

HOUSE BILL No. 4690

April 16, 1991, Introduced by Rep. Joe Young, Jr. and referred to the Committee on State Affairs.

A bill to amend sections 1001, 1002, 1003, 1004, 1005, 1006, 1009, 1012, 1013, 1014, 1015, 1019, 1020, 1021, and 1022 of Act No. 299 of the Public Acts of 1980, entitled as amended

"Occupational code,"

sections 1005, 1009, and 1013 as amended by Act No. 463 of the Public Acts of 1988, being sections 339.1001, 339.1002, 339.1003, 339.1004, 339.1005, 339.1006, 339.1009, 339.1012, 339.1013, 339.1014, 339.1015, 339.1019, 339.1020, 339.1021, and 339.1022 of the Michigan Compiled Laws; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1001, 1002, 1003, 1004, 1005, 1006,
2 1009, 1012, 1013, 1014, 1015, 1019, 1020, 1021, and 1022 of Act
3 No. 299 of the Public Acts of 1980, sections 1005, 1009, and 1013
4 as amended by Act No. 463 of the Public Acts of 1988, being

1 sections 339.1001, 339.1002, 339.1003, 339.1004, 339.1005,
2 339.1006, 339.1009, 339.1012, 339.1013, 339.1014, 339.1015,
3 339.1019, 339.1020, 339.1021, and 339.1022 of the Michigan
4 Compiled Laws, are amended to read as follows:

5 Sec. 1001. As used in this article:

6 (a) ~~"Artist's manager" means a person acting as a manager~~
7 ~~or business advisor or rendering technical assistance to an~~
8 ~~entertainer for which the person is to receive remuneration out~~
9 ~~of future earnings of the entertainer.~~ "CLIENT" MEANS A PERSON
10 WHO ENGAGES THE SERVICES OF A PERSONNEL AGENCY.

11 (b) ~~"Emergency engagement" means an engagement which must~~
12 ~~be performed within 48 hours after the contract for the engage-~~
13 ~~ment is made.~~ "CONSULTING AGENT" MEANS THE INDIVIDUAL DESIGNATED
14 BY A TYPE B PERSONNEL AGENCY WHO IS RESPONSIBLE FOR THE GENERAL
15 MANAGEMENT OF THAT TYPE B PERSONNEL AGENCY.

16 (c) "Employee" means a person performing ~~or seeking to~~
17 ~~perform~~ work or service for compensation.

18 (d) "Employer" means a person employing or seeking to employ
19 a person for compensation.

20 ~~(e) "Employment agency" means a person engaged for gain or~~
21 ~~profit in the business or profession of serving, assisting, or~~
22 ~~counseling an employee seeking employment or an employer seeking~~
23 ~~to procure an employee.~~

24 (E) ~~(f)~~ "Employment agent" means the individual designated
25 by ~~the employment~~ A TYPE A PERSONNEL agency who is responsible
26 for the general management of ~~the office~~ THAT TYPE A PERSONNEL
27 AGENCY.

1 (F) "FEE" MEANS ANY DIRECT OR INDIRECT COMPENSATION.

2 (G) "JOB ORDER" MEANS AN ORAL OR WRITTEN NOTIFICATION BY AN
3 EMPLOYER TO A PERSONNEL AGENCY THAT A JOB OPENING EXISTS FOR
4 WHICH THE EMPLOYER WISHES TO FIND AN EMPLOYEE AND INCLUDES ALL
5 INFORMATION REGARDING THE JOB.

6 (H) ~~(g) "Personnel placement consultant" means a person~~
7 ~~engaged for gain or profit in the business or profession of serv-~~
8 ~~ing, assisting, or counseling an employee seeking employment or~~
9 ~~an employer seeking to procure an employee, which may include~~
10 ~~of the following:~~

11 ~~(i) Resume preparation and dissemination.~~

12 ~~(ii) Personality evaluation testing.~~

13 ~~(iii) Providing a list of employers.~~

14 ~~(iv) Any other activity defined by a rule promulgated by the~~
15 ~~department.~~ "PERSONNEL AGENCY" MEANS A TYPE A PERSONNEL AGENCY
16 OR A TYPE B PERSONNEL AGENCY, OR BOTH.

17 (I) ~~(h) "Theatrical employment agency" means the business~~
18 ~~of conducting an agency, bureau, or office for the purpose of~~
19 ~~procuring, offering, promising, or attempting to provide an~~
20 ~~engagement for a circus, vaudeville, theatrical, or other enter-~~
21 ~~tainment, an exhibition, or a performance, or of giving informa-~~
22 ~~tion as to where an engagement may be procured or provided.~~

23 "REGISTRATION FEE" MEANS A FEE OTHER THAN THE FEE SPECIFIED IN A
24 CONTRACT, WHICH A PERSONNEL AGENCY REQUIRES OR ACCEPTS FROM A
25 CLIENT PRIOR TO EXECUTION OF A CONTRACT.

26 (J) ~~(i) "Theatrical engagement" means an engagement or~~
27 ~~employment of a person as an actor, entertainer, or performer in~~

1 ~~a circus, vaudeville, theatrical, or other entertainment,~~
 2 ~~exhibition, or performance.~~ "RESUME WRITING SERVICE" MEANS A
 3 PERSON WHO PROVIDES PROFESSIONAL ASSISTANCE TO AN APPLICANT IN
 4 COMPILING A RESUME BY ASSEMBLING RELEVANT DATA, ORGANIZING IT IN
 5 WRITING, AND PROVIDING COPIES TO THE APPLICANT FOR A FEE.

6 (K) "TYPE A PERSONNEL AGENCY" MEANS A PERSON WHO IS ENGAGED
 7 IN THE BUSINESS OR PROFESSION OF SERVING, ASSISTING, OR IN ANY
 8 WAY AIDING A CLIENT SEEKING EMPLOYMENT OR MAKING BASIC CAREER
 9 DECISIONS, WHO PUTS A CLIENT IN DIRECT CONTACT WITH EMPLOYERS,
 10 AND WHO RECEIVES A FEE FROM THE CLIENT FOR THE SERVICES RENDERED
 11 OR OFFERED TO BE RENDERED.

12 (L) "TYPE B PERSONNEL AGENCY" MEANS A PERSON WHO IS ENGAGED
 13 IN THE BUSINESS OR PROFESSION OF SERVING, ASSISTING, OR IN ANY
 14 WAY AIDING OR CONSULTING WITH A CLIENT TO MAKE BASIC CAREER DECI-
 15 SIONS AND WHO RECEIVES A FEE FROM THE CLIENT FOR THE SERVICES
 16 RENDERED OR OFFERED TO BE RENDERED.

17 Sec. 1002. The ~~employment~~ PERSONNEL agency board is
 18 created. Six of the members shall have ~~occupied~~ SERVED, for at
 19 least 3 years immediately preceding appointment, ~~an executive or~~
 20 ~~managerial position in the private employment~~ AS AN OWNER OR
 21 MANAGER IN THE PERSONNEL agency industry in this state.

