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SENATE BILL 5045

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State of Washington

65th Legislature

2017 Regular Session

By Senators Hasegawa and Chase

Read first time 01/11/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to the regulation of employment agencies;  
2 reenacting and amending RCW 19.31.020; adding a new section to  
3 chapter 19.31 RCW; and repealing RCW 19.31.030, 19.31.040, 19.31.050,  
4 19.31.060, 19.31.070, 19.31.080, 19.31.090, 19.31.100, 19.31.110,  
5 19.31.120, 19.31.130, 19.31.140, 19.31.150, 19.31.160, 19.31.170,  
6 19.31.180, 19.31.190, 19.31.210, 19.31.220, 19.31.230, 19.31.240,  
7 19.31.245, 19.31.250, 19.31.260, 19.31.270, 19.31.900, and 19.31.910.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 **Sec. 1.** RCW 19.31.020 and 2011 c 336 s 531 are each reenacted  
10 and amended to read as follows:

11 Unless a different meaning is clearly required by the context,  
12 the following words and phrases, as hereinafter used in this chapter,  
13 shall have the following meanings:

14 (1) "Applicant(~~(r)~~)" (~~((except when used to describe an applicant~~  
15 ~~for an employment agency license,~~)~~)) means any person, whether  
16 employed or unemployed, seeking or entering into any arrangement for  
17 his or her employment or change of his or her employment through the  
18 medium or service of an employment agency.~~

19 (2) "Career guidance and counseling service" means any person,  
20 firm, association, or corporation conducting a business that engages  
21 in any of the following activities:

1 (a) Career assessment, planning, or testing through individual  
2 counseling or group seminars, classes, or workshops;

3 (b) Skills analysis, resume writing, and preparation through  
4 individual counseling or group seminars, classes, or workshops;

5 (c) Training in job search or interviewing skills through  
6 individual counseling or group seminars, classes, or workshops:  
7 PROVIDED, That the career guidance and counseling service does not  
8 engage in any of the following activities:

9 (i) Contacts employers on behalf of an applicant or in any way  
10 intercedes between employer and applicant;

11 (ii) Provides information on specific job openings;

12 (iii) Holds itself out as able to provide referrals to specific  
13 companies or individuals who have specific job openings.

14 (3) "Director" shall mean the director of licensing.

15 (4) "Employer" means any person, firm, corporation, partnership,  
16 or association employing or seeking to enter into an arrangement to  
17 employ a person through the medium or service of an employment  
18 agency.

19 (5) "Employment agency" is synonymous with "agency" and shall  
20 mean any business (~~(in which any part of the business gross or net~~  
21 ~~income is derived from a fee received from applicants, and)~~) in which  
22 any of the following activities are engaged in:

23 (a) The offering, promising, procuring, or attempting to procure  
24 employment for applicants;

25 (b) The giving of information regarding where and from whom  
26 employment may be obtained; or

27 (c) The (~~sale~~) distribution of a list of jobs or a list of  
28 names of persons or companies accepting applications for specific  
29 positions, in any form.

30 In addition the term "employment agency" shall mean and include  
31 any person, bureau, employment listing service, employment directory,  
32 organization, or school which for profit, by advertisement or  
33 otherwise, offers, as one of its main objects or purposes, to procure  
34 employment for any person (~~(who pays for its services, or which~~  
35 ~~collects tuition, or charges for service of any nature, where the~~  
36 ~~main object of the person paying the same is to secure employment)).~~  
37 It also includes any business that provides a resume to an individual  
38 and provides that person with a list of names to whom the resume may  
39 be sent or provides that person with preaddressed envelopes to be  
40 mailed by the individual or by the business itself, if the list of

1 names or the preaddressed envelopes have been compiled and are  
2 represented by the business as having job openings. The term  
3 "employment agency" shall not include labor union organizations,  
4 temporary service contractors, proprietary schools operating within  
5 the scope of activities for which the school is licensed under  
6 chapter 28C.10 RCW, nonprofit schools and colleges, career guidance  
7 and counseling services, employment directories that are sold in a  
8 manner that allows the applicant to examine the directory before  
9 purchase, theatrical agencies, (~~farm labor contractors,~~) or the  
10 Washington state employment agency.

