

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representative Argue**

A Bill

ACT 283 OF 1995
HOUSE BILL 1198

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 11-11-225 TO REDUCE THE
9 RESTRICTIONS PLACED ON THE TYPE OF FEES WHICH MAY BE
10 CHARGED BY PRIVATE EMPLOYMENT AGENCIES TO EMPLOYERS; TO
11 AMEND ARKANSAS CODE § 11-11-227 TO LIMIT THE REIMBURSEMENT
12 OF EMPLOYMENT FEES FOR A NON-PERMANENT PLACEMENT TO ONLY
13 THOSE FEES CHARGED TO AN EMPLOYEE; AND FOR OTHER
14 PURPOSES."

Subtitle

17 "TO REDUCE THE RESTRICTIONS PLACED ON
18 THE TYPE OF FEES WHICH MAY BE CHARGED BY
19 PRIVATE EMPLOYMENT AGENCIES TO
20 EMPLOYERS."

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24 SECTION 1. Arkansas Code § 11-11-225 is amended to read as follows:
25 "11-11-225. Miscellaneous restrictions and requirements.

26 In addition to other provisions of this subchapter, the following
27 provisions shall govern each and every employment agency:

28 (1) Every employment agent or agency shall display his or its license
29 in a conspicuous place in the main office of the agency. Managers and
30 counselors shall display their licenses in a conspicuous place in their
31 offices or work areas;

32 (2) All advertising by an employment agency of any form or kind shall
33 include the words "employment agency" or "personnel agency." Advertising for
34 an employment position with the agency itself shall clearly convey the
35 information that the job position offered is with the employment agency
36 publishing the advertisement;

1 (3) No employment agency or its agents or employees shall receive or
2 require any applicant to execute any power of attorney, assignment of wages or
3 salary, or note authorizing the confession of judgment;

4 (4) No employment agent, by himself, or by his agents or employees
5 shall solicit, persuade, or induce any employee to leave any employment in
6 which the employment agent or his agent has placed the employee, nor shall any
7 employment agency or any of its agents or employees solicit, persuade, or
8 induce any employer to discharge any employee, nor shall any employment agent,
9 or his agents or employees, divide, or offer to divide or share directly or
10 indirectly, any fee, charge, or compensation received, or to be received, from
11 an employee with any employer or persons in any way connected with the
12 business thereof;

13 (5) No employment agent, by himself, or by his agents or employees
14 shall give or promise to give anything of intrinsic value to any employer or
15 applicant for employment as an inducement to use the services of his
16 employment agency. No fee shall be solicited or accepted as an application or
17 registration fee by an employment agent for the purpose of registering any
18 person as an applicant for employment;

19 (6) No employment agency or its agents or employees shall advertise or
20 make a referral for any job position without having first obtained a bona fide
21 job order therefor;

22 (7) No employment agency or its agents or employees shall refer an
23 applicant for a job or job interview unless the applicant has been personally
24 interviewed by the employment agency, its agents, or employees or has
25 corresponded with the employment agency with the specific purpose of securing
26 employment through that employment agency;

27 (8) Every employment agency shall inform the public by a conspicuous
28 sign or poster that the employment agency is subject to the requirements of
29 this subchapter, which is administered and enforced by the Department of
30 Labor. The department shall prepare and distribute the sign or poster to be
31 used by agencies to comply with this subdivision;

32 (9) No employment agency or its agents or employees shall knowingly
33 send an applicant to any place where a strike, lockout, or other labor dispute
34 exists;

35 (10) No agency shall use any trade name or business identity similar

1 to, or reasonably likely to be confused with, the trade name or business
2 identity of an existing agency or any governmental nonprofit employment
3 agency;

4 (11) No employment agency shall refer an applicant to a situation,
5 employment, or occupation prohibited by law;

6 (12) No employment agency shall charge a fee to an employee for any
7 services other than actual placement of an applicant;