22 Sec. 1003. (1) A person shall not open, operate, or main-
 23 tain ~~an employment~~ A PERSONNEL agency ~~, theatrical employment~~
 24 ~~agency, or personnel placement consulting agency~~ in this state
 25 without first obtaining ~~a~~ THE APPROPRIATE license from the
 26 department. THE DEPARTMENT SHALL DETERMINE WHETHER AN AGENCY IS

1 CONSIDERED A TYPE A PERSONNEL AGENCY OR A TYPE B PERSONNEL
2 AGENCY.

3 (2) ~~A~~ THIS ARTICLE DOES NOT APPLY TO ALL OF THE
4 FOLLOWING:

5 (A) A regularly established educational institution, reli-
6 gious, labor, charitable, benevolent organization, or department
7 or bureau maintained for the purpose of ~~obtaining~~ PROVIDING
8 FREE employment OR CONSULTING SERVICES for which ~~a~~ NO fee, com-
9 pensation, or other valuable consideration is ~~not~~ charged or
10 received, directly or indirectly. ~~, shall be exempt from the~~
11 ~~requirement of a license, but shall register with the~~
12 ~~department.~~

13 (B) ~~(2) This article does not apply to a~~ A person who
14 maintains an employment OR CONSULTING office for the person's own
15 intraorganization purposes exclusively, ~~nor to~~ the Michigan
16 employment security commission, AN ORGANIZATION WHICH PROVIDES
17 VOCATIONAL REHABILITATION SERVICES IF THE FEES ARE PAID BY AN
18 INSURER OR SELF-INSURER RESPONSIBLE UNDER APPLICABLE STATE OR
19 FEDERAL INSURANCE LAWS FOR THE PROVIDING OF VOCATIONAL REHABILI-
20 TATION SERVICES TO AN INDIVIDUAL, OR A PERSON UNDER A CONTRACT
21 WITH THE STATE OF MICHIGAN TO PROVIDE EMPLOYMENT SERVICES.

22 (C) ~~(3)~~ A person employing an individual to render
23 part-time or temporary personal service to, for, or under the
24 direction of a third person ~~is not an employment agency within~~
25 ~~the meaning of this article~~ if the person employing the individ-
26 ual, in addition to a wage or salary, pays federal social
27 security taxes, state and federal unemployment insurance, carries

1 worker's disability compensation insurance as required by THE
2 WORKER'S DISABILITY COMPENSATION ACT OF 1969, Act No. 317 of the
3 Public Acts of 1969, as amended, being sections 418.101 to
4 418.941 of the Michigan Compiled Laws, and sustains responsibil-
5 ity for the acts of the employee while rendering service to, for,
6 or under the direction of a third person.

7 (D) THE BUSINESS OF PROCURING, OFFERING, PROMISING, PROMOT-
8 ING, OR ATTEMPTING TO PROVIDE AN ENGAGEMENT FOR AN ATHLETIC
9 EVENT, A CIRCUS, CONCERT, VAUDEVILLE, THEATRICAL, OR OTHER ENTER-
10 TAINMENT, OR OF GIVING INFORMATION AS TO WHERE AN ENGAGEMENT MAY
11 BE PROCURED OR PROVIDED FOR AN ACTOR, ARTIST, ATHLETE, ENTERTAIN-
12 ER, OR PERFORMER IN AN ATHLETIC EVENT, A CIRCUS, VAUDEVILLE, THE-
13 ATRICAL, OR OTHER ENTERTAINMENT.

14 Sec. 1004. (1) ~~A person~~ AN INDIVIDUAL shall not ~~act~~
15 OPERATE as an employment agent OR CONSULTING AGENT in this state
16 without first obtaining ~~a~~ THE APPROPRIATE license from the
17 department. A PERSONNEL AGENCY AND ITS EMPLOYMENT AGENT AND CON-
18 SULTING AGENT SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE FOR THE
19 ACTIONS OF A PERSON EMPLOYED BY THE PERSONNEL AGENCY.

20 (2) THE DEPARTMENT SHALL ISSUE AN EMPLOYMENT AGENT LICENSE
21 OR CONSULTING AGENT LICENSE TO AN INDIVIDUAL WHO COMPLIES WITH
22 ALL OF THE FOLLOWING REQUIREMENTS:

23 (A) SUCCESSFULLY COMPLETES A WRITTEN EXAMINATION WHICH TESTS
24 THE KNOWLEDGE OF THIS ARTICLE, THE RULES PROMULGATED UNDER THIS
25 ARTICLE, THE LAWS AGAINST DISCRIMINATION IN EMPLOYMENT, AND OTHER
26 LAWS PERTINENT TO SERVING AS AN EMPLOYMENT AGENT OR CONSULTING
27 AGENT.

1 (B) IS OF GOOD MORAL CHARACTER.

2 (C) IS AT LEAST 18 YEARS OF AGE.

3 (3) AN EMPLOYMENT AGENT OR A CONSULTING AGENT SHALL NOT
4 OPERATE INDEPENDENTLY OF A TYPE A PERSONNEL AGENCY OR A TYPE B
5 PERSONNEL AGENCY, AS IS APPROPRIATE.

6 Sec. 1005. (1) ~~An application for an employment agency~~
7 ~~license shall be accompanied by a certificate of bonding from a~~
8 ~~bonding agency.~~ THE DEPARTMENT SHALL ISSUE A PERSONNEL AGENCY
9 LICENSE TO A PERSON WHO COMPLIES WITH ALL OF THE FOLLOWING
10 REQUIREMENTS:

11 (A) PROVIDES A SURETY OR CASH BOND AS SET FORTH IN
12 SECTION 1006.

13 (B) APPLIES FOR LICENSURE IN A NAME ACCEPTABLE TO THE
14 DEPARTMENT. A PERSON MAY NOT APPLY FOR OR OBTAIN BOTH TYPES OF
15 PERSONNEL AGENCY LICENSES UNDER THE SAME NAME OR A SIMILAR NAME.
16 THE DEPARTMENT MAY DISAPPROVE A NAME SIMILAR TO THAT OF THE
17 MICHIGAN EMPLOYMENT SECURITY COMMISSION, A NAME LIKELY TO BE CON-
18 FUSED WITH A FREE PLACEMENT BUREAU, AN EXISTING LICENSED PERSON-
19 NEL AGENCY, OR A NAME THE DEPARTMENT DETERMINES TO BE LIKELY TO
20 MISLEAD THE PUBLIC. A PERSON WHOSE PROPOSED PERSONNEL AGENCY
21 NAME IS DISAPPROVED MAY APPEAL THE DISAPPROVAL TO THE BOARD IN
22 THE MANNER PROVIDED FOR IN SECTION 515.

23 (C) DEMONSTRATES THAT THE PREMISES DESIGNATED IN THE APPLI-
24 CATION FOR LICENSURE IS AN ACCEPTABLE PLACE FOR THE PERSONNEL
25 AGENCY TO CONDUCT BUSINESS. A PERSONNEL AGENCY SHALL NOT SHARE
26 QUARTERS OR OFFICE SPACE OR HAVE A COMMON WAITING ROOM WITH ANY
27 OTHER PERSONNEL AGENCY, WITH A RESUME WRITING SERVICE, OR WITH

1 ANY OTHER PERSON THE DEPARTMENT DETERMINES IS A BUSINESS RELATED
2 TO THE BUSINESS OF A PERSONNEL AGENCY.

3 (D) PROVIDES A STATEMENT OF GOOD MORAL CHARACTER FOR EACH
4 OWNER, OFFICER, OR PARTNER. THIS REQUIREMENT SHALL BE APPLICABLE
5 TO THE OWNER AND TO ANY SUBSEQUENT OWNERS, IF THE PERSONNEL
6 AGENCY IS A SOLE PROPRIETORSHIP; TO EACH OFFICER AND ANY SUBSE-
7 QUENT OFFICERS AND TO EACH SHAREHOLDER OWNING 10% OR MORE OF THE
8 STOCK OR SUBSEQUENT SHAREHOLDERS OWNING 10% OR MORE OF THE STOCK,
9 IF THE PERSONNEL AGENCY IS A CORPORATION; AND TO EACH PARTNER AND
10 TO ANY SUBSEQUENT PARTNERS, IF THE PERSONNEL AGENCY IS A
11 PARTNERSHIP.

12 (E) DESIGNATES AN EMPLOYMENT AGENT OR CONSULTING AGENT
13 LICENSED OR SEEKING LICENSURE UNDER SECTION 1004. THE PERSONNEL
14 AGENCY SHALL NOT BEGIN TO PROVIDE ITS SERVICES UNTIL THE AGENT IS
15 LICENSED.

