

Article 5B.

Regulation of Job Listing Services.

§ 95-47.19. Definitions.

Definitions of terms used in this Article shall be the same as in Chapter 95, Article 5A (Regulation of Private Personnel Services), with the words "job listing service" substituted, where appropriate, for the words "private personnel service." "Job listing service" means any business operated in the State of North Carolina by any person for profit which publishes, either orally or in writing, lists of specific positions of employment available with any employer other than itself or which holds itself out to applicants as able to provide information about specific positions of employment available with any employer other than itself, which charges a fee to any applicant for its services or purported services and which performs none of the activities of a private personnel service other than the publishing of job listings. "Job listing service" does not include:

- (1) Any educational, religious, charitable, fraternal or benevolent organization which charges no fee for services rendered in providing information about employment;
- (2) Any employment service operated by the State of North Carolina, the Government of the United States, or any city, county or town, or any agency thereof;
- (3) Any temporary help service that charges no fee for services rendered in providing information about employment;
- (4) Any newspaper of general circulation or other business engaged primarily in communicating information other than information about specific positions of employment and that does not purport to adapt the information provided to the needs or desires of an individual subscriber;
- (5) Employment offices that charge no fee to the applicant other than union dues and which are used solely for the hiring of employees under a valid union contract by the employers subscribing to this contract. (1979, c. 780, s. 2.)

§ 95-47.20. License required.

No person shall operate a job listing service in North Carolina without first obtaining a license from the Commissioner. A job listing service shall have a separate license for each location at which it maintains an office. (1979, c. 780, s. 2.)

§ 95-47.21. Violation of this Article; criminal and civil penalty.

Any person who violates the provisions of this Article by operating a job listing service without a valid license from the Commissioner shall be subject, under current regulations adopted pursuant to this Article, to criminal and civil penalties in the same amount and under substantially the same procedure as that provided under G.S. 95-47.9(e) for a person operating a private personnel service. (1979, c. 780, s. 2.)

§ 95-47.22. Licensing procedure.

(a) In addition to the requirements of subsection (b) of this section, the procedure, under rules adopted pursuant to this Article, for the issuance, denial and renewal of job listing service licenses and other aspects of the licensing of job listing services by the Commissioner shall be

substantially the same as that provided under Article 5A of this Chapter for the licensing of private personnel services.

(b) Before the Department may issue or renew a license under this Article, each licensee shall deposit with the Department a bond payable to the State of North Carolina and executed by a surety company duly authorized to transact business in this State. The bond shall be in the amount of twenty-five thousand dollars (\$25,000) and, if the job listing service terminates its business, shall be held by the Department until all refunds due applicants under this Article have been paid by the job listing service. (1979, c. 780, s. 2; 1993, c. 172, s. 1.)

§ 95-47.23. Enforcement.

Under regulations adopted pursuant to this Article, a job listing service may be issued a warning, citation or notice of violation, or may have its license revoked or suspended, or its licensee reprimanded, censured or placed on probation in substantially the same manner and under substantially the same procedure as that provided for a private personnel service under Article 5A of this Chapter. (1979, c. 780, s. 2.)

§ 95-47.24. Certain practices prohibited.

Under regulations adopted pursuant to this Article, a job listing service shall abide by provisions substantially the same as those provided under G.S. 95-47.6(7) (kickbacks), G.S. 95-47.6(9) (misrepresentation), and G.S. 95-47.2(d)(3)c. (loan or collection agencies) for a private personnel service. (1979, c. 780, s. 2; 1993, c. 172, s. 2.)

§ 95-47.25. Contracts; contents; approval.

