring and retaining employment reasonably suited to their skills and needs.

(4) To regulate the circumstances under which charges for services may be charged or collected by employment agencies, but not to include the setting of maximum permanent fees in schedules filed by employment agencies.

(5) For the administration and enforcement of ORS 658.005 to 658.245 by the Labor Commissioner.

(6) By which the cost of administering and enforcing ORS 658.005 to 658.245 is defrayed by the collection of fees and penalties in connection with licensing.

[1973 c.678 §24]

658.010 [Repealed by 1953 c.694 §30]

658.015 Exemptions from ORS 658.005 to 658.245. (1) ORS 658.005 to 658.245 do not apply to farm labor contractors subject to ORS 658.405 to 658.455.

(2) ORS 658.005 to 658.245 do not apply to any nonprofit organization or corporation organized for the purpose of economic adjustment, civic betterment and the giving of vocational guidance and placement to its

members, when all of the following requirements are met:

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

(b) Membership dues and fees are used solely for the maintenance of the organization or corporation.

(c) No fee is charged for employment services.

(d) On request of the Labor Commissioner, the organization or corporation files with the commissioner, on or before the first day of April of each year, a copy of its constitution or articles of incorporation and its bylaws, together with a sworn statement setting forth its place of business; the names and addresses of its officers, directors and employes, the salaries they receive and the services they actually perform; and the various benefits furnished to its members.

(3) As used in subsection (2) of this section:

(a) "Civic betterment" means the promotion of the common good and general welfare of the people of this state or any political subdivision therein.

(b) "Economic adjustment" means the promotion of a program by which individuals are helped to acquire new vocational skills, add to their existing vocational skills or change their type of vocation.

(4) ORS 658.005 to 658.245 do not apply to a bona fide labor organization of workers or a nonprofit organization or corporation that has been formed in good faith for the regulation, promotion and advancement of the general professional interests of its members and that incidentally maintains a placement service principally engaged in securing employment for such members.

(5) ORS 658.005 to 658.245 do not apply to any person, bureau or organization whose charges for services are paid only by employers to whom individuals seeking employment are referred or only by employers for purposes of identifying, appraising or recommending individuals for employment so long as all of the following conditions are continuously met:

(a) The compensation for each such position is at the rate of not less than $20,000 per year.

(b) In no instance is the individual who is identified, appraised, referred or recommended for such a position charged a deposit, retainer or fee directly or indirectly in connection with such identification, appraisal, referral or recommendation, or for registration or for preparation of any resume, or on account of any other personal service performed by the person, bureau or organization and who in the course of said business is retained by the employer to identify, appraise, refer or recommend individuals.

(c) In no instance does the person, bureau or organization advertise positions for which the compensation is less than $20,000 per year, or that any of the fees mentioned in paragraph (b) of this subsection are charged by such person, bureau or organization.

[1953 c.694 §25; 1959 c.395 §16; 1961 c.380 §2; 1973 c.678 §2]

658.020 [Repealed by 1953 c.694 §30]

658.025 Operation of employment agency without license prohibited; posting license; types of persons authorized to be licensed. (1) Except as provided in subsection (2) of this section, no person shall establish or maintain an employment agency without a valid license. The license shall be posted conspicuously in the principal office of the employment agency, and a copy of the license shall be posted conspicuously in each branch office of the employment agency.

(2) Nothing in ORS 658.005 to 658.245 requires a bona fide employe of an employment agency, who has no financial interest in the agency other than his salary or commission, to obtain a license.

(3) Employment agency licenses may be issued by the Labor Commissioner only as follows:

(a) To a natural person operating as a sole proprietor under his own name or under a bona fide assumed business name.

(b) To two or more natural persons operating as a partnership under their own names or under a bona fide assumed business name.

(c) To the majority shareholder or majority shareholders of a bona fide corporation which is licensed to operate an employment agency.

(d) To a bona fide corporation whose majority shareholder or shareholders are also licensed to operate an employment agency.

[1953 c.694 §2; 1961 c.380 §3; 1973 c.678 §3]

658.030 [Repealed by 1953 c.694 §30]

658.035 Application for license; qualifications of licensee. (1) 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:

(a) The proposed business name of the employment agency and the address of the applicant. The Labor Commissioner shall reject any proposed name that is the same or similar to that of a licensed employment agency. If, however, the applicant is a member of an employment agency system having other enfranchised members, the Labor Commissioner shall accept a proposed name that utilizes the name of the system together with a designation not already utilized by another agency that the commissioner determines will reasonably serve to identify the applicant. Notwithstanding the provisions of this paragraph, the Labor Commissioner shall approve as the proposed name, except where a different name is applied for, the name of an applicant as it appears on a valid, current employment agency license issued on or before June 30, 1973.

(b) The address of each place where the business of the employment agency is to be conducted.

(c) The business or occupation of the applicant for the two years immediately preceding the date of application, and such other information as the Labor Commissioner finds reasonably necessary to establish the character and responsibility of the applicant and the manner in which he proposes to conduct an employment agency.

(d) The names and addresses of all persons, except bona fide employes on regular salaries or commissions, who are financially interested in the operation of the employment agency to be licensed, together with the amount of their respective financial interests.

(e) Such answers to questions and other information as will assure the Labor Commissioner of the applicant's eligibility for a license.

(2) One or more applicants or licensees, lawfully organized as a corporation or partnership or lawfully operating under an assumed name, may apply for a license under this section to conduct an employment agency as a corporation or partnership or under an assumed name.

(3) The applicant for a license, to be eligible therefor, shall:

(a) Show financial responsibility.

(b) Be of good character.

(c) If an individual, be at least 18 years of age.

(d) Be a person whose license to operate an employment agency in any state has not been denied or revoked within three years before the date of application.

(e) If an individual, be a person with a minimum of one year's experience with an employment agency or with equivalent experience in the opinion of the Labor Commissioner.

(f) If a corporation, in addition to satisfying the applicable requirements of paragraphs (a) to (e) of this subsection, have a manager at each place where its business as an employment agency is conducted who satisfies the requirements of paragraphs (b) to (e) of this subsection.

[1953 c.694 §3; 1961 c.380 §4; 1973 c.678 §4]

658.040 [Repealed by 1953 c.694 §30]

658.042 Examination of license applicants; scope and nature of examination; Bureau of Labor to retain test papers. (1) As used in this section, "applicant" means, in the case of a corporation, the manager at each place where the business of the corporation as an employment agency is conducted unless the management of the agency is actively carried on by the majority shareholder or shareholders.

(2) No employment agency license shall be issued until an applicant has successfully passed a qualifying examination designed to test his ability, knowledge and proficiency to conduct and manage an employment agency, including his knowledge of the provisions of ORS 658.005 to 658.245.