16 (2) ~~A principal of an employment agency, or if the employ-~~
17 ~~ment agency is a corporation, each active officer or the employ-~~
18 ~~ment agent of the corporation, or if the employment agency is a~~
19 ~~partnership, each active partner of a partnership, as a condition~~
20 ~~to initial licensing of the employment agency, by means of a~~
21 ~~written examination, shall satisfy the department that the appli-~~
22 ~~cant has sufficient knowledge of this article, the rules promul-~~
23 ~~gated under this article, and the laws against discrimination in~~
24 ~~employment and pertinent labor laws, to reasonably ensure that an~~
25 ~~act performed by the applicant is in compliance with the applica-~~
26 ~~ble law or rule.~~ IN ORDER TO BE LICENSED IN THIS STATE, A
27 NONRESIDENT APPLICANT SHALL OBTAIN A CERTIFICATE OF AUTHORITY TO

1 DO BUSINESS IN THIS STATE AND FILE A COPY OF THE CERTIFICATE AND
2 AN IRREVOCABLE CONSENT APPOINTING THE DEPARTMENT TO RECEIVE SERV-
3 ICE OF PROCESS IN ANY NONCRIMINAL PROCEEDING AGAINST THAT PERSON
4 FOR A VIOLATION OF THIS ARTICLE, A RULE PROMULGATED UNDER THIS
5 ARTICLE, OR AN ORDER ISSUED UNDER THIS ARTICLE AFTER THE CONSENT
6 IS FILED.

7 (3) A PERSON SHALL OBTAIN FROM THE DEPARTMENT AN APPROPRIATE
8 LICENSE FOR EACH OFFICE.

9 (4) A PERSONNEL AGENCY SHALL DESIGNATE AND MAINTAIN AT ALL
10 TIMES AN ON-SITE EMPLOYMENT AGENT OR CONSULTING AGENT, AS IS
11 APPROPRIATE, WHO SHALL BE RESPONSIBLE FOR THE GENERAL MANAGEMENT
12 OF THE LICENSED OFFICE AND FOR ASSURING COMPLIANCE WITH THIS
13 ARTICLE, RULES PROMULGATED UNDER THIS ARTICLE, AND APPLICABLE
14 STATE AND FEDERAL LAWS AND REGULATIONS.

15 (5) A PERSONNEL AGENCY LICENSE ISSUED UNDER THIS ARTICLE AND
16 THE LICENSE OF THE EMPLOYMENT AGENT OR CONSULTING AGENT FOR EACH
17 OFFICE SHALL BE DISPLAYED IN A CONSPICUOUS PLACE WITHIN THE
18 OFFICE OF THE LICENSED AGENCY.

19 Sec. 1006. (1) ~~An application for an employment agency~~
20 ~~license shall be accompanied by a surety bond in the amount of~~
21 ~~\$5,000.00 by an authorized surety company approved by the direc-~~
22 ~~tor and filed by the director in the office of the secretary of~~
23 ~~state. The bond shall be conditioned:~~

24 ~~(a) That the person applying for the license shall comply~~
25 ~~with the terms of a contract entered into between the person and~~
26 ~~an employee or employer.~~

1 ~~(b) To guarantee to the employer or employee the return of~~
2 ~~money paid out by the employer or employee as set forth in~~
3 ~~section 1016.~~

4 ~~(c) That the revocation or suspension of a license shall not~~
5 ~~affect the coverage provided by the bond as to an act that~~
6 ~~occurred before the date of revocation or suspension.~~ A PERSON-
7 NEL AGENCY SHALL FILE WITH THE DEPARTMENT, ON A FORM PROVIDED BY
8 THE DEPARTMENT, A SURETY OR CASH BOND IN THE AMOUNT OF
9 \$10,000.00. THE BOND SHALL BE CONDITIONED ON ALL OF THE
10 FOLLOWING:

11 (A) THAT THE LICENSEE OR THE PERSON APPLYING FOR THE LICENSE
12 SHALL COMPLY WITH THE TERMS OF ANY CONTRACT ENTERED INTO BETWEEN
13 THE PERSONNEL AGENCY AND A CLIENT.

14 (B) THAT MONEY PAID BY THE CLIENT SHALL BE REFUNDED TO THE
15 CLIENT, IF THE REFUND IS REQUIRED PURSUANT TO THIS ARTICLE.

16 (C) THAT AN ACTION ON A BOND DUE TO AN ACT WHICH OCCURRED
17 BEFORE THE EXPIRATION OR CANCELLATION OF THE BOND MAY BE COM-
18 MENCED NOT LATER THAN 1 YEAR AFTER THE EXPIRATION OR CANCELLATION
19 DATE OF THE BOND.

20 (D) THAT THE REVOCATION OR SUSPENSION OF A LICENSE SHALL NOT
21 AFFECT THE COVERAGE PROVIDED BY THE BOND AS TO AN ACT THAT
22 OCCURRED BEFORE THE DATE OF REVOCATION OR SUSPENSION.

23 (E) THAT THE SURETY SHALL NOTIFY THE DEPARTMENT IF THE BOND
24 IS CANCELED OR TERMINATED BY THE SURETY OR PERSONNEL AGENCY.

25 (2) If, in the opinion of the ~~director~~ DEPARTMENT, the
26 surety becomes irresponsible, the ~~licensee~~ PERSONNEL AGENCY,
27 upon notice given by the ~~director~~ DEPARTMENT, shall give a new

1 bond ~~subject to~~ AS DESCRIBED IN this section. The failure to
2 give a new bond within ~~10~~ 30 days after notice FROM THE
3 DEPARTMENT shall operate as ~~a~~ AN AUTOMATIC suspension of ~~a~~
4 THE PERSONNEL AGENCY license.

5 (3) THE DEPARTMENT SHALL NOT RENEW A LICENSE ISSUED UNDER
6 THIS ARTICLE IF THE DEPARTMENT HAS BEEN NOTIFIED BY THE PERSON
7 ISSUING THE BOND THAT THE BOND REQUIRED UNDER THIS SECTION HAS
8 BEEN CANCELED OR TERMINATED.

9 Sec. 1009. (1) ~~A license granted under this article shall~~
10 ~~not be transferable, except that the employment agency may admit~~
11 ~~a partner, officer, or stockholder to the business. The employ-~~
12 ~~ment agent of the employment agency shall notify the department~~
13 ~~within 15 days after a change in the board of directors or a~~
14 ~~partner.~~ A LICENSE ISSUED UNDER THIS ARTICLE IS NOT
15 TRANSFERABLE.

16 (2) WITHIN 15 DAYS AFTER A PERSONNEL AGENCY CHANGES FROM A
17 SOLE PROPRIETORSHIP TO A PARTNERSHIP OR CORPORATION, OR FROM A
18 PARTNERSHIP TO A SOLE PROPRIETORSHIP OR CORPORATION, OR FROM A
19 CORPORATION TO A SOLE PROPRIETORSHIP OR PARTNERSHIP, ALL LICEN-
20 SURE REQUIREMENTS FOR THE NEW ENTITY SHALL BE MET.

