

HOUSE No. 1855

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to the regulation of employment agencies..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 46A of Chapter 140, as appearing in the 2006 Official Edition, is
2 hereby amended by striking the entire section and inserting in place thereof the following:

3 As used in this section and in sections forty six B to forty six R, inclusive, the following
4 words shall have the following meanings:

5 "Commissioner", the commissioner of the Division of Occupational Safety who has been
6 authorized by the Director of Labor to enforce M.G.L. c. 140, §§46A-46R and regulations
7 promulgated thereunder.

8 "Employment agency", any person who conducts in whole or in part an agency for the
9 purpose of procuring or attempting to procure permanent or temporary help or employment or
10 engagements, or for the registration of persons seeking such help, employment or engagement, or
11 for giving information as to where and of whom such help, employment or engagement may be
12 procured, where a fee is exacted or attempted to be collected for such service.

13 "Fee" (a) Any money or other valuable consideration paid or promised to be paid either
14 by an applicant for employment or by an employer of an applicant for services rendered or to be
15 rendered by any person conducting an employment agency under this chapter.

16 (b) the difference between the amount of money received by any person who furnishes
17 employees and the amount paid by him to such employee.

18 "Recruiting domestic employment agency", any agency which, for a fee, procures or
19 attempts to procure, from outside the commonwealth but within the United States one or more
20 employees to do domestic or household work in the commonwealth.

21 "Emigrant agent", any person who, on behalf of an employment agency and for a fee,
22 procures or attempts to procure domestic or household employment in the commonwealth for
23 persons outside the commonwealth seeking such employment, or, domestic or household
24 employees from outside the commonwealth for employers in the commonwealth seeking the
25 services of such employees.

26 "Placement employee", any placement manager, placement director, counsellor,
27 interviewer, or any other person employed by an employment agency who spends a substantial
28 part of his time interviewing, counseling or conferring with job applicants.

29 "Person", any individual, company, society, association, corporation, manager,
30 contractor, subcontractor, or their agents or employees but shall not include any labor
31 organization, as defined in section two of chapter one hundred and fifty A; nor any agency
32 operated by a religious, charitable, nonprofit organization or accredited educational institution no
33 part of the earnings of which inures to the benefit of any private shareholder or individual; nor
34 any agency operated by the federal, state or municipal governments; nor any person validly

35 licensed pursuant to section one hundred and eighty C; provided, however, the provisions of
36 sections forty six L through forty six O, inclusive, shall apply to such person.

37 "Applicant", any applicant for employment residing within the United States. It shall be
38 immaterial for coverage under this section whether the applicant is paid by the employment
39 agency or by his employer.

40 SECTION 2. Section 46B of Chapter 140, as appearing in the 2006 Official Edition, is
41 hereby amended by striking the entire section and inserting in place thereof the following:

42 Section 46B. Notwithstanding the other provisions of this chapter no person shall open,
43 keep, maintain, carry on, or advertise any employment agency unless he has been issued a
44 license therefor under section forty six D from the commissioner; provided, however, that a
45 license validly issued pursuant to section one hundred and eighty C shall suffice for the purposes
46 of this section. Such license shall be posted in a conspicuous place in each employment agency
47 conducted by such person. Licensing of theatrical booking agents, personal agents and managers
48 shall be governed by sections one hundred and eighty A to one hundred and eighty G, inclusive.

49 SECTION 3. Section 46C of Chapter 140, as appearing in the 2006 Official Edition, is
50 hereby amended by striking the entire section and inserting in place thereof the following:

51 Section 46C. Any person desiring to obtain a license to establish, conduct or keep an
52 employment agency shall make application for such license to the commissioner. Such
53 application shall be made by the owner or owners of the employment agency, and if the
54 employment agency is owned by a corporation, such application shall be made by the president
55 and treasurer thereof. Each application shall be in writing and in a form prescribed by the
56 commissioner, and shall contain the name and address of the applicant; the name under which