(3) The Labor Commissioner shall cause to be prepared, administered, graded and reviewed qualifying examinations for applicants. The qualifying examination shall be given at least once a month at such places throughout the state as may be designated by the Labor Commissioner. No applicant may be given more than two examinations in the same year.

(4) The examination shall include subject matter selected by the Labor Commissioner to demonstrate an applicant's ability, knowledge and proficiency to conduct and manage an employment agency. Examinations shall be practical in character and of such length and scope as the Labor Commissioner considers necessary. Examinations shall be written and both questions and answers shall be in the English language. The examination procedure, method of grading,

general average required of successful applicants and other details of the examinations not expressly provided for in this section shall be determined by the Labor Commissioner.

(5) The examination papers of an applicant shall be kept by the Bureau of Labor for a period of one year and then may be destroyed. Those papers shall be open to inspection during the one-year period only by the Bureau of Labor, the applicant or his attorney or a court of competent jurisdiction in a proceeding where the contents of the papers are properly involved.
[1973 c.678 §5b]

658.045 [1953 c.694 §4; 1961 c.380 §5; repealed by 1973 c.678 §20]

658.050 [Repealed by 1953 c.694 §30]

658.055 Investigation of applicant and place of business. (1) Upon receipt of an application for a license, the Labor Commissioner shall cause an investigation to be made concerning:

(a) The matters stated in the application.

(b) The character and responsibility of each applicant.

(c) The suitability of all premises designated in the application as places where the business of the employment agency is to be conducted.

(2) Each applicant is considered to have authorized the Labor Commissioner to investigate his police record and credit reputation. In conducting the investigation, the Labor Commissioner may utilize the services of a private credit reporting organization.
[1953 c.694 §5; 1961 c.380 §6; 1973 c.678 §5]

658.060 [Repealed by 1953 c.694 §30]

658.062 License period for agency business conducted as partnership; effect of termination of activities of a partner. In the case of a partnership, a license shall be valid only as long as the person or persons qualifying for their individual licenses are active and bona fide partners. If the person or persons individually licensed cease for any reason whatsoever to be connected with the partnership, such partnership shall have 90 days to qualify a person to retain the partnership license, and if it fails to do so, the license shall after notice and hearing be suspended until such time as the partnership qualifies for such license. A partnership whose license is suspended pursuant to this section shall not carry on the business of an employment agency during the period of such suspension.
[1973 c.678 §10b]

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 if any place where the business of the employment agency is to be conducted is maintained:

(a) In rooms also used for living or sleeping quarters or in other rooms connected thereto by an entrance.

(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 preceding the date of application.

(2) A license shall be granted or refused within 30 days after the date of examination of the applicant as provided in ORS 658.042.
[1953 c.694 §6; 1961 c.380 §7; 1973 c.678 §5c]

658.070 [Repealed by 1953 c.694 §30]

658.075 Applicant to file bond; reduction of amount of bond. (1) Before a license is issued or renewed for any employment agency, each applicant shall file with the Labor Commissioner his surety bond of $2,000, payable to the people of the State of Oregon, conditioned that the applicant will comply with ORS 658.005 to 658.245 and will pay:

(a) All sums legally owing to any person when the employment agency or its agents have received such sums;

(b) 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 acting within the scope of their employment; and

(c) All sums legally owing to any employe of the employment agency.

(2) For the purposes of this section, each general partner shall furnish the required bond. When a corporation is operated by a licensee, the bond shall be in the name of the licensee and the corporation.

(3) The Labor Commissioner may reduce the amount of the required bond upon application for reduction and proof submitted to him that the employment agency has operated for at least three years without

a claim having been filed against a bond of the agency.
[1953 c.694 §7; 1961 c.380 §8; 1973 c.678 §6]

658.076 Interim license in case of transfer of interest in agency business; application form; bond; fee; license period. (1) Upon the sale of an employment agency or in case of the death of an individual licensee who leaves an employment agency business as part of his estate the Labor Commissioner may, upon proper application, and if he believes sufficient trained and experienced personnel will be available to operate the agency in conformity with law, issue an interim employment agency license to the purchaser or to the personal representative, or the nominee of the personal representative, of the deceased licensee. In the case of the dissolution by death of a licensed partnership, the Labor Commissioner may, upon proper application, issue to the surviving partner or partners an interim employment agency license.

(2) The application shall be in writing and subscribed and sworn to by the person to whom the interim employment agency license is to be issued. The application shall be accompanied by the bond and the fee required for an interim employment agency license.

(3) An interim employment agency license shall be effective for a period of one year and shall not thereafter be renewed or continued.
[1973 c.678 §10c]

658.078 Licensees to keep records; inspection of records; furnishing copies to commissioner. Each person licensed to operate an employment agency, shall keep accurate and current records of all contracts, job orders, referrals, applications, receipts of moneys received from applicants, copies of advertisements, and other records reasonably necessary for the administration of ORS 658.005 to 658.245, and shall maintain those records separate from records of any other business conducted by that person. The Labor Commissioner or his representative may at any reasonable time inspect the records of the employment agency pertaining to placements, and need not give notice before such inspection. An employment agency shall furnish to the Labor Commissioner upon request a true copy of its records pertaining to placement, or any portion thereof, and shall make such reports relating to complaints of applicants or employes as the Labor Commissioner requires.
[1961 c.380 §20; 1973 c.678 §7]

658.080 [Repealed by 1953 c.694 §30]

658.085 License and examination fees. (1) Fees required to be paid to the Labor Commissioner by applicants or licensees shall be paid in amounts determined by the Labor Commissioner and approved by the Executive Department. The amounts of fees shall be such as are determined by the Labor Commissioner to be reasonably necessary to provide only sufficient funds for the administration and enforcement of ORS 658.005 to 658.245, but no fee shall exceed the following:

(a) For each new application for an employment agency license, $50.

(b) For examination or reexamination of an applicant for an employment agency license, $50.

(c) For a change in the place of business of an employment agency, $50.

(d) For each new application for a branch office license, $100.

(e) For annual employment agency license, $200.

(f) For an annual branch office license, $100.

(g) For an interim employment agency license, $100.

(h) For reinstatement of a license revoked or suspended, in addition to the current annual license fee, $200.

(2) Fees received pursuant to this section are not refundable, and annual fees shall not be prorated.

(3) All fees received pursuant to this section shall be credited to the Bureau of Labor Account and shall be used only for the administration of ORS 658.005 to 658.245.
[1953 c.694 §8; 1957 c.465 §12; 1971 c.206 §1; 1973 c.678 §8]

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 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 paragraphs (a), (b) and (d) of subsection (1) of ORS 658.035.