11 (6) "Employment directory" means any business operated by any  
12 person that provides in any form, including written or verbal, lists  
13 of employers, does not provide lists of specified positions of  
14 employment, and that holds itself out to applicants as able to  
15 provide information on employment in specific industries or  
16 geographical areas(~~, and that charges a fee to the applicant for its~~  
17 ~~services~~)).

18 (7) "Employment listing service" means any business operated by  
19 any person that provides in any form, including written or verbal,  
20 lists of specified positions of employment available with any  
21 employer other than itself or that holds itself out to applicants as  
22 able to provide information about specific positions of employment  
23 available with any employer other than itself(~~, and that charges a~~  
24 ~~fee to the applicant for its services~~) and does not set up  
25 interviews or otherwise intercede between employer and applicant.

26 (8) (~~"Farm labor contractor" means any person, or his or her~~  
27 ~~agent, who, for a fee, employs workers to render personal services in~~  
28 ~~connection with the production of any farm products, to, for, or~~  
29 ~~under the direction of an employer engaged in the growing, producing,~~  
30 ~~or harvesting of farm products, or who recruits, solicits, supplies,~~  
31 ~~or hires workers on behalf of an employer engaged in the growing,~~  
32 ~~producing, or harvesting of farm products or who provides in~~  
33 ~~connection with recruiting, soliciting, supplying, or hiring workers~~  
34 ~~engaged in the growing, producing, or harvesting of farm products,~~  
35 ~~one or more of the following services: Furnishes board, lodging, or~~  
36 ~~transportation for such workers, supervises, times, checks, counts,~~  
37 ~~sizes, or otherwise directs or measures their work; or disburses wage~~  
38 ~~payments to such persons.~~

39 (~~9~~) "Fee" means anything of value. The term includes money or  
40 other valuable consideration or services or the promise of money or

1 other valuable consideration or services, received directly or  
2 indirectly by an employment agency (~~(from a person seeking~~  
3 ~~employment, in payment for the service)~~).

4 ~~((10))~~ (9) "Person" includes any individual, firm, corporation,  
5 partnership, association, company, society, manager, contractor,  
6 subcontractor, bureau, agency, service, office, or an agent or  
7 employee of any of the foregoing.

8 ~~((11))~~ (10) "Resume" means a document of the applicant's  
9 employment history that is approved, received, and paid for by the  
10 applicant.

11 ~~((12))~~ (11) "Temporary service contractors" shall mean any  
12 person, firm, association, or corporation conducting a business which  
13 consists of employing individuals directly for the purpose of  
14 furnishing such individuals on a part time or temporary help basis to  
15 others.

16 ~~((13))~~ (12) "Theatrical agency" means any person who, for a fee  
17 or commission, procures on behalf of an individual or individuals,  
18 employment or engagements for circus, vaudeville, the variety field,  
19 the legitimate theater, motion pictures, radio, television,  
20 phonograph recordings, transcriptions, opera, concert, ballet,  
21 modeling, or other entertainments, exhibitions, or performances. The  
22 term "theatrical agency" does not include any person charging an  
23 applicant a fee prior to or in advance of:

24 (a) Procuring employment for the applicant;

25 (b) Giving or providing the applicant information regarding where  
26 or from whom employment may be obtained;

27 (c) Allowing or requiring the applicant to participate in any  
28 instructional class, audition, or career guidance or counseling; or

29 (d) Allowing the applicant to be eligible for employment through  
30 the person.

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.31  
32 RCW to read as follows:

33 (1) No employment agency, employment directory, or employment  
34 listing service may charge a fee to an applicant or prospective  
35 employee.

36 (2) A violation of this section is not reasonable in relation to  
37 the development and preservation of business and is an unfair or  
38 deceptive act in trade and commerce and an unfair method of

1 competition for the purposes of applying the consumer protection act,  
2 chapter 19.86 RCW.