21 (3) A PERSONNEL AGENCY WHICH SEEKS TO ADMIT A NEW PARTNER TO
22 AN EXISTING PARTNERSHIP OR A NEW OFFICER OR STOCKHOLDER TO AN
23 EXISTING CORPORATION SHALL NOTIFY THE DEPARTMENT WITHIN 15 DAYS
24 AFTER A CHANGE IN THE PARTNERS OF A PARTNERSHIP OR THE OFFICERS
25 OF A CORPORATION OR THE STOCKHOLDERS OF A CORPORATION OWNING 10%
26 OR MORE OF THE STOCK OF THE CORPORATION. THE NOTICE SHALL BE
27 MADE ON A FORM PROVIDED BY THE DEPARTMENT AND SHALL CONTAIN

1 INFORMATION BY WHICH THE DEPARTMENT MAY DETERMINE WHETHER THE NEW
2 INDIVIDUAL IS OF GOOD MORAL CHARACTER.

3 (4) IF A DESIGNATED EMPLOYMENT AGENT OR CONSULTING AGENT IS
4 NO LONGER EMPLOYED BY THE PERSONNEL AGENCY OR IS NO LONGER
5 CHARGED WITH THE GENERAL MANAGEMENT OF THE PERSONNEL AGENCY'S
6 OFFICE, THE PERSONNEL AGENCY SHALL DESIGNATE ANOTHER LICENSED
7 EMPLOYMENT AGENCY OR CONSULTING AGENT AND NOTIFY THE DEPARTMENT
8 WITHIN 15 DAYS AFTER THE APPOINTMENT IS MADE. A TEMPORARY
9 LICENSE MAY BE ISSUED TO AN APPLICANT FOR AN AGENT'S LICENSE PUR-
10 SUANT TO SECTION 213.

11 (5) AN EMPLOYMENT AGENT OR CONSULTING AGENT SHALL NOTIFY THE
12 DEPARTMENT IN WRITING WITHIN 5 BUSINESS DAYS AFTER THE DATE HE OR
13 SHE IS NO LONGER EMPLOYED BY A PERSONNEL AGENCY OR IS NO LONGER
14 CHARGED WITH THE GENERAL MANAGEMENT OF THE OFFICE OF THAT PERSON-
15 NEL AGENCY.

16 (6) A PERSONNEL AGENCY SHALL NOTIFY THE DEPARTMENT, IN WRIT-
17 ING, WITHIN 30 DAYS AFTER THE DATE OF ANY CHANGE OF ADDRESS AND
18 SHALL DEMONSTRATE THAT THE PREMISES DESIGNATED IS AN ACCEPTABLE
19 PLACE FOR THE PERSONNEL AGENCY TO CONDUCT BUSINESS.

20 Sec. 1012. (1) ~~In addition to the method of service pro-~~
21 ~~vided for in any other law, service may be made by delivering a~~
22 ~~copy of the process to the office of the department if the plain-~~
23 ~~tiff, which may be the department in a proceeding instituted by~~
24 ~~it, does both of the following:~~ A TYPE A PERSONNEL AGENCY SHALL
25 ENTER INTO A WRITTEN CONTRACT WITH EACH CLIENT FOR THE SERVICES
26 TO BE RENDERED FOR WHICH A CHARGE IS TO BE MADE BY THE PERSONNEL
27 AGENCY. THE CONTRACT SHALL EMBODY ALL THE TERMS AND CONDITIONS

1 OF THE AGREEMENT BETWEEN THE PERSONNEL AGENCY AND THE CLIENT AND
2 SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

3 (a) ~~Sends a copy of the process and of the pleading by cer-~~
4 ~~tified mail to the defendant or respondent at the last known~~
5 ~~address.~~ THE LICENSED NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
6 PERSONNEL AGENCY.

7 (b) ~~Files its affidavit of compliance with this section in~~
8 ~~the case on or before the return day of the process or within the~~
9 ~~time as the court allows.~~ A NOTICE THAT THE PERSONNEL AGENCY IS
10 LICENSED, BONDED, REQUIRED TO OPERATE UNDER THE LAWS OF THE STATE
11 OF MICHIGAN, AND REGULATED BY THE DEPARTMENT.

12 (C) THE NAME AND ADDRESS OF THE CLIENT.

13 (D) THE PERSONNEL AGENCY'S FEE SCHEDULE.

14 (E) THE DURATION OF TIME THE CLIENT IS OBLIGATED UNDER THE
15 TERMS OF THE CONTRACT.

16 (F) THE GUARANTEE PERIOD OF EMPLOYMENT AFTER WHICH NO REFUND
17 WILL BE MADE.

18 (G) THE SERVICES TO BE PROVIDED AND THE MANNER IN WHICH THE
19 SERVICES ARE TO BE PROVIDED TO THE CLIENT.

20 (H) THE TERMS UNDER WHICH THE FEE IS TO BE PAID.

21 (I) THE TERMS UNDER WHICH A CLIENT MAY RECEIVE A REFUND.

22 (J) THE SIGNATURES OF THE CLIENT AND THE PERSONNEL AGENCY
23 EMPLOYEE EXECUTING THE CONTRACT.

24 (2) ~~If a person, including a nonresident of this state, who~~
25 ~~engages in conduct prohibited by this article or a rule or order~~
26 ~~has not filed a consent to service of process and personal~~
27 ~~jurisdiction, and service cannot otherwise be obtained in this~~

~~1 state, the conduct authorizes the department to receive service
2 of process in a noncriminal proceeding against the person which
3 grows out of the conduct and which is brought under this article
4 or a rule promulgated or an order issued under this article, with
5 the same force and validity as if served on the person
6 personally. Notice shall be given as provided in subsection~~

~~7 (†).~~ IF A CLIENT ACCEPTS EMPLOYMENT AS A RESULT OF THE ACTION OF
8 A TYPE A PERSONNEL AGENCY, REPORTS FOR WORK, AND IS EMPLOYED FOR
9 LESS THAN THE PERSONNEL AGENCY'S GUARANTEE PERIOD AS INDICATED IN
10 THE CONTRACT, THE GROSS FEE CHARGED TO THE CLIENT SHALL NOT
11 EXCEED 20% OF THE SALARY OR WAGES EARNED BY THE EMPLOYEE. THE
12 MINIMUM GUARANTEE PERIOD SHALL BE AT LEAST 60 CALENDAR DAYS. THE
13 TERMS OF THE REFUND SHALL INCLUDE A NOTICE THAT IF A FEE IN
14 EXCESS OF THE AMOUNT REQUIRED HAS BEEN COLLECTED BY THE PERSONNEL
15 AGENCY, THE EXCESS AMOUNT SHALL BE REFUNDED TO THE CLIENT WITHIN
16 7 DAYS AFTER THE CLIENT REQUESTS THE REFUND.

17 (3) A TYPE A PERSONNEL AGENCY SHALL PROVIDE 1 COPY OF THE
18 SIGNED CONTRACT TO THE CLIENT AND SHALL MAINTAIN 1 COPY IN THE
19 AGENCY'S FILE RELATING TO THAT CLIENT.

20 (4) IF A CLIENT ACCEPTS EMPLOYMENT AS A RESULT OF THE SERV-
21 ICES OF A TYPE A PERSONNEL AGENCY, THE AGENCY SHALL MAINTAIN IN
22 THAT CLIENT'S CONTRACT FILE A RECORD SHOWING THE NAME AND ADDRESS
23 OF THE CLIENT, THE NAME AND ADDRESS OF THE EMPLOYER WITH WHOM
24 EMPLOYMENT IS ACCEPTED, THE NATURE OF THE EMPLOYMENT, THE AMOUNT
25 OF THE AGENCY FEE, THE DATES AND AMOUNTS OF PAYMENT, AND THE DATE
26 AND AMOUNT OF ANY REFUND. THE RECORD SHALL INCLUDE A SPACE FOR

1 REMARKS OF AN INDIVIDUAL NATURE WHICH SUPPLEMENT THE REQUIRED
2 INFORMATION.

3 (5) A TYPE A PERSONNEL AGENCY SHALL GIVE TO A CLIENT FROM
4 WHOM A FEE IS RECEIVED FOR THE SERVICES RENDERED OR ASSISTANCE
5 GIVEN A RECEIPT BEARING THE NAME AND ADDRESS OF THE PERSONNEL
6 AGENCY, THE NAME OF THE CLIENT, THE NAME OF THE INDIVIDUAL
7 RECEIVING THE FEE, THE AMOUNT OF THE FEE, THE DATE OF PAYMENT OF
8 THE FEE, AND THE REASON FOR PAYMENT OF THE FEE. THE ORIGINAL
9 RECEIPT SHALL BE GIVEN TO THE CLIENT AND A COPY SHALL BE FILED BY
10 THE AGENCY IN THE SAME PLACE AS THE CONTRACT UNDER WHICH PAYMENT
11 WAS MADE.