(3) No license may be renewed under this section if there is a change in the licensee or licensees.
[1953 c.694 §9; 1961 c.380 §9; 1973 c.678 §9]

658.100 [Repealed by 1953 c.694 §30]

658.105 Licenses limited to agency and place for which issued; amending licenses. (1) Except as provided in subsection (2) of this section, licenses under ORS 658.005 to 658.245 are not transferable and apply only to the employment agency for which they are issued at the places stated in the application.

(2) If an employment agency proposes to change the place where its business is conducted, or proposes to conduct its business in an additional place, it shall give the Labor Commissioner written notification 10 days in advance and pay the appropriate fee for each change or additional place. Within 30 days after receiving notification, the Labor Commissioner shall conduct an investigation and issue an amendment to the existing license for the employment agency showing the new addresses, if he finds that the employment agency still complies with ORS 658.065.
[1953 c.694 §10; 1961 c.380 §10; 1971 c.206 §2; 1973 c.678 §10]

658.110 [Repealed by 1953 c.694 §30]

658.115 Suspension or revocation of licenses; penalty in lieu of suspension; disciplinary proceedings. (1) The Labor Commissioner shall revoke or suspend any license issued under ORS 658.005 to 658.245 whenever it appears to the commissioner that if the licensee were then applying for a license his application should be denied or whenever the licensee has violated any provisions of ORS 658.005 to 658.245 or of the rules and regulations adopted pursuant thereto.

(2) If a license issued under ORS 658.005 to 658.245 is suspended for a period of 30 days or less, upon petition of the affected licensee filed with the Labor Commissioner prior to the effective date of the suspension, the commissioner may accept from the affected licensee payment of a penalty fixed by the commissioner, but not less than $100 nor more than $2,000, if the commissioner is satisfied that acceptance of such a penalty in lieu of suspension is consistent with the purposes of ORS 658.005 to 658.245. Upon acceptance of payment of the penalty, the commissioner shall cancel the suspension. In his discretion the commissioner may impose such penalty without suspending the license. If the action of the commissioner under this subsection is not sustained upon appeal, the commissioner shall promptly refund the amount of the penalty paid.

(3) All disciplinary proceedings under this section shall be carried out in accordance with ORS 183.310 to 183.500.
[1961 c.380 §11; 1973 c.678 §11]

658.120 [Repealed by 1953 c.694 §30]

658.125 Judicial review of licensing order of Labor Commissioner. 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 judicial review thereof in accordance with ORS 183.310 to 183.500.
[1953 c.694 §12; 1961 c.380 §12; 1971 c.734 §101]

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 participate 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 method of computing the agency's fee for services, and 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 by filing a revised schedule with the Labor Commissioner and by posting a copy thereof in a conspicuous position in each room of the employment agency frequented by individuals seeking help or employment. However, no change shall become effective until 14 days after the date of filing thereof with the Labor Commissioner or until seven days after being posted in the agency, whichever is later.
[1953 c.694 §14; 1961 c.380 §13; 1973 c.678 §12]

658.150 [Repealed by 1953 c.694 §30]

658.155 Posting and furnishing schedule of charges; charge in excess of schedule prohibited; posting copies of rules and statutes. (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 individuals seeking 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 offices of the employment agency.

(2) No charge for service to be collected shall be in excess of the schedule in the contract to procure employment between the agency and the applicant for employment.

(3) Except as provided in subsection (3) of ORS 658.185 the charges for service shall be listed on the schedule as the percentage of the stated compensation for the first month of employment.

(4) An employment agency shall provide any person who requests a copy of its schedule of charges for services with a copy of the schedule in effect at the time the request is made.

(5) Every employment agency shall maintain in a conspicuous place in the applicant reception area of such agency a printed copy of ORS 658.005 to 658.245 and of such other statutes or rules as may be specified by the Labor Commissioner. The Labor Commissioner shall furnish printed copies of statutes and rules required to be maintained by employment agencies.

[1953 c.694 §15; 1961 c.380 §14; 1971 c.235 §1; 1973 c.678 §13]

658.160 [Repealed by 1953 c.694 §30]

658.165 Order necessary before referral or charge to be made; obtaining employment other than that ordered; disputes regarding fees. (1) No employment agency shall accept a charge for service from an individual seeking employment or refer an individual to an employer without having first obtained, orally or in writing, a bona fide order from an employer seeking help which is to be answered by the individual.

(2) If an employment agency sends an applicant for employment and the applicant, within 90 days after the date of referral, secures employment other than that position specified in the bona fide order from the employer to which the applicant was sent, but with the same employer, the agency shall be entitled to a fee for the employment of the applicant, payable by the applicant, computed under the terms of the schedule of charges in effect in the agency at the time of referral. The expiration date of the referral shall be stated in the contract.

(3) In disputes between employment agencies concerning the earning of a fee for placement of an applicant, the fee shall be earned by the agency responsible for the applicant being placed. A reasonable effort shall be made by the billing agency to determine that it is entitled to the fee. The applicant shall be responsible for only one full fee for any single placement, and this fact shall be stated in the contract.

[1953 c.694 §16; 1961 c.380 §15; 1973 c.678 §14]

658.170 [Repealed by 1953 c.694 §30]

658.172 Employment agency contracts to be written; required contract and job referral provisions. (1) The contract or any job referrals between an employment agency and an applicant for whom such agency is to procure employment shall be in writing. The employment agency shall give the applicant a copy of the contract.

(2) The job referral document, which shall be assigned the same number as the receipt of the job order by the agency, shall include:

(a) The name, address and telephone number of the employment agency.

(b) The name and address of the person giving the order for help, the date and consecutive number of the receipt of such order by the agency and the manner of transmission of such order.

(c) The date of issuing the job referral document.

(d) The name of the applicant, the name and address of the person to whom the applicant is sent for interview and the address where the applicant is to report for employment.

(e) The approximate amount of fee to be charged and to be collected from the applicant, if he accepts employment, and a statement that the employer is not responsible for paying the fee.

(f) The kind of work or employment.

(g) The daily hours of work and the approximate wages or salary, including any consideration of privilege.

(h) If any labor trouble exists at the place of employment, a statement of that fact.

(3) The job referral document shall be signed by a representative of the employment agency, and shall be delivered to the applicant or sent by United States mail to the applicant.

(4) The contract between the employment agency and the applicant shall include:

(a) The name, address and telephone number of the employment agency.

(b) The name of the applicant.

(c) The date and consecutive number of the contract.

