

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 414  
HOUSE BILL 801

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.
- (7) 'Employer' means a person employing or seeking to employ a person for compensation, or any representative or employee of such employer.
- (8) 'Employment' means any service or engagement rendered or undertaken for wages, salary, commission, or other form of compensation.
- (9) 'Fee' means anything of value, including money or other valuable consideration or services or the promise of any of the foregoing, required or received by a private personnel service, in payment for any of its services, or act rendered or to be rendered by any private personnel service.
- (10) 'Interview' means a meeting between an employer and an applicant to discuss potential employment.

- (11) 'Job order' means an oral or written communication from an employer authorizing a private personnel service to refer applicants for a position the employer has available.
- (12) 'Licensee' means any person licensed by the Commissioner to operate a private personnel service.
- (13) 'Manager' of a private personnel service means the person who is responsible for the operation of an office of a private personnel service.
- (14) 'Owner' of a private personnel service means the sole proprietor of a private personnel service operated as a sole proprietorship; any partner in a partnership that owns or operates a private personnel service; any stockholder with a financial interest greater than 10 percent (10%) in a corporation that owns or operates a private personnel service.
- (15) 'Person' means any individual, association, partnership or corporation.
- (16) 'Private personnel service' means any business operated in the State of North Carolina by any person for profit which secures employment or by any form of advertising holds itself out to applicants as able to secure employment or to provide information or service of any kind purporting to promote, lead to or result in employment for the applicant with any employer other than itself, where any applicant may become liable for the payment of a fee to the private personnel service, either directly or indirectly. 'Private personnel service' does not include:
  - a. Any educational, religious, charitable, fraternal or benevolent organization which charges no fee for services rendered in securing employment or providing information about employment;
  - b. 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;
  - c. Any temporary help service that at no time advertises or represents that its employee may, with the approval of the temporary help service, be employed by one of its client companies on a permanent ~~basis~~; basis and which does not act as a private personnel service or an employer fee paid personnel service;
  - d. 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;
  - e. Employment offices that charge no fee to the applicant other than union dues or to the employer and which are used solely

for the hiring of employees under a valid union contract by the employer subscribing to this contract;

f. Any employer fee paid personnel consulting service or temporary help service that offers temporary to permanent placement when the service operates on a one hundred percent (100%) employer fee paid service basis, requires no applicant placement contract, and has no recourse against an applicant for a fee under any circumstances.

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

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

"(j) Each licensee shall, before the license is issued or renewed, 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 the State of North Carolina in the amount of ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000) and upon condition that the private personnel service will pay to applicants all refunds due under this Article and regulations adopted hereunder if the private personnel service terminates its business."

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

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

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 22nd day of June, 1989.