A contract between a job listing service and an applicant shall be in writing, labeled as a contract, physically separate from any application form and made in duplicate, and shall include:

- (1) A clear explanation of the services provided and the amount of the fee;
- (2) In a type size no smaller than nine point, a statement that reads "I understand that _____ (name of job listing service) does not guarantee that I will obtain employment through its services. I understand that _____ (name of job listing service) does not refund fees for any reason," unless the job listing service agrees in the contract to refund to the applicant any fee the applicant paid to the job listing service if within three months of paying such a fee the applicant has not accepted an employment position listed in a publication of the job listing service;
- (3) A statement that the job listing service is not a private personnel service or employment agency, that no additional fee will be charged to the applicant upon acceptance of employment and that the job listing service will not set up interviews or otherwise arrange direct contacts between an employer and the applicant; and
- (4) A statement that the job listing service is licensed and regulated by the Commissioner and the address at which a copy of regulations governing job listing services may be obtained.

A copy of each contract form to be used with applicants shall be filed with the Commissioner. Until the job listing service receives written notification from the Commissioner that the form conforms to the requirements of this Article and regulations adopted hereunder, it shall not be used

with applicants. A job listing service shall not accept a fee from any applicant before the applicant has read and received a copy of the contract. (1979, c. 780, s. 2.)

§ 95-47.26. Advertising and publication.

(a) In conducting any form of advertising, a job listing service shall identify itself by its business name and identify itself as a job listing service by using in the name or elsewhere in the advertising the term "job listing service."

(b) Prior to advertising or publishing information about an available job, a job listing service shall receive a job order and shall record the job order, the date it was received and the name of the employer representative or other business who gave the job order to the job listing service. No description or representation of an employment position shall be stated in any advertising or other publication, unless the information is included on the recorded job order for the position. Information about a single employment position shall not be used in more than one advertisement or listing in a single issue of any publication.

(c) A job listing service shall not publish or cause to be published any information which it knows or reasonably ought to know is false or deceptive or which it has no reasonable basis for believing to be true.

(d) In conducting any form of advertising, a job listing service shall not use the term "no fee" or any other term indicating that applicants will not be financially obligated to the job listing service. (1979, c. 780, s. 2.)

§ 95-47.27. Fee receipts.

A job listing service shall give every applicant from whom payment is received a receipt stating the name and address of the job listing service, the name of the applicant, the date and the amount of the payment. (1979, c. 780, s. 2.)

§ 95-47.28. Prohibited job listings.

A job listing service shall not publish information about a position of employment with an employer that the job listing service knows or has reason to know:

- (1) Has included false information in the job order; or
- (2) Has a strike or lockout at its business, unless the applicant is so informed in the publication; or
- (3) Is engaging in unlawful or immoral activity; or
- (4) Is in financial or other difficulty likely to lead to imminent cessation of operation, unless the applicant is so informed in the publication; or
- (5) Is an employer in which the job listing service or any owner of the job listing service has a financial interest greater than ten percent (10%), unless the applicant is so informed in the publication. (1979, c. 780, s. 2.)

§ 95-47.29. Records of the job listing service.

Each job listing service shall maintain and make available for inspection by the Commissioner the following records of the operation of the job listing service for the 18 months immediately preceding:

- (1) The job listing service's copies of all contracts executed with applicants;

- (2) Copies of all fee receipts;
- (3) Copies of all advertising and job lists published orally or in writing, indexed or attached to the recorded job order (including the date it was received and the name of the employer representative or other business who gave it) for each position advertised or listed, and records of the dates advertisements were run on publications issued; and
- (4) Any records required by the Commissioner under regulations adopted pursuant to this Article. (1979, c. 780, s. 2.)

§ 95-47.30. Administration of this Article.

This Article shall be enforced under the general supervision of the Commissioner, who shall have the same powers and duties in the enforcement of this Article as in the enforcement of Article 5A of this Chapter. (1979, c. 780, s. 2.)

§ 95-47.31. Review of job listing services.

After the Commissioner receives written statements from two or more applicants complaining that the applicant failed to obtain employment as a result of the services of a job listing service, the Commissioner may contact other applicants who have paid a fee to the job listing service for the purpose of determining what percentage of such applicants obtain employment as a result of the services of the job listing service. After gathering information from such applicants and following the requirements of due process, the Commissioner shall place the survey results in the public records. (1979, c. 780, s. 2.)

§ 95-47.32. Severability.

If any provision of this Article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Article are severable. (1979, c. 780, s. 2.)