12 (6) A TYPE A PERSONNEL AGENCY SHALL MAINTAIN A CLIENT FILE
13 CONTAINING THE CONTRACT, THE EMPLOYMENT AND PAYMENT RECORD, AND
14 RECEIPTS OF PAYMENT FOR AT LEAST 3 YEARS FOLLOWING THE LAST PAY-
15 MENT OR REFUND.

16 Sec. 1013. (1) ~~An employment agent shall apply for a~~
17 ~~license to the department and shall be required to pass a written~~
18 ~~examination. An employment agent shall be responsible for the~~
19 ~~actual operation of an employment agency.~~ EXCEPT AS OTHERWISE
20 PROVIDED IN SUBSECTION (5), A TYPE A PERSONNEL AGENCY SHALL NOT
21 DIRECT A CLIENT TO EMPLOYMENT WITHOUT HAVING OBTAINED FROM THE
22 PROPOSED EMPLOYER, EITHER ORALLY OR IN WRITING, A BONA FIDE JOB
23 ORDER. THE JOB ORDER SHALL BE RECORDED ON A FORM AND SHALL
24 INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION:

25 (A) THE FULL NAME AND POSITION OF THE INDIVIDUAL PLACING THE
26 ORDER ON BEHALF OF THE EMPLOYER.

1 (B) THE NAME OF THE INDIVIDUAL TAKING THE JOB ORDER ON
2 BEHALF OF THE PERSONNEL AGENCY.

3 (C) THE DATE ON WHICH THE ORDER IS PLACED.

4 (D) THE NATURE OF THE EMPLOYMENT.

5 (E) THE NAME AND ADDRESS OF THE EMPLOYER TO WHOM A CLIENT
6 MAY BE DIRECTED AND THE NAME AND TITLE OF THE INDIVIDUAL TO BE
7 CONTACTED.

8 (F) THE PROBABLE DURATION OF THE EMPLOYMENT IF EMPLOYMENT IS
9 OTHER THAN PERMANENT.

10 (G) THE RATE OF THE WAGE OR SALARY TO BE PAID TO AN
11 EMPLOYEE.

12 (2) A TYPE A PERSONNEL AGENCY SHALL NOT DIRECT A CLIENT TO
13 EMPLOYMENT WITHOUT GIVING TO THE CLIENT, IN WRITTEN FORM, THE
14 FOLLOWING:

15 (A) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSONNEL
16 AGENCY.

17 (B) THE NAME OF THE CLIENT BEING DIRECTED.

18 (C) THE NAME OF THE EMPLOYMENT AGENT DIRECTING THE CLIENT.

19 (D) THE NAME AND ADDRESS OF THE EMPLOYER TO WHOM THE CLIENT
20 IS DIRECTED AND THE INDIVIDUAL TO BE CONTACTED.

21 (E) THE KIND OF EMPLOYMENT AVAILABLE AT THE PLACE OF PRO-
22 SPECTIVE EMPLOYMENT.

23 (F) THE MINIMUM STARTING SALARY OR WAGE OF THE PROPOSED
24 EMPLOYMENT.

25 (3) A TYPE A PERSONNEL AGENCY MAY REFER A CLIENT TO AN
26 EMPLOYER BY TELEPHONE, BUT THE TELEPHONE REFERRAL SHALL BE
27 CONFIRMED IN WRITING WITHIN 24 HOURS OF THE REFERRAL BY MAILING

1 OR DELIVERING TO THE CLIENT THE JOB REFERRAL FORM DESCRIBED IN
2 SUBSECTION (2).

3 (4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5), IF A
4 CLIENT IS REFERRED TO AN EMPLOYER AND EMPLOYMENT OF THE KIND
5 SPECIFIED DOES NOT EXIST AT THE PLACE TO WHICH THE CLIENT IS
6 DIRECTED, AND THE CLIENT DOES NOT ACCEPT OTHER EMPLOYMENT IN SUB-
7 STITUTION OF THE KIND OF EMPLOYMENT CONTAINED IN THE JOB REFER-
8 RAL, THE AGENCY, WITHIN 24 HOURS AFTER DEMAND, SHALL REFUND TO
9 THE CLIENT THE SUM PAID BY THE CLIENT FOR TRANSPORTATION IN GOING
10 TO AND RETURNING FROM THE REFERRAL.

11 (5) A TYPE A PERSONNEL AGENCY MAY DIRECT A CLIENT TO AN
12 EMPLOYER IF THE EMPLOYER HAS PREVIOUSLY REQUESTED THAT THE
13 EMPLOYER BE ADVISED OF CLIENTS WITH CERTAIN EMPLOYMENT QUALIFICA-
14 TIONS EVEN THOUGH AN ACTUAL VACANCY DOES NOT EXIST IN THE
15 EMPLOYER'S ORGANIZATION AT THE TIME THE CLIENT IS REFERRED. A
16 TYPE A PERSONNEL AGENCY MAY ALSO COMMUNICATE THE QUALIFICATIONS
17 OF A CLIENT TO AN EMPLOYER WHICH THE AGENCY REASONABLY BELIEVES
18 MAY BE SEEKING EMPLOYEES WITH SUCH QUALIFICATIONS, EVEN THOUGH A
19 JOB ORDER HAS NOT BEEN PLACED WITH THE AGENCY. HOWEVER, THE
20 CLIENT SHALL BE ADVISED THAT THE REFERRAL TO SUCH AN EMPLOYER IS
21 BEING MADE WITHOUT THE KNOWLEDGE OF ANY VACANCY AND THAT THERE
22 WILL BE NO REFUND OF CLIENT EXPENSES BY THE AGENCY IF EMPLOYMENT
23 IS NOT OBTAINED FROM SUCH A REFERRAL.

24 (6) A TYPE A PERSONNEL AGENCY SHALL MAINTAIN A FILE FOR AT
25 LEAST 3 YEARS REGARDING EACH JOB ORDER. THE FILE SHALL CONTAIN
26 AT LEAST THE FOLLOWING INFORMATION:

1 (A) A COPY OF THE JOB ORDER.

2 (B) A COPY OF EACH JOB REFERRAL GIVEN TO A CLIENT REGARDING
3 THAT JOB.

4 (C) A COPY OF ANY ADVERTISING BASED ON THAT JOB ORDER,
5 INCLUDING THE DATE OF THE ADVERTISING AND THE PLACE IN WHICH IT
6 WAS ADVERTISED.

7 Sec. 1014. (1) ~~An employment agency shall not adopt or use~~
8 ~~a name similar to that of the Michigan employment security com-~~
9 ~~mission, nor adopt or use a name likely to be confused with a~~
10 ~~free placement bureau. A question of name similarity shall be~~
11 ~~determined by the department.~~ A TYPE B PERSONNEL AGENCY SHALL
12 ENTER INTO A WRITTEN CONTRACT WITH EACH CLIENT FOR SERVICES TO BE
13 RENDERED FOR WHICH A CHARGE IS TO BE MADE TO THE CLIENT BY THE
14 AGENCY. THE CONTRACT SHALL EMBODY ALL TERMS AND CONDITIONS OF
15 THE AGREEMENT BETWEEN THE AGENCY AND THE CLIENT AND SHALL
16 INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

17 (A) THE LICENSED NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
18 PERSONNEL AGENCY AND THE NAME AND ADDRESS OF THE CLIENT.