(d) A statement that the applicant is under no financial obligation to the employment agency by the mere signing of the contract, and that the applicant is obligated for the charge for services of the agency only if he accepts and actually starts work in a position made available as a direct result of efforts of the agency, if the position is one on which the agency has a bona fide job order at the time of his referral to an employer or is a different position accepted by him with the same employer within 90 days after the date of referral and involves skills he had at the time of referral under a bona fide job order and if the charges for service are based upon the schedule of charges filed by the agency pursuant to ORS 658.145.

(e) The schedule of charges filed by the agency pursuant to ORS 658.145.

(f) Any other term, condition or understanding agreed upon between the agency and the applicant.

(g) A statement that the employment agency is licensed by the Bureau of Labor, setting forth the address thereof as specified by the Labor Commissioner, and a statement that inquiries concerning the contract may be sent to the Bureau of Labor at that address.

(h) At the bottom of the contract, a notice to the effect that the contract is the property of the applicant and shall not be taken from him.

(5) Each contract shall be made in duplicate, both to be signed by the applicant and the person acting for the employment agency. One copy shall be given to the applicant and the other shall be kept on file at the agency.

(6) Prior to its use, the form and content of any contract between an employment agency and an applicant shall be submitted to the Labor Commissioner. If such contract complies with ORS 658.005 to 658.245, it shall be approved by the Labor Commissioner.

[1971 c.235 §3; 1973 c.678 §15]

658.174 Employment agency contracts in violation of law prohibited. No employment agency shall knowingly issue a contract for employment containing any term or condition that, if complied with, would be in violation of law, or attempt to fill an order for help to be employed in violation of law.

[1973 c.678 §7b]

658.175 [Repealed by 1961 c.380 §16 (ORS 658.176 enacted in lieu of ORS 658.175)]

658.176 Employment necessary before charge to be made. No fee or charge may be required or accepted from an individual seeking employment prior to the time such individual obtains employment and actually starts work. However, the employment agency may specify the terms of payment in the contract, or, after the applicant accepts employment, but before starting work, enter into an agreement for the payment of the agency's charge, providing payment is to commence only upon the condition and after the date the applicant starts work.

[1961 c.380 §17 (enacted in lieu of ORS 658.175); 1973 c.678 §16]

658.180 [Repealed by 1953 c.694 §30]

658.185 Limitation on charges; manner of calculating certain charges; credits and refunds. (1) As used in this section:

(a) "Permanent employment" means all employment that lasts 90 calendar days or more.

(b) "Temporary employment" means employment that is contemplated at the time of referral by an employment agency to last less than 90 calendar days regardless of the reason for termination of the employment.

(2) (a) If an individual is employed in temporary employment through the services of an employment agency, the charge for services paid by the individual shall not exceed one-ninetieth of the charge for permanent employment for each consecutive calendar day during the period the individual is employed or compensated as though employed.

(b) If an individual leaves employment within 90 days after the starting date of employment, the employment agency shall reduce the charge for services payable by the individual to that payable for temporary

employment under paragraph (a) of this subsection and shall refund any charge paid in excess of that amount.

(c) Notwithstanding the other provisions of this section, in no instance in which the employment secured is subsequently terminated shall the charge for services by an employment agency be greater than the total gross earnings of the individual.

(d) All interest, fees or other charges paid or required to be paid to any person or organization in order to procure the funds to pay an employment agency's charge for services shall be allowed as a credit against the charge. The provisions of this paragraph shall be stated in all contracts provided for in ORS 658.172.

(e) A refund when due shall be made within 10 days after request therefor by the individual. If the decision of the employment agency is not to make a refund, the agency shall notify the individual and the Labor Commissioner in writing, within such 10-day period, as to the specific reasons or circumstances for which the refund is not made. If the agency fails to properly notify the individual and the Labor Commissioner or fails to tender a refund within the 10-day period, the agency shall be liable to the individual in the amount of an additional sum equal to the amount of the refund.

(3) (a) If an individual secures employment in which he is to be paid on the basis of straight commissions, or a drawing account against commissions, or either a drawing account or salary plus commissions, the charge for services payable by the individual may be predicated upon the projected total gross earnings of the individual during the first year of employment as estimated by the employer and upon the employer demonstrating to the agency reasonable grounds therefor.

(b) Upon the conclusion of the individual's first six months and the conclusion of his second six months of employment, a computation of his actual total gross earnings may be provided by the individual to the agency, and, predicated upon appropriate proof of such earnings, an adjustment in the charge for services shall be made by which either the agency shall refund to the individual any excess charge paid by him or the individual shall pay to the agency any deficiency thereon.

(c) If the individual's employment is terminated prior to the conclusion of the first 12 months of employment, the actual total gross earnings of the individual for the period of employment shall be projected to 12 months on a pro rata basis as though the individual had been employed for the entire period of 12 months, and a computation shall be made thereon. The charge for services paid or payable by the individual shall be predicated upon such computation as though he had been so employed.

[1953 c.694 §18; 1961 c.380 §18; 1969 c.493 §97; 1973 c.678 §17]

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) (a) 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 name and address of the office of the employment agency as they appear on its license.

(b) For the purposes of this subsection, it is sufficient compliance if the name actually used by the agency in its business is a registered assumed business name or the name of a bona fide corporation that clearly identifies the agency and the fact it is an employment agency, although the entire licensed name is not used.

(3) No employment agency shall knowingly give any false information or make any false promises or representations concerning an engagement or employment to any person who registers or applies for employment or help.

(4) Except in an advertisement in a section of a publication that otherwise clearly designates the advertisement as that of an employment agency, every employment agency shall use the word "agency" or "agencies" as part of its licensed name or after its licensed name. However, any employment agency that, as its sole means of procuring or attempting to procure employment or engagements for others, places the qualifications of applicants before prospective employers in areas exclusively outside the United States shall not be required to include the word "agency" or "agencies" in its title or in any other identifying materials used in the conduct of its business. The Labor Commissioner, in his discretion, may waive the provisions of this subsection in

individual cases for good cause shown by the applicant for waiver.
[1953 c.694 §19; 1961 c.380 §21; 1973 c.678 §18]

658.197 Maintaining legal proceeding by unlicensed person prohibited. Except to appeal from an act or determination of the Labor Commissioner, no person transacting business regulated by ORS 658.005 to 658.245 is entitled to demand, receive or accept any fee directly or indirectly, or maintain any suit or action in the courts of this state involving such business, in connection therewith, without alleging and proving that he was licensed to transact such business.
[1973 c.678 §25]

658.205 Prohibited agency employment activities. (1) 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.

(2) No employment agency shall knowingly permit any person of bad character to frequent, or be employed by, such agency.

(3) No employment agency shall permit persons in its employment to use any names other than their legal names in the course of, and in respect to, their employment with the agency. However, the Labor Commissioner may, in his discretion, waive the provisions of this subsection in individual cases and for good cause shown by the person requesting the waiver.

