

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 801

Short Title: Amend Private Personnel Services.

(Public)

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Sponsors: Representative Robinson.

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Referred to: Commerce.

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March 22, 1989

A BILL TO BE ENTITLED

AN ACT TO MAKE CERTAIN CHANGES IN THE LAW REGULATING PRIVATE PERSONNEL SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-47.1 reads as rewritten:

**"§ 95-47.1. Definitions.**

As used in this Article, unless the context clearly requires otherwise:

- (1) 'Accept' employment means to accept an employer's offer of employment or to begin work for an employer.
- (2) 'Applicant,' except where it refers to an applicant for a private personnel services license, means any person who uses or attempts to use the services of a private personnel service in seeking employment.
- (3) 'Commissioner' means the North Carolina Commissioner of Labor or any person designated by the Commissioner as the representative of the Commissioner.
- (4) 'Complaint' means a communication to the Commissioner or department alleging facts that could support issuance of a warning or citation under G.S. 95-47.9.
- (5) 'Contract' means any agreement between a private personnel service and an applicant obligating the applicant to pay a fee or any agreement subsequent to such contract reducing the obligations of the private personnel service to the applicant under the contract.
- (6) 'Employee' means a person performing work or services of any kind or character for compensation.

- 1           (7) 'Employer' means a person employing or seeking to employ a person  
2           for compensation, or any representative or employee of such employer.
- 3           (8) 'Employment' means any service or engagement rendered or  
4           undertaken for wages, salary, commission, or other form of  
5           compensation.
- 6           (9) 'Fee' means anything of value, including money or other valuable  
7           consideration or services or the promise of any of the foregoing,  
8           required or received by a private personnel service, in payment for any  
9           of its services, or act rendered or to be rendered by any private  
10          personnel service.
- 11          (10) 'Interview' means a meeting between an employer and an applicant to  
12          discuss potential employment.
- 13          (11) 'Job order' means an oral or written communication from an employer  
14          authorizing a private personnel service to refer applicants for a  
15          position the employer has available.
- 16          (12) 'Licensee' means any person licensed by the Commissioner to operate  
17          a private personnel service.
- 18          (13) 'Manager' of a private personnel service means the person who is  
19          responsible for the operation of an office of a private personnel  
20          service.
- 21          (14) 'Owner' of a private personnel service means the sole proprietor of a  
22          private personnel service operated as a sole proprietorship; any  
23          partner in a partnership that owns or operates a private personnel  
24          service; any stockholder with a financial interest greater than 10  
25          percent (10%) in a corporation that owns or operates a private  
26          personnel service.
- 27          (15) 'Person' means any individual, association, partnership or corporation.
- 28          (16) 'Private personnel service' means any business operated in the State of  
29          North Carolina by any person for profit which secures employment or  
30          by any form of advertising holds itself out to applicants as able to  
31          secure employment or to provide information or service of any kind  
32          purporting to promote, lead to or result in employment for the  
33          applicant with any employer other than itself, where any applicant may  
34          become liable for the payment of a fee to the private personnel service,  
35          either directly or indirectly. 'Private personnel service' does not  
36          include:
- 37           a. Any educational, religious, charitable, fraternal or benevolent  
38           organization which charges no fee for services rendered in  
39           securing employment or providing information about  
40           employment;
- 41           b. Any employment service operated by the State of North  
42           Carolina, the Government of the United States, or any city,  
43           county, or town, or any agency thereof;

- 1 c. Any temporary help service that at no time advertises or  
 2 represents that its employee may, with the approval of the  
 3 temporary help service, be employed by one of its client  
 4 companies on a permanent ~~basis~~, basis and which does not act  
 5 as a private personnel service or an employer fee paid personnel  
 6 service;
- 7 d. Any newspaper of general circulation or other business engaged  
 8 primarily in communicating information other than information  
 9 about specific positions of employment and that does not  
 10 purport to adapt the information provided to the needs or  
 11 desires of an individual subscriber;
- 12 e. Employment offices that charge no fee to the applicant other  
 13 than union dues or to the employer and which are used solely  
 14 for the hiring of employees under a valid union contract by the  
 15 employer subscribing to this contract;
- 16 f. Any employer fee paid personnel consulting service or  
 17 temporary help service that offers temporary to permanent  
 18 placement when the service operates on a one hundred percent  
 19 (100%) employer fee paid service basis, requires no applicant  
 20 placement contract, and has no recourse against an applicant for  
 21 a fee under any circumstances.

22 (17) 'Refer' an applicant means to submit resumes to an employer, arrange  
 23 interviews between an applicant and an employer, or to provide an  
 24 employer with the name of an applicant."

25 Sec. 2. G.S. 95-47.2(j) reads as rewritten:

26 "(j) Each licensee shall, before the license is issued or renewed, deposit with the  
 27 department a bond payable to the State of North Carolina and executed by a surety  
 28 company duly authorized to transact business in the State of North Carolina in the  
 29 amount of ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000) and upon  
 30 condition that the private personnel service will pay to applicants all refunds due under  
 31 this Article and regulations adopted hereunder if the private personnel service  
 32 terminates its business."

33 Sec. 3. Article 5A of Chapter 95 of the General Statutes is amended by  
 34 adding the following sections:

35 "**§ 95-47.14. Notification requirement.**

36 Any temporary help service as described in G.S. 95-47.1(16)c that operates in North  
 37 Carolina shall notify the Department of Labor in writing that the temporary help  
 38 service:

- 39 (1) Operates only as a temporary help service;  
 40 (2) Establishes an employer-employee relationship with its temporary  
 41 help;  
 42 (3) Does not operate as a private personnel service or an employer fee  
 43 paid personnel consulting service.

44 "**§ 95-47.15. Certification requirement.**

1        Any employer fee paid personnel consulting service or temporary help service, as  
2 the two terms are described in G.S. 95-47.1(16)f, that operates in North Carolina shall  
3 certify annually to the Department of Labor on a form prescribed by the Commissioner  
4 that the service:

- 5            (1) Operates on a one hundred percent (100%) fee paid basis;  
6            (2) Requires no applicant placement contract; and  
7            (3) Has no recourse against an applicant for a fee under any  
8            circumstances."

9        Sec. 4. This act shall become effective October 1, 1989.