19 (B) A NOTICE THAT THE CONTRACT SHOULD NOT BE SIGNED UNTIL
20 THE CLIENT HAS READ, SIGNED, AND DATED THE REQUIRED APPLICABLE
21 WAIVER.

22 (C) A NOTICE THAT THE AGENCY IS LICENSED, BONDED, REQUIRED
23 TO OPERATE UNDER THE LAWS OF THE STATE OF MICHIGAN, AND REGULATED
24 BY THE DEPARTMENT.

25 (D) THE AGENCY'S FEE SCHEDULE AS IT APPLIES TO THE CLIENT.

26 (E) THE TERMS UNDER WHICH THE FEE IS TO BE PAID.

1 (F) A COMPLETE LIST OF THE SERVICES OFFERED AND A
2 DESCRIPTION OF THOSE SERVICES.

3 (G) A DESCRIPTION OF THE PLACE AND MANNER IN WHICH THE SERV-
4 ICES WILL BE PROVIDED.

5 (H) THE CONTRACT EXECUTION DATE AND THE DURATION OF THE
6 CLIENT'S OBLIGATIONS UNDER THE TERMS OF THE CONTRACT.

7 (I) THE TERMS UNDER WHICH A CLIENT MAY RECEIVE A REFUND.

8 (J) THE SIGNATURES OF THE CLIENT AND THE AGENCY EMPLOYEE
9 EXECUTING THE CONTRACT.

10 (2) IF THE TYPE B PERSONNEL AGENCY DOES NOT PROVIDE JOB
11 LISTING SERVICES TO ITS CLIENTS, THE CONTRACT SHALL BE ACCOM-
12 PANIED BY THE FOLLOWING WAIVER. THE WAIVER SHALL BE PRINTED IN
13 14-POINT TYPE ON A PIECE OF PAPER 8-1/2 INCHES BY 11 INCHES IN
14 SIZE. THE WAIVER SHALL BE READ, SIGNED, AND DATED BY THE CLIENT
15 PRIOR TO THE EXECUTION OF THE CONTRACT AND MADE A PART OF THE
16 CONTRACT, AND SHALL READ: "NOTICE: WE ARE NOT AN EMPLOYMENT
17 AGENCY AND ARE NOT PERMITTED UNDER THE TERMS OF THIS CONTRACT TO
18 SCHEDULE INTERVIEWS OR TO IN ANY WAY PUT YOU IN DIRECT CONTACT
19 WITH POTENTIAL EMPLOYERS. THIS WAIVER MUST BE READ, SIGNED, AND
20 DATED BY THE CLIENT PRIOR TO THE SIGNING OF THE CONTRACT." A
21 TYPE B PERSONNEL AGENCY WHICH PROVIDES JOB LISTINGS SHALL COMPLY
22 WITH SECTION 1015 AND USE THE WAIVER SET FORTH IN THAT SECTION.

23 (3) A TYPE B PERSONNEL AGENCY SHALL PROVIDE 1 COPY OF THE
24 SIGNED CONTRACT TO THE CLIENT AND SHALL MAINTAIN 1 COPY IN THE
25 AGENCY'S FILE RELATING TO THAT CLIENT.

26 (4) A TYPE B PERSONNEL AGENCY SHALL GIVE EACH CLIENT FROM
27 WHOM A FEE IS RECEIVED A RECEIPT BEARING THE NAME AND ADDRESS OF

1 THE AGENCY, THE NAME OF THE CLIENT, THE AMOUNT OF THE PAYMENT,
2 THE DATE THE PAYMENT WAS RECEIVED, THE NAME OF THE INDIVIDUAL
3 RECEIVING THE PAYMENT, AND THE REASON FOR THE PAYMENT. THE ORIG-
4 INAL OF THE RECEIPT SHALL BE GIVEN TO THE CLIENT AND A COPY SHALL
5 BE FILED BY THE AGENCY IN THE SAME PLACE AS THE CONTRACT UNDER
6 WHICH THE PAYMENT WAS MADE.

7 (5) A TYPE B PERSONNEL AGENCY SHALL MAINTAIN THE CLIENT
8 FILE, CONTAINING THE CONTRACT, A RECORD OF SERVICES RENDERED AND
9 PAYMENTS RECEIVED, AND RECEIPTS OF PAYMENT, FOR AT LEAST 3 YEARS
10 FOLLOWING THE LAST PAYMENT OR REFUND.

11 Sec. 1015. ~~The following shall govern an employment~~
12 ~~agent:~~

13 ~~(a) The employment agent shall give to an employee from whom~~
14 ~~a payment is received for services rendered or assistance given,~~
15 ~~a receipt bearing the name and address of the employment agency,~~
16 ~~the name of the licensee, the name of the person receiving the~~
17 ~~money, the amount of the payment, the date of payment, and the~~
18 ~~reason for payment. The receipt shall be numbered and bound in~~
19 ~~duplicate form. The duplicate shall be kept not less than 1 year~~
20 ~~at the office of the licensed agent.~~

21 ~~(b) The employment agent shall keep for not less than 1 year~~
22 ~~a complete record of an order for an employee received from an~~
23 ~~employer and the full name of the person placing the order, the~~
24 ~~date on which the order is placed, the name and address of each~~
25 ~~employee directed to an employer, the nature of the employment,~~
26 ~~and the name and address of the employer to whom the employee is~~
27 ~~directed. A record shall be kept of the name and address of each~~

~~1 employee accepting employment, the name and address of the
2 employer with whom employment is accepted, the nature of the
3 employment, the probable duration of the employment, the rate of
4 the wage or salary to be paid to the employee, the amount of the
5 employment agent's service charge, the date and amount of pay-
6 ment, the date and amount of refund, and a space for remarks,
7 under which shall be recorded matters of an individual nature to
8 amplify the foregoing record.~~

~~9 (c) The record shall be open to the inspection of the
10 department at the address where the employment agency is con-
11 ducted during business hours.~~ IN ADDITION TO THE REQUIREMENTS OF
12 SECTION 1014, A TYPE B PERSONNEL AGENCY WHICH PROVIDES JOB LIST-
13 INGS TO ITS CLIENTS SHALL DO ALL OF THE FOLLOWING:

14 (A) REQUIRE THAT A POTENTIAL CLIENT READ, SIGN, AND DATE THE
15 FOLLOWING WAIVER PRIOR TO ENTERING INTO A CONTRACT FOR SERVICES
16 WITH THE AGENCY. THE WAIVER SHALL BE PRINTED IN 14-POINT TYPE ON
17 A PIECE OF PAPER 8-1/2 INCHES BY 11 INCHES IN SIZE. THE WAIVER
18 SHALL BE MADE A PART OF THE CONTRACT AND SHALL READ: "NOTICE:
19 WE ARE A JOB INFORMATION SERVICE. WE DO NOT SCHEDULE INTERVIEWS
20 WITH POTENTIAL EMPLOYERS. INSTEAD, WE PROVIDE INFORMATION ON
21 EMPLOYMENT OPPORTUNITIES. WE CANNOT GUARANTEE YOU A JOB. WE DO
22 GUARANTEE THAT THE JOBS LISTED WITH US ARE CONFIRMED AT LEAST
23 EVERY 10 CALENDAR DAYS. WE HAVE PROVIDED YOU WITH A SAMPLE OF
24 ACTUAL CURRENT JOB LISTINGS. AS A CLIENT YOU MAY OBTAIN A COPY
25 OF A SPECIFIC JOB LISTING WHICH HAS BEEN ADVERTISED. IF YOU DIS-
26 COVER THAT A JOB WHICH IS LISTED IN A JOB ORDER HAS NOT BEEN
27 CONFIRMED WITHIN 10 CALENDAR DAYS OR THAT A JOB LISTING IS NOT

1 ACCURATE AS ADVERTISED OR NOT COMPLETE AS REQUIRED BY LAW, YOU
2 MAY RECEIVE A FULL REFUND."

3 (B) ALLOW A CLIENT TO INSPECT A SAMPLE OF ALL CURRENT JOB
4 LISTINGS ADVERTISED WITHIN THE PREVIOUS 2 WEEKS PRIOR TO ENTERING
5 INTO THE AGENCY CONTRACT OR REQUESTING PAYMENT OF ANY FEE.
6 IDENTIFYING FEATURES OF THE EMPLOYER MAY BE DELETED IN THE SAMPLE
7 LISTING.