57 the employment agency is to be conducted; the street and number of the building or place where
58 the business is to be conducted; the former business or occupations of the applicant; the name
59 and address of the individual who will actually direct and operate the placement activities of the
60 agency, whether such individual be the applicant or another; the length of time such individual
61 has spent as a placement employee; a description of the duties of such individual as a placement
62 employee. Such application shall be accompanied by samples or accurate facsimiles of each and
63 every form which the applicant for a license will require applicants for employment to execute,
64 and such forms shall be approved by the commissioner before a license may be issued. The
65 commissioner shall not approve any such form unless it fairly, clearly and fully represents the
66 contractual terms and conditions between the proposed employment agency and an applicant for
67 employment. Each application for a license shall be accompanied by the affidavits of two
68 reputable residents of the commonwealth that the applicant is a person of good moral character.

69 SECTION 4. Section 46D of Chapter 140, as appearing in the 2006 Official Edition, is
70 hereby amended by striking the entire section and inserting in place thereof the following:

71 Section 46D. Upon the receipt of an application for such license, the commissioner shall
72 cause the name and address of the applicant, the name under which the employment agency is to
73 be conducted, and the street and number of the place where it is to be conducted, to be posted in
74 a conspicuous place in his office. The commissioner shall investigate or cause to be investigated
75 the character and responsibility of the applicant and shall examine or cause to be examined the
76 place in which the applicant proposes to conduct such agency. Within one week after such
77 application is so posted, published and notice thereof sent, any person may file a written protest
78 against the issuance of such license, which protest shall be signed by the person filing the same
79 or his authorized agent or attorney, and shall state the reasons why the said license should not be

80 issued. The commissioner shall appoint a time and place for a hearing of such application and
81 shall give at least five days notice thereof to the applicant and to any person filing such protest.
82 The commissioner may administer oaths, subpoena witnesses and take testimony in respect to the
83 matters contained in such application and protest and may receive evidence in the form of
84 affidavits pertaining to such matters. If after such investigation, examination or hearing the
85 commissioner finds the applicant is not a person of good character or responsibility; that he or
86 the individual who will actually direct and operate the placement activities of the employment
87 agency has not had at least two years' experience as a placement employee, or as a person
88 engaged in personnel management, or in related activities which similarly tend to establish the
89 competence of such individual to operate the placement activities of the agency; that the
90 individual who will actually direct and operate the agency does not have a knowledge and
91 understanding of the provisions contained in sections forty six A to forty six R, inclusive; or that
92 the place where the employment agency is to be conducted is not suitable therefor; or that the
93 applicant has not complied with the provisions of section forty six C, the said application shall be
94 denied and a license shall not be granted. Each application shall be granted or denied within forty
95 days from the date of its filing. Any license issued hereunder by the commissioner shall be in full
96 force and effect until one year following the date thereof, unless sooner revoked or suspended.
97 Each license shall be renewed upon payment of the annual license fee and posting of the penal
98 bond. No license shall be issued by the commissioner if the place in which the business of the
99 employment agency is to be conducted is a room used for living purposes or where boarders or
100 lodgers are kept or where meals are served or where persons sleep or in connection with a
101 building or premises where intoxicating liquors are sold to be consumed on the premises,
102 excepting cafes and restaurants in office buildings.

103 SECTION 5. Section 46E of Chapter 140, as appearing in the 2006 Official Edition, is
104 hereby amended by striking the entire section and inserting in place thereof the following:

105 Section 46E. A license issued under section forty six D shall not be assigned or
106 transferred without the prior written approval of the commissioner. Application for such
107 approval shall be made in the same manner as an application for a license, as provided in
108 sections forty six C and forty six D. The location of an employment agency shall not be changed
109 without the prior written consent of the commissioner and such change of location shall be
110 endorsed upon the license. More than one such license may be issued to the same person. If an
111 applicant desires to establish or keep an employment agency at more than one location, he must
112 apply for a license for each location at which he intends to conduct said employment agency, as
113 provided in section forty six C.

114 SECTION 6. Section 46F of Chapter 140, as appearing in the