(4) No employment agency shall accept any application for employment of a minor or place or assist in placing any minor in employment if the employment would be in violation of any law regulating the employment of minors or of any rule, regulation or order adopted pursuant to such law.

(5) No employment agency shall refer an individual seeking employment to any place where a strike, lockout or other labor dispute exists if it has knowledge or reasonably should have knowledge of the same, without notifying the individual of such conditions in writing.

(6) No employment agency shall refer an applicant for employment without notifying such applicant whether a labor contract is in existence at the establishment to which the applicant is being sent, and whether union membership is required.

(7) No employment agency shall divide charges for services with an employer, agent or employe of an employer or person to whom individuals are referred for employment. This subsection does not prohibit cooperative arrangements between employment agencies so long as an applicant for employment does not thereby pay more than one charge for all services performed.

(8) No employment agency shall charge an applicant a charge for services for accepting employment with such employment agency or any subsidiary of that agency.

(9) No employment agency shall charge an applicant a charge for services when help is furnished to an employer, an agent, any employe of an employer, a member or person who has a financial interest in such employment agency.

(10) No employment agency shall request or accept an assignment of wages from an applicant for employment.
[1953 c.694 §20; 1973 c.678 §19]

658.210 Rulemaking authority. The Labor Commissioner may adopt rules and regulations reasonably necessary for the administration of ORS 658.005 to 658.245.
[1973 c.138 §3]

Note: 658.210 was not made a part of ORS chapter 658 or any series therein by legislative action.

658.215 [1953 c.694 §21; 1961 c.380 §22; repealed by 1973 c.678 §20 and by 1973 c.827 §83]

658.220 Injunctive relief for violation of ORS 658.005 to 658.245; commissioner authorized to issue subpenas. (1) When it appears to the Labor Commissioner that any person is engaged or about to engage in an act or practice that constitutes a violation of ORS 658.005 to 658.245 or the rules and regulations adopted pursuant thereto, the Labor Commissioner may, without bond, obtain an order from an appropriate circuit court enjoining any such act or practice. If he shall prevail the Labor Commissioner is entitled to recover, in addition to other costs, such sum as the court or judge may adjudge reasonable as attorney fees.

(2) The Labor Commissioner may issue subpenas in any investigation in a contested case he is conducting outside of a court proceeding or as otherwise necessary for the performance of any of his duties under ORS 658.005 to 658.245.
[1973 c.678 §26]

658.225 [1953 c.694 §22; 1961 c.380 §23; repealed by 1973 c.678 §20]

658.230 Employment Agencies Advisory Board; members; qualifications; term; removal; meetings; compensation and expenses; duties and powers. (1) There is

created in the Bureau of Labor an Employment Agencies Advisory Board consisting of eight members appointed by the Labor Commissioner.

(2) Four members of the board shall be representatives of the employment agency industry, each of whom shall be active in an employment agency and be a proprietor, partner or corporate officer thereof, and shall have held a valid, current Oregon employment agency license for three consecutive years immediately preceding his appointment. Four members of the board shall be public members.

(3) Each member of the board shall have been a citizen and a resident of the State of Oregon for at least three years immediately preceding his appointment.

(4) Each member of the board, other than the public members, shall be of recognized standing in the employment agency industry.

(5) Except as otherwise provided in this subsection, each member of the board shall hold office for a term of four years, and until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. No member shall serve more than two consecutive terms of office. Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

(6) The Labor Commissioner may remove any member of the board for misconduct, incompetency or neglect of duty.

(7) (a) The board shall meet at least once in each calendar quarter of each year. All meetings of the board shall be open and public, and all persons shall be permitted to attend those meetings.

(b) Five members of the board constitute a quorum for the transaction of business, but the affirmative vote of five members is necessary for any act of the board.

(c) The board shall elect from its members, each for a term of one year, a chairman and a vice chairman, and may appoint such committees as it deems necessary to carry out its duties.

(8) The Labor Commissioner or his deputy shall serve ex officio as the secretary of the board, but shall not be a member of the board.

(9) Each member of the board shall receive compensation and expenses as provided in ORS 292.495.

(10) The board shall:

(a) Inquire into the needs of the employment agency industry, the functions of the Bureau of Labor relating to employment agencies and the matter of the policy thereof, and make such recommendations with respect thereto as, after consideration, may be deemed important and necessary for the welfare of the state, the health of the public and the welfare and progress of the employment agency industry.

(b) Confer and advise with the Labor Commissioner as to how the Bureau of Labor, in carrying out its functions relating to employment agencies, may best serve the state, the public and the employment agency industry.

(c) Consider and make appropriate recommendations on its own initiative as to changes in, additions to or deletions of rules and regulations adopted by the Labor Commissioner for the administration of ORS 658.005 to 658.245 as, after consideration, may be deemed important and necessary.

(d) Consider and make appropriate recommendations in all matters relating to employment agencies submitted to it by the Labor Commissioner.

(e) Confer and advise with the Labor Commissioner in the preparation of any rules and regulations for the administration of ORS 658.005 to 658.245 to be adopted, amended or repealed.

(f) Assist the Labor Commissioner in the collection of such information and data as the Labor Commissioner may deem necessary to the proper administration of ORS 658.005 to 658.245.

(g) Assist the Labor Commissioner in preparation of the examination required under ORS 658.042.

[1973 c.678 §22]

658.235 [1953 c.694 §23; 1961 c.380 §24; repealed by 1973 c.678 §20]

658.245 Actions upon bonds of licensees. Actions against any employment agency may be brought in the name of the person damaged upon one or more of the bonds deposited with the application for issuance or renewal of the license for that agency 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; 1961 c.380 §25]

FARM LABOR CONTRACTORS

658.405 Definitions for ORS 658.405 to 658.455. As used in ORS 658.405 to 658.455 and subsections (2) and (3) of ORS 658.991, unless the context requires otherwise:

(1) "Farm labor contractor" means any person who, for an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers to perform farm labor for another in connection with the production or harvesting of farm products; or who recruits, solicits, supplies or employs workers on behalf of an employer engaged in the growing, production or harvesting of farm products; or who, in connection with the recruitment or employment of farm labor, furnishes board or lodging for workers. However, "farm labor contractor" does not include:

(a) Farmers, their permanent employes, advertising media, platoon leaders or individuals engaged in the solicitation or recruitment of persons for dayhaul work on a farm or in connection with the growing, production or harvesting of farm products;

(b) The Oregon State Employment Service; or

(c) A crew leader.

(2) "Crew leader" means the member of a group of farm workers who (a) acts as spokesman for the group, (b) travels with the group from another state into Oregon, (c) performs agricultural work along with other group members. He may also gather the group of workers in his home state, help to transport them to Oregon and do supervising or other duties for the farmer so long as he receives no extra compensation from other group members for such duties or services, and so long as the employer pays the members of the group directly and individually for their labor. A crew leader may transport workers from their local place of residence to their place of employment so long as he does not perform this service for a profit.

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

[1959 c.395 §1; 1961 c.390 §1]

658.407 Commissioner to administer and enforce ORS 658.405 to 658.455. The Labor Commissioner shall administer and enforce ORS 658.405 to 658.455, and in so doing he shall:

(1) Investigate and attempt to adjust equitably controversies between farm labor contractors and farm workers with respect to claims arising under subsection (4) of ORS 658.415.

(2) Take appropriate action to establish the liability or lack thereof of the farm labor contractor for wages of his employes and if appropriate proof exists of liability for wages the Labor Commissioner shall pay the same or such part thereof as he has funds on deposit or cause the surety company to forthwith pay the entire liability or such part thereof as the sums due under the bond will permit.

[1971 c.479 §2; 1973 c.401 §1]

658.410 Farm labor contractors must have license. Except as provided by ORS 658.425, no person shall act as a farm labor contractor without a valid license in his possession issued to him by the Labor Commissioner. The Bureau of Labor shall make rules for the issuance of duplicate licenses in the event of the loss or destruction of original licenses.

[1959 c.395 §2; 1961 c.390 §2]

658.415 Application for farm labor contractor's license; proof of insurance; proof of financial ability required; proceedings to collect wages owed by contractor. (1) Any person may file an application for a license to act as a farm labor contractor at any office of the Oregon State Employment Service. The application shall be sworn to by the applicant and shall be written on a form prescribed by the Labor Commissioner. The form shall include, but not be limited to, questions asking:

(a) The applicant's name and address.

(b) Information on all motor vehicles to be used by the applicant in his operations as a farm labor contractor.

(c) Whether or not the applicant was denied a license under ORS 658.405 to 658.455 within the preceding three years, or had such a license revoked or suspended within the preceding three years.

(d) The names and addresses of all persons financially interested, whether as partners, shareholders, associates or profit-sharers, in the applicant's proposed operations as a farm labor contractor, together with the amount of their respective interests, and whether or not, to the best of the applicant's knowledge, any of these persons was denied a license under ORS 658.405 to 658.455 within the preceding three years, or had such a license revoked or suspended within the preceding three years.

(2) Each applicant shall furnish a sworn written statement, providing any information required by the Labor Commissioner relating to the applicant's character, competence, responsibility and the manner and method by which he proposes to conduct his operations as a farm labor contractor if he is licensed.

(3) Each applicant shall furnish satisfactory proof with his application of the existence of a policy of insurance in an amount adequate under rules issued by the Bureau of Labor for vehicles to be used to transport workers.

(4) Each applicant shall submit with his application and shall continually maintain thereafter, until excused, proof of financial ability to promptly pay the wages of his employes and other obligations specified in this section. The proof required in this subsection shall be in the form of a corporate surety bond of a company licensed to do such business in Oregon, a cash deposit or a deposit the equivalent of cash. For the purposes of this subsection it shall be deemed sufficient compliance if the farm labor contractor procures a savings account at a bank or savings and loan institution in the name of the Labor Commissioner as trustee for the employes of the farm labor contractor and others as their interests may appear and delivers the evidence of the account and the ability to withdraw the funds to the Labor Commissioner under the terms of a bond approved by the Labor Commissioner.

(5) The amount of the bond and the security behind the bond shall be $5,000.

(6) All corporate surety bonds filed under this section shall be executed to cover liability for a period of one year from the date of acceptance by the Labor Commissioner. During the period for which executed no bond can be canceled or otherwise terminated.

(7) No person shall issue a temporary permit under ORS 658.425 unless the applicant submits proof to the person, on a form provided and signed by the Labor Commissioner, that the applicant has complied with the requirements of this section.

(8) Any person who uses the services of a farm labor contractor shall be liable as follows if the farm labor contractor has failed to comply with any of the provisions of this section:

(a) Be personally and jointly and severally liable to any employe so far as such employe has not been paid his wages in full.

(b) Be personally liable for all penalty wages which have occurred under ORS 652.150 for the wages due under this section.

(c) Be personally liable for court costs and disbursements including a reasonable attorney fee to be set by the court or judge if suit or action is commenced to enforce any of the provisions of this section and the plaintiff prevails.

(9) If any person suffers any loss of wages from his employer or any other loss specified in subsection (17) of this section he shall have a right of action in his own name against the surety upon the bond or against the deposit with the Labor Commissioner:

(a) The right of action is assignable and must be included with an assignment of a wage claim, any other appropriate claim, or of a judgment thereon.

(b) The right of action shall not be included in any suit or action against the farm labor contractor but must be exercised independently after first procuring a judgment, decree, or other form of adequate proof of liability established by rule and procedure under subsection (15) of this section establishing the farm labor contractor's liability for the claim.

(10) The surety company or the Labor Commissioner shall make prompt and periodic payments on the farm labor contractor's liability up to the extent of the total sum of the bond or deposit. Payments shall be made in the following manner:

(a) Payment shall be made based upon priority of wage claims over advances made by the grower or producer of agricultural commodities for advances made to or on behalf of the farm labor contractor.

(b) Payment in full of all sums due to each person who presents adequate proof of his claim.

(c) If there are insufficient funds to pay in full the person next entitled to payment in full such person will be paid in part.

(11) No person shall bring any suit or action against the surety company or the Labor Commissioner on the bonding obligation or as trustee for the beneficiaries of the farm labor contractor under any deposit made pursuant to this section unless he has first exhausted the procedures contained in subsections (9) and (13) of this section and contends that the surety company or the Labor Commissioner still has funds which

are applicable to his judgment or acknowledgment.

(12) The Labor Commissioner shall not be prevented from accepting assignments of wage claims and enforcing liability against the surety on the bond or from applying the deposit to just wage claims in his hands.

(13) All claims against the bond or deposit shall be unenforceable unless request for payment of a judgment or other form of adequate proof of liability or a notice of the claim has been made by certified mail to the surety or the Labor Commissioner within six months from the end of the year for which the bond or deposit was executed and made.

(14) If the Labor Commissioner has received no notice as provided in subsection (13) of this section within six months after a farm labor contractor is no longer required to provide and maintain a surety bond or deposit the Labor Commissioner shall terminate and surrender any bond or any deposit under his control to the person who is entitled thereto upon receiving appropriate proof of such entitlement.

(15) The Labor Commissioner shall make rules and regulations reasonably necessary for administration and enforcement of the provisions of this section.

(16) Every farm labor contractor required by this section to furnish a surety bond, or make a deposit in lieu thereof, shall keep conspicuously posted upon the premises where employes working under him are employed, a notice specifying his compliance with the requirements of this section and specifying the name and Oregon address of the surety on the bond or a notice that a deposit in lieu of the bond has been made with the Labor Commissioner together with the address of the Labor Commissioner.

(17) The bond or deposit referred to in subsection (4) of this section shall be payable to the Labor Commissioner and shall be conditioned upon:

(a) Payment in full of all sums due on wage claims of employes.

(b) Payment by the labor contractor of all sums due to the grower or producer of agricultural commodities for advances made to or on behalf of the farm labor contractor.

(18) The office of the Oregon State Employment Service in which an application is filed under this section shall immediately forward the application form and accompanying statements to the Labor Commissioner if satisfactory evidence of adequate insurance has been furnished under subsection (3) of this section and if the applicant has paid in advance a fee of $10. The certificate of an insurance agent licensed in Oregon is satisfactory evidence of adequate insurance.

[1959 c.395 §§3, 4; 1961 c.390 §3; 1971 c.479 §3; 1973 c.401 §2]

658.420 Investigation of applicant; issuance of license; protest against issuance of license. (1) The Labor Commissioner shall conduct an investigation of each applicant's character, competence and reliability, and of any other matter relating to the manner and method by which he proposes to conduct and has conducted his operations as a farm labor contractor.

(2) The Labor Commissioner shall issue a license within 15 days after the day on which the application therefor was received in his office if he is satisfied as to the applicant's character, competence and reliability.

(3) Any individual may protest the issuance of a license to any applicant at any time, and the Labor Commissioner shall give the individual an opportunity to state the reasons for his objection.

[1959 c.395 §5]

658.425 Temporary permit pending issuance of license. (1) The office of the Oregon State Employment Service in which an application is filed shall issue to the applicant a temporary permit valid for not more than 15 days, if the following conditions are satisfied:

(a) The application is complete on its face.

(b) The applicant has furnished satisfactory evidence of adequate insurance under rules issued by the Bureau of Labor.

(c) The applicant has paid in advance the fee of $10 required by subsection (4) of ORS 658.415.

(d) The applicant has not been denied a license under ORS 658.405 to 658.455 within the preceding three years, nor has had such a license revoked or suspended within the preceding three years, as appears of record with the Labor Commissioner.

(2) The office that issued a temporary permit to an applicant may renew it for one additional period not to exceed five days if the Labor Commissioner neither approves nor rejects the applicant's application within 15 days after the application was filed. However, any temporary permit expires immediately if the Labor Commissioner rejects the application of the person holding that permit.

(3) For the purposes of paragraphs (c) and (d) of subsection (1) of ORS 658.415 and paragraph (d) of subsection (1) of this section, the refusal by the Labor Commissioner to renew a license shall be considered as the revocation of that license on the date of its expiration.
[1959 c.395 §6; 1961 c.390 §4]

658.430 Form of license. Each license shall bear on its face such information as is prescribed by rules of the Bureau of Labor, including but not limited to:

(1) The name and address of the licensee and a statement that the license is not valid after the expiration date.

(2) The number, date of issuance and expiration date of the license.

(3) A statement that the license shall not be transferred or assigned.
[1959 c.395 §8]

658.435 Expiration and renewal of licenses. (1) Each license expires on December 31 following the date of its issuance, unless sooner revoked by the Labor Commissioner.

(2) A license shall be renewed each year upon payment in advance of a fee of $10, but the Labor Commissioner may require any person seeking renewal to file a new application under subsections (1), (2) and (3) of ORS 658.415 and may conduct a new investigation of the applicant's character, competence and reliability, and of any other matter relating to the manner by which he proposes to conduct and has conducted his operations as a farm labor contractor.
[1959 c.395 §7]

658.440 Duties of farm labor contractors. (1) Each person licensed to act as a farm labor contractor shall:

(a) Carry his license with him at all times and exhibit it upon request to any person with whom he intends to deal in his capacity as a farm labor contractor.

(b) File immediately at the United States postoffice serving his address, as noted on the face of his license, a correct change of address if he permanently changes his address, and notify the Labor Commissioner each time he changes his address.

(c) Pay or distribute promptly, when due, to the individuals entitled thereto all money or other things of value entrusted to him by any person for that purpose.

(d) Comply with the terms and provisions of all legal and valid agreements or contracts he has entered into in his capacity as a farm labor contractor.

(e) File at an office of the Oregon State Employment Service information relating to work agreements with farmers and workers or changes in the circumstances under which the license was issued.

(f) Furnish to each farm worker, at the time of hiring, a written statement that contains a description of:

(A) The method of computing the rate of compensation.

(B) The terms and conditions of any bonus offered, including the manner of determining when the bonus is earned.

(C) The terms and conditions of any loan made to the farm worker.

(D) The conditions of any housing, health and day care services to be provided.

(E) The terms and conditions of employment, including the approximate length of season or period of employment and the approximate starting and ending dates thereof.

(g) Furnish to the farm worker each time the worker receives a compensation payment from the farm labor contractor, a written statement itemizing the total payment and each deduction therefrom.

(2) No person licensed to act as a farm labor contractor, or applying for a license to act as a farm labor contractor, shall:

(a) Make any misrepresentation, false statement or wilful concealment in his application for a license.

(b) Wilfully make or cause to be made to any person any false, fraudulent or misleading representation, or publish or circulate any false, fraudulent or misleading information concerning the terms, condition or existence of employment at any place or by any person.

(c) Have been convicted of any felony in this state.

(d) Solicit or induce, or cause to be solicited or induced, the violation of an existing contract of employment.
[1959 c.395 §§9, 10; 1961 c.390 §5; 1971 c.479 §4]

658.445 Revocation, suspension or refusal to renew license. The Labor Commissioner may revoke, suspend or refuse to renew a license to act as a labor contractor upon his own motion or upon complaint by any individual, if:

(1) The licensee or his agent has violated or failed to comply with any provision of ORS 658.405 to 658.455 and subsections (2) and (3) of ORS 658.991; or

(2) The conditions under which the license was issued have changed or no longer exist; or

(3) The licensee's character, reliability or competence makes him unfit to act as a farm labor contractor.
[1959 c.395 §11]

658.450 Applicability of Administrative Procedures Act. (1) All proceedings relating to the issuance, revocation, suspension, renewal or refusal to renew a license to act as a farm labor contractor shall be conducted under ORS 183.310 to 183.500.