8 (C) LIMIT THE CONTRACT WITH A CLIENT TO NOT MORE THAN 12
9 MONTHS WITH NO PROVISION FOR MANDATORY OR AUTOMATIC RENEWAL OF
10 THE CONTRACT.

11 (D) HAVE A JOB ORDER FOR EACH JOB OR PLACE OF EMPLOYMENT
12 LISTED, AND CONFIRM EACH JOB ORDER WITH THE EMPLOYER BEFORE IT IS
13 LISTED AND NOT LESS THAN ONCE EVERY 10 CALENDAR DAYS THEREAFTER
14 UNTIL THE JOB ORDER IS CANCELED. THE JOB ORDER SHALL CONTAIN A
15 WRITTEN RECORD OF THE DATE AND THE NAME AND TITLE OF THE PERSON
16 CONTACTED AT THE EMPLOYER'S PLACE OF BUSINESS TO CONFIRM THE JOB
17 ORDER.

18 (E) CANCEL ANY JOB LISTING WITHIN 24 HOURS AFTER RECEIPT OF
19 AN ORAL OR WRITTEN NOTICE FROM AN EMPLOYER CANCELING THE JOB
20 ORDER OR STATING THAT THE JOB HAS BEEN FILLED AND GIVING THE NAME
21 AND TITLE OF THE PERSON AT THE EMPLOYER'S PLACE OF BUSINESS STAT-
22 ING THAT THE ORDER IS CANCELED OR THE JOB IS FILLED.

23 (F) PROVIDE A CLIENT A COPY OF ANY JOB ORDER OR JOB LISTING
24 UPON REQUEST BY THE CLIENT.

25 (G) REFUND FEES CHARGED TO A CLIENT WITHIN 24 HOURS AFTER
26 BEING REQUESTED TO MAKE A REFUND IF THE JOB ORDER WAS NOT

1 CONFIRMED WITHIN 10 CALENDAR DAYS OR WAS INACCURATE OR
2 INCOMPLETE.

3 (H) MAINTAIN A JOB LISTING FOR EACH JOB ORDER WHICH CONTAINS
4 ALL OF THE FOLLOWING INFORMATION:

5 (i) THE NAME AND EITHER THE ADDRESS OR THE TELEPHONE NUMBER
6 OF THE PERSON WHOM THE CLIENT MAY CONTACT REGARDING THE POTENTIAL
7 EMPLOYMENT.

8 (ii) THE NAME AND TITLE OF THE PERSON CONFIRMING ON BEHALF
9 OF THE EMPLOYER THAT A JOB OPENING EXISTS FOR WHICH THE EMPLOYER
10 SEEKS AN EMPLOYEE.

11 (iii) THE NAME AND EITHER THE ADDRESS OR TELEPHONE NUMBER OF
12 THE POTENTIAL EMPLOYER AND THE GENERAL LOCATION OF THE
13 EMPLOYMENT.

14 (iv) THE JOB TITLE OF THE POTENTIAL EMPLOYMENT.

15 (v) THE MINIMUM STARTING SALARY OR WAGE FOR THE JOB.

16 (vi) THE PROBABLE DURATION OF THE EMPLOYMENT IF THE JOB IS
17 NOT A PERMANENT POSITION.

18 (vii) THE MINIMUM JOB QUALIFICATIONS AND REQUIREMENTS FOR
19 EACH JOB.

20 (I) MAINTAIN FOR AT LEAST 3 YEARS RECORDS OF EACH CLIENT
21 CONTRACT, INCLUDING THE WAIVER, THE PAYMENTS MADE AND SERVICES
22 RENDERED UNDER THAT CONTRACT, AND ANY REFUNDS REQUIRED.

23 (J) MAINTAIN FOR AT LEAST 3 YEARS RECORDS OF EACH JOB ORDER
24 AND JOB LISTING, COPIES OF ANY ADVERTISING OF THAT JOB LISTING,
25 THE LIST OF JOB ORDER CONFIRMATIONS PERFORMED, AND THE NOTICE OF
26 CANCELLATION FOR THAT JOB ORDER.

1 (K) IF THE AGENCY ADVERTISES JOB LISTINGS, CONFIRM THAT THE
2 JOB HAS NOT BEEN FILLED OR THE JOB ORDER CANCELED WITHIN 24 HOURS
3 BEFORE PLACING THE ADVERTISING. IF THE JOB LISTING IS BEING
4 ADVERTISED, CANCEL THE ADVERTISING WITHIN 24 HOURS AFTER BEING
5 NOTIFIED THAT THE JOB ORDER HAS BEEN CANCELED OR THE JOB HAS BEEN
6 FILLED.

7 Sec. 1019. ~~If a job applicant accepts employment and~~
8 ~~reports for work, and within 60 days after reporting the employ-~~
9 ~~ment is terminated, the gross fee charged to the employee or to~~
10 ~~the employer shall not exceed 20% of the salary or wages received~~
11 ~~by the employee. The fee shall not exceed the fee provided for~~
12 ~~by the contract between the employee and the agency. An employ-~~
13 ~~ment agency which collects, receives, or retains a fee or other~~
14 ~~payment contrary to or in excess of this article, shall return~~
15 ~~the fee or excess portion of the fee within 7 days after receiv-~~
16 ~~ing a demand for the return.~~ A PERSONNEL AGENCY, OR ANY LICENSED
17 AGENT OR OTHER AGENT OR EMPLOYEE OF A PERSONNEL AGENCY SHALL NOT
18 DO ANY OF THE FOLLOWING:

19 (A) USE ANY NAME OTHER THAN THE NAME IN WHICH THE PERSONNEL
20 AGENCY IS LICENSED.

21 (B) BRING OR MAINTAIN AN ACTION IN A COURT OF THIS STATE FOR
22 THE COLLECTION OF COMPENSATION FOR THE PERFORMANCE OF AN ACT OR
23 CONTRACT FOR SERVICES AS A PERSONNEL AGENCY WITHOUT ALLEGING AND
24 PROVING THAT THE AGENCY AND ITS AGENT WERE LICENSED UNDER THIS
25 ARTICLE DURING THE PERFORMANCE OF THE ACT OR CONTRACT.

1 (C) USE A FORM WHICH CONTAINS PROVISIONS IN VIOLATION OF
2 THIS ARTICLE, RULES PROMULGATED UNDER THIS ARTICLE, OR OTHER
3 STATE OR FEDERAL LAWS OR REGULATIONS.

4 (D) SHARE A FEE WITH ANY OTHER PERSON, EXCEPT A PERSONNEL
5 AGENCY LICENSED IN THIS STATE OR IN ANY OTHER STATE REQUIRING
6 LICENSES FOR PERSONNEL AGENCIES OR A PERSONNEL AGENCY IN A STATE
7 IN WHICH LICENSURE IS NOT REQUIRED.

