

● EMPLOYMENT AGENCY LAW

STATUTORY CITATION: N.Y. General Business Law §§ 170 – 194

GENERAL SUMMARY: Article 11 of the state business statutes regulates the activities of employment agencies in New York, defined broadly as individuals, corporations, associations, agencies and other entities (implicitly including certain farm labor contractors) that, for a fee, attempt to procure jobs for persons seeking employment or furnish workers to employers seeking the services of employees.

SPECIFIC TERMS AND CONDITIONS

LICENSING — No one may open or operate an employment agency, as generally described above, without first obtaining a license to do so from the state. Among other prerequisites to issuance of an employment agency license, the applicant must pay a license fee and post a surety bond covering damages that may result from misrepresentation, fraud, deceit or any illegal act by the licensee while performing the functions authorized by the license.

RECORDKEEPING — For every job applicant referred to a job, licensees are required to keep a register of the date of application, the start date of employment, and the fee assessed for the employment agent's services. Similar data on the employers served by the agent must also be maintained.

LIMITATION ON FEES — An employment agency may not charge or accept a fee or other compensation for its services until after a job applicant has actually been matched with a job. The total fee for placement of a worker into agricultural employment of less than a month's duration is limited to 10 percent of the salaries or wages received by the worker over the life of the job, or 12 percent when one meal per working day is provided, 14 percent for two meals per day, and 18 percent for three meals and lodging. For a job lasting longer than a month, these same fee ceilings apply only to the first full month's salary or wages.

PROHIBITED CONDUCT — Among other illegal acts, it is unlawful for an employment agency (1) to circulate any false, fraudulent or misleading information, (2) to knowingly refer a worker to employment which violates state or federal minimum wage or child labor laws, or (3) to refer a worker to a workplace where a labor dispute is in progress without notifying the worker of that fact in writing.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365).* Apart from the Department's licensing function under the employment agency law, representatives of the Department are authorized to inspect the registers, receipt books and other records maintained by each employment agency, and to subpoena the records of any employer involved when there are grounds to believe a violation has been committed. Any worker who has been recruited or referred to a job by an employment agency or agent in apparent conflict with these provisions may file an oral or written complaint with the Department, which may suspend or revoke the agency's license and impose an administrative fine of up to \$500 if evidence presented in a hearing on the complaint confirms a violation. Non-compliance with the employment agency law is also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None.*