8 (13) No employment agency shall charge an applicant a fee for accepting
9 employment with the employment agency or any subsidiary of that agency;

10 (14) Any information regarding an applicant's background or credit,
11 from whatever source obtained, shall be used for no purpose other than
12 assisting the applicant in securing employment. However, an employment agency
13 may use background and credit information regarding an applicant in
14 determining whether to conduct placement services for the applicant if the
15 applicant gives written authorization for securing the information and
16 understands the purpose for which the information is secured;

17 (15) No employment agency or its agents or employees shall engage in
18 any practice which discriminates against any person on the basis of race,
19 color, sex, age, religion, or national origin;

20 (16) Under no circumstances shall more than one (1) fee for any one (1)
21 placement be charged any applicant;

22 (17) No contracts, forms, or schedules used by employment agencies
23 shall contain any provisions in conflict with the provisions of this
24 subchapter;

25 (18) All refunds due shall be made by the agency by cash, check, or
26 money order promptly when due."

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28 SECTION 2. Arkansas Code § 11-11-227 is amended to read as follows:

29 "11-11-227. Fee restrictions and requirements.

30 (a) Where employment lasts less than ninety (90) calendar days,
31 regardless of reason, no employment agency may charge an employee a fee of
32 more than one ninetieth (1/90th) of the permanent placement fee for each
33 calendar day of the employment. Under no circumstances shall the fee exceed
34 twenty percent (20%) of an employee's actual gross earnings if employment
35 lasts less than thirty (30) days or forty percent (40%) of an employee's

1 actual gross earnings if employment lasts more than thirty (30) days but less
2 than ninety (90) days.

3 (b) When a promissory note is used by the agency, it shall be clearly
4 identified as such and shall not be executed until the placement is made. The
5 defense of no or insufficient consideration shall be good as against a holder
6 of any such employment agency fee note.

7 (c) Where a dispute concerning a fee exists, the department may conduct
8 an investigation to determine all of the facts concerning the dispute.
9 Thereafter the director shall issue a decision and order resolving the
10 dispute. Any person aggrieved by this decision and order may obtain review of
11 this decision and order pursuant to § 11-11-222.

12 (d) Any schedule of fees to be charged by an employment agency for its
13 services shall be furnished to all applicants upon making application with the
14 agency. The forms, fee schedules, and contracts utilized by an employment
15 agency shall contain no ambiguous, false, or misleading information. No
16 contract or fee schedule shall contain smaller than eight point (8 pt.) type.

17 (e) All fee schedules used in the business of an employment agency must
18 be furnished to job applicants and fee-paying employers and shall state in
19 dollars and cents the amount of any fee charged by the agency for its
20 services. Percentages shall not be used by agencies in schedules of fees to be
21 charged for their services, except where the annual salary for a job is twelve
22 thousand dollars (\$12,000) or more.

23 (f) It shall be unlawful for any employment agency to impose, enforce,
24 collect, or receive a fee for performance of any service for a job applicant,
25 or for a prospective employer, unless the agency makes every reasonable effort
26 to disclose the exact dollar amount of the fee to the applicant or prospective
27 employer prior to commencement of employment of an applicant by an employer.

28 (g) Nothing in this section or this subchapter shall be construed to
29 prohibit an employment agency from contracting with an employer on a fee-paid
30 basis to pay the fee for the placement services for an employee without an
31 actual job placement or to prohibit an agency from charging a fee to an
32 employer for a retained services contract to search for applicants for an
33 employer without an actual job placement."

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35 SECTION 3. All provisions of this act of general and permanent nature

1 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
2 Revision Commission shall incorporate the same in the Code.

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4 SECTION 4. If any provisions of this act or the application thereof to
5 any person or circumstance is held invalid, the invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provisions or application, and to this end the provisions of this
8 act are declared to be severable.

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10 SECTION 5. All laws and parts of laws in conflict with this act are
11 hereby repealed.

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APPROVED: 2-13-95

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