8 (E) PERSUADE, INDUCE, OR SOLICIT AN EMPLOYER TO DISCHARGE AN
9 EMPLOYEE.

10 (F) REQUEST OR ACCEPT A REGISTRATION FEE OR ANY OTHER FEE
11 NOT SET FORTH IN THE AGENCY'S CONTRACT WITH A CLIENT OR CHARGE A
12 FEE HIGHER THAN THE FEE SET FORTH IN THE CONTRACT.

13 (G) REQUEST OR ACCEPT, OR GIVE, OFFER, OR PROMISE TO GIVE, A
14 GIFT OF SUCH VALUE THAT THE GIFT IS LIKELY TO PERSUADE, INDUCE,
15 OR INFLUENCE AN ACTION OF AN EMPLOYER OR BENEFIT THE PERSONNEL
16 AGENCY OR ANY OF ITS AGENTS OR EMPLOYEES.

17 (H) KNOWINGLY PROCURE, ENTICE, SEND, OR AID IN PROCURING,
18 ENTICING, OR SENDING A PERSON TO PERFORM AN ILLEGAL ACT.

19 (I) PREVENT AN EMPLOYEE OF THE DEPARTMENT FROM INSPECTING
20 THE RECORDS OF THE AGENCY AT ANY TIME DURING NORMAL BUSINESS
21 HOURS.

22 Sec. 1020. ~~(1) An employment agency or an employment agent~~
23 ~~or an employment agency's or employment agent's agent shall not~~
24 ~~give, offer, or promise to an agent, employee, or servant a gift~~
25 ~~or gratuity with intent to influence an action in relation to the~~
26 ~~business of the principal employer or master.~~

1 ~~(2) An employment agency or an employment agent or an~~
2 ~~employment agency's or employment agent's agent, employee, or~~
3 ~~servant shall not request or accept a gift, gratuity, or promise~~
4 ~~to make a gift or to do an act beneficial to an employment agency~~
5 ~~or an employment agent or an employment agency's or employment~~
6 ~~agent's agent, employee, or servant, under an agreement or with~~
7 ~~an understanding with an employment agency or an employment agent~~
8 ~~or an employment agency's or employment agent's agent that the~~
9 ~~person shall act in any particular manner in relation to the~~
10 ~~business of the principal, employer, or master.~~

11 ~~(3) An employment agency or an employment agent or an~~
12 ~~employment agency's or employment agent's agent shall not give,~~
13 ~~offer, or promise to an employer or an employer's agent a gift or~~
14 ~~gratuity with intent to influence an action in employing or dis-~~
15 ~~charging an employee.~~

16 ~~(4) An employer or an employer's agent shall not accept a~~
17 ~~gift, gratuity, or promise to make a gift or to do an act benefi-~~
18 ~~cial to the employer or the employer's agent, under an agreement~~
19 ~~or with an understanding with an employment agency or an employ-~~
20 ~~ment agent or an employment agency's or employment agent's agent,~~
21 ~~that the person shall employ or discharge an employee.~~

22 ~~(5) An employment agency or employment agent shall not share~~
23 ~~a placement fee with a person other than a licensed agency of~~
24 ~~this state or of another state in which a license is required. A~~
25 TYPE A PERSONNEL AGENCY, ITS LICENSED EMPLOYMENT AGENT, OR ANY
26 OTHER AGENT OR EMPLOYEE OF THE TYPE A PERSONNEL AGENCY, SHALL NOT
27 DO ANY OF THE FOLLOWING:

1 (A) PERSUADE, INDUCE, OR SOLICIT AN EMPLOYEE TO LEAVE
2 EMPLOYMENT WHICH HAS BEEN SECURED FOR THAT EMPLOYEE BY THE PER-
3 SONNEL AGENCY.

4 (B) SEND A CLIENT TO A PLACE WHERE A STRIKE OR LOCKOUT
5 EXISTS OR IS IMPENDING WITHOUT INFORMING THE CLIENT OF THE STRIKE
6 OR LOCKOUT, AND SO NOTING THAT FACT UPON THE JOB REFERRAL SLIP
7 GIVEN TO THE CLIENT.

8 (C) REQUIRE OR ACCEPT A FEE FROM A CLIENT UNTIL THE CLIENT
9 HAS MADE A BONA FIDE ACCEPTANCE OF EMPLOYMENT.

10 (D) ENTER INTO OR ENFORCE A CONTRACT WITH A CLIENT IF
11 ANOTHER PERSONNEL AGENCY OR BUSINESS ENTITY IS A PARTY TO THE
12 CONTRACT.

13 Sec. 1021. ~~An employment agency or an employment agent~~
14 ~~shall not require or accept from an applicant a registration fee,~~
15 ~~deposit, portion of a service charge, or any other charge for~~
16 ~~service until a bona fide acceptance of employment has been~~
17 ~~effected. The total charge shall not exceed the service charge~~
18 ~~provided in the written contract.~~ A TYPE B PERSONNEL AGENCY
19 SHALL NOT DO ANY OF THE FOLLOWING:

20 (A) PUT A CLIENT IN DIRECT CONTACT WITH A SPECIFIC
21 EMPLOYER.

22 (B) CONTACT A SPECIFIC EMPLOYER ON BEHALF OF A CLIENT.

23 (C) ADVERTISE THE AVAILABILITY OF AN INDIVIDUAL FOR
24 EMPLOYMENT.

25 (D) CHARGE OR ACCEPT A FEE FROM A CLIENT AT THE TIME A
26 CLIENT PROCURES EMPLOYMENT.

1 (E) PROVIDE CLIENTS WITH LISTS OF POTENTIAL EMPLOYERS, IF
2 THE TYPE B PERSONNEL AGENCY CHOOSES TO PROVIDE SUCH LISTS IN
3 COMPLIANCE WITH SECTION 1015, WITHOUT PROVIDING ADDITIONAL CON-
4 SULTING SERVICES.

5 (F) ADVERTISE, INCLUDING IN DIRECTORIES OR NEWS MEDIA, THAT
6 IT IS AN EMPLOYMENT AGENCY OR IN SUCH A MANNER THAT MAY LEAD A
7 CLIENT OR POTENTIAL CLIENT TO BELIEVE THAT THE TYPE B PERSONNEL
8 AGENCY OR ANY OF ITS AGENTS OR EMPLOYEES MAY, IN ANY WAY, PUT A
9 CLIENT IN DIRECT CONTACT WITH AN EMPLOYER.

10 Sec. 1022. ~~A person engaged in the business or acting in~~
11 ~~the capacity of a private employment agency may not bring or~~
12 ~~maintain an action in a court of this state for the collection of~~
13 ~~compensation for the performance of an act or contract for which~~
14 ~~a license is required by this article without alleging and prov-~~
15 ~~ing that the person was licensed under this article during the~~
16 ~~performance of the act or contract.~~ A PERSON WHO HOLDS A LICENSE
17 TO OPERATE PURSUANT TO THIS ARTICLE ON THE EFFECTIVE DATE OF THE
18 1991 AMENDATORY ACT THAT AMENDED THIS SECTION SHALL BE CONSIDERED
19 BY THE DEPARTMENT TO BE APPROPRIATELY LICENSED UNDER THIS ARTICLE
20 UNTIL THAT LICENSE EXPIRES.

21 Section 2. Sections 1007, 1008, 1010, 1011, 1016, 1017, and
22 1018 of Act No. 299 of the Public Acts of 1980, being sections
23 339.1007, 339.1008, 339.1010, 339.1011, 339.1016, 339.1017, and
24 339.1018 of the Michigan Compiled Laws, are repealed.

25 Section 3. This amendatory act shall not take effect unless
26 Senate Bill No. _____ or House Bill No. 4689 (request
27 no. 02549'91) of the 86th Legislature is enacted into law.