(2) All rules of the Bureau of Labor under ORS 658.405 to 658.455 shall be issued in compliance with ORS 183.310 to 183.500.
[1959 c.395 §12]

658.455 Disposition of moneys received; paying costs of administration. (1) All fees and other money received by the Labor Commissioner under ORS 658.405 to 658.455 shall be placed in the General Fund unless received under a bond or deposit as provided in subsection (4) of ORS 658.415.

(2) The Bureau of Labor shall advance funds to the Administrator of the Employment Division in an amount sufficient to cover the cost of the administration of any of the provisions of ORS 658.405 to 658.455, in accordance with reasonable estimates thereof as determined by the Oregon State Employment Service. In the event that funds have been advanced in excess of the actual cost incurred by the Administrator of the Employment Division, such excess shall be returned to the Bureau of Labor without interest and as soon as practicable.
[1959 c.395 §13; 1973 c.401 §3]

OCCUPATIONAL COUNSELING AND TRAINING

658.505 Policy; acceptance of Manpower Development and Training Act. The Legislative Assembly finds that the skills of many persons have been rendered substantially obsolete by dislocations in the economy arising from automation or other technological developments; that government leadership is necessary to insure that the benefits of such technological developments do not become burdens of widespread unemployment; that improved planning and expanded efforts will be required to assure that such people will be trained and available to meet shifting employment needs. The Legislative Assembly further finds that many individuals currently unemployed or underemployed and many youths lacking occupational skills may become qualified for reemployment or full employment by acquisition of skills which are or will be in demand in the labor market through extended programs of vocational and technical training of all types, including those available through on-the-job training at the employer's premises. Further, the Legislative Assembly finds that many individuals need assistance in acquiring such needed skills in order to avoid persistent unemployment or underemployment. It is, therefore, the intent of the Legislative Assembly to accept the provisions of the Manpower Development and Training Act of 1962 (United States Public Law 87-415), as amended, relating to vocational and technical training in so far as the training and benefits available thereunder are consistent with ORS 658.505 to 658.555.
[1965 c.612 §1]

658.515 Duties of Employment Division. The Employment Division shall:

(1) Conduct research, skill surveys and other investigations which seek to identify current and prospective labor shortages and which seek to identify individuals who can be trained to fill such shortages.

(2) Provide counseling on vocational and technical training and on occupational choices to all individuals applying for or receiving training under ORS 658.505 to 658.555, utilizing agency testing facilities, skill surveys and any other information available.

(3) Develop policies for the adequate vocational and technical training of individuals in need of such training in order to avoid persistent unemployment or underemployment whether caused by automation, technological progress or otherwise.
[1965 c.612 §2]

658.525 Referring persons for training; consulting with employers and others. (1) The Employment Division shall refer for training individuals:

(a) Whose expectancy of future employment is substantially diminished due to technological change or who have a need for vocational or technical training, indicated, at least in part, by a record of persistent unemployment or underemployment or by their youth or lack of occupational training;

(b) Who appear to have the ability to

complete the vocational or technical training to which they are referred;

(c) Who can reasonably be expected to obtain employment preferably in Oregon in an occupation experiencing or expected to experience labor shortages as such shortages are indicated by the skill surveys or other suitable research available to the Employment Division.

(2) Priorities in referral for vocational or technical training shall be consistent with the Manpower Development and Training Act of 1962 (U.S. Public Law 87-415), as amended, and the rules of the U.S. Secretary of Labor.

(3) The duration of any vocational or technical training program to which an individual is referred shall be reasonable and consistent with the occupation for which he is trained.

(4) In addition to the duties under subsection (1) of ORS 658.515, the Employment Division shall consult with employers, employe organizations and others having relevant information concerning the need or desirability of particular vocational or technical training programs.
[1965 c.612 §3; 1971 c.430 §1]

658.535 Duties of Department of Education to provide training; employer training programs. The Department of Education shall provide such training as shall be determined necessary by the Administrator of the Employment Division to meet occupational training needs. Such training may be made available through public educational agencies or institutions or private educational or training institutions, including but not limited to employe or employer organizations when, in the opinion of the Superintendent of Public Instruction, such private educational or training institutions or groups can provide substantially equivalent training at less cost than general public agencies or institutions. Where, however, training of an employe whose expectancy of future employment is substantially diminished or who is likely to be terminated because of technological changes in the employer's operations may reasonably prevent such termination or improve such expectancy such training shall first be made available under ORS 658.505 to 658.555 through a vocational or technical training program conducted by the employer if such program is approved by the Department of Education and if such program can provide equivalent training at substantially equivalent or less cost than public agencies or institutions.
[1965 c.612 §4]

658.545 Vocational and technical training programs not to duplicate apprenticeship programs. Vocational and technical training of types usually received in apprenticeship programs shall not be provided under ORS 658.505 to 658.555 if the Employment Division finds after consulting with the State Apprenticeship Council and reviewing skill surveys and other available data that a current apprenticeship program is training the number of individuals who can reasonably be expected to be employed in the particular occupation.
[1965 c.612 §5]

658.555 Department of Education and Employment Division to participate in programs under Manpower Development and Training Act. (1) Consistent with the provisions of ORS 658.505 to 658.555, the Employment Division and the Department of Education hereby shall participate in the Manpower Development and Training Act of 1962 (United States Public Law 87-415), as amended, and may adopt rules necessary for the proper and efficient administration of ORS 658.505 to 658.555.

(2) Prior to the adoption, amendment or repeal of any rules under subsection (1) of this section, except general statements of policy, interpretive rules or rules governing the agency's organization or internal procedure, the adopting agency shall, as far as practicable, publish or otherwise circulate notice of its intended action and afford interested persons opportunity to submit data or views orally or in writing.
[1965 c.612 §6]

PENALTIES

658.990 [Repealed by 1953 c.694 §30]

658.991 Penalties. (1) Violation of ORS 658.005 to 658.245 is punishable, upon conviction, by a fine of not more than $250 or by imprisonment in the county jail for not more than 60 days, or by both.

(2) Any person who intentionally defaces, alters or changes a license or permit to act as a farm labor contractor, or who uses the license or permit of another or knowingly permits his own license or permit to be used by another, or who acts as a farm

labor contractor without a valid license or permit under ORS 658.405 to 658.455, is guilty of a misdemeanor.

(3) Any person who wilfully swears or affirms falsely under subsection (1), (2) or (3) of ORS 658.415 in regard to any matter concerning which an oath or affirmation is required, or who solicits or induces another person to do so, whether or not the matter sworn to or affirmed is material, shall upon conviction be punished as provided by ORS 162.065.

[1953 c.694 §26; subsections (2) and (3) enacted as 1959 c.395 §14; 1961 c.390 §6; 1971 c.743 §406]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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 November 1, 1973.

Thomas G. Clifford
Legislative Counsel