3 NEW SECTION. **Sec. 3.** The following acts or parts of acts are  
4 each repealed:

5 (1) RCW 19.31.030 (Records) and 1993 c 499 s 2 & 1969 ex.s. c 228  
6 s 3;

7 (2) RCW 19.31.040 (Contract between agency and applicant—Contents  
8 —Notice) and 1993 c 499 s 3, 1985 c 7 s 83, 1977 ex.s. c 51 s 2, &  
9 1969 ex.s. c 228 s 4;

10 (3) RCW 19.31.050 (Approval of contract, fee schedule) and 1969  
11 ex.s. c 228 s 5;

12 (4) RCW 19.31.060 (Request from employer for interview required—  
13 Information to be furnished applicant) and 1977 ex.s. c 51 s 3 & 1969  
14 ex.s. c 228 s 6;

15 (5) RCW 19.31.070 (Administration of chapter—Rules—  
16 Investigations—Inspections) and 2002 c 86 s 269 & 1969 ex.s. c 228 s  
17 7;

18 (6) RCW 19.31.080 (License required—Penalty) and 2011 c 336 s 532  
19 & 1969 ex.s. c 228 s 8;

20 (7) RCW 19.31.090 (Bond—Cash deposit—Action on bond or deposit—  
21 Procedure—Judgment) and 2011 c 336 s 533, 1977 ex.s. c 51 s 4, & 1969  
22 ex.s. c 228 s 9;

23 (8) RCW 19.31.100 (Application—Contents—Filing—Qualifications  
24 of applicants and licensees—Waiver—Exceptions) and 1993 c 499 s 4,  
25 1982 c 227 s 14, 1977 ex.s. c 51 s 5, & 1969 ex.s. c 228 s 10;

26 (9) RCW 19.31.110 (Expiration date of license—Reinstatement) and  
27 1977 ex.s. c 51 s 6 & 1969 ex.s. c 228 s 11;

28 (10) RCW 19.31.120 (Transfer of license) and 1969 ex.s. c 228 s  
29 12;

30 (11) RCW 19.31.130 (License sanction—Grounds—Support order,  
31 noncompliance) and 2002 c 86 s 270, 1997 c 58 s 848, & 1969 ex.s. c  
32 228 s 13;

33 (12) RCW 19.31.140 (Fees for licensees) and 1985 c 7 s 84, 1975  
34 1st ex.s. c 30 s 92, & 1969 ex.s. c 228 s 14;

35 (13) RCW 19.31.150 (Employment condition precedent to charging  
36 fee—Exceptions) and 1993 c 499 s 5 & 1969 ex.s. c 228 s 15;

37 (14) RCW 19.31.160 (Charging fee or payment contrary to chapter—  
38 Return of excess) and 1969 ex.s. c 228 s 16;

1 (15) RCW 19.31.170 (Limitations on fee amounts—Refunds—  
2 Exceptions) and 2011 c 336 s 534, 1993 c 499 s 6, 1977 ex.s. c 51 s  
3 7, & 1969 ex.s. c 228 s 17;  
4 (16) RCW 19.31.180 (Posting of fee limitation and remedy  
5 provisions) and 2011 c 336 s 535 & 1969 ex.s. c 228 s 18;  
6 (17) RCW 19.31.190 (Rules of conduct—Complaints) and 2011 c 336 s  
7 536, 1993 c 499 s 7, 1977 ex.s. c 51 s 8, & 1969 ex.s. c 228 s 19;  
8 (18) RCW 19.31.210 (Enforcement) and 2011 c 336 s 537 & 1969  
9 ex.s. c 228 s 21;  
10 (19) RCW 19.31.220 (Assurance of discontinuance of violation) and  
11 2011 c 336 s 538 & 1969 ex.s. c 228 s 22;  
12 (20) RCW 19.31.230 (Civil penalty) and 1969 ex.s. c 228 s 23;  
13 (21) RCW 19.31.240 (Service of process outside state) and 2011 c  
14 336 s 539 & 1969 ex.s. c 228 s 24;  
15 (22) RCW 19.31.245 (Registration or licensing prerequisite to  
16 suit by employment agency—Action against unregistered or unlicensed  
17 employment agency) and 1993 c 499 s 8, 1990 c 70 s 2, & 1977 ex.s. c  
18 51 s 10;  
19 (23) RCW 19.31.250 (Chapter provisions exclusive—Authority of  
20 political subdivisions not affected) and 1969 ex.s. c 228 s 25;  
21 (24) RCW 19.31.260 (Administrative procedure act to govern  
22 administration) and 1969 ex.s. c 228 s 26;  
23 (25) RCW 19.31.270 (Uniform regulation of business and  
24 professions act) and 2002 c 86 s 271;  
25 (26) RCW 19.31.900 (Severability—1969 ex.s. c 228) and 1969 ex.s.  
26 c 228 s 27; and  
27 (27) RCW 19.31.910 (Effective date—1969 ex.s. c 228) and 1969  
28 ex.s. c 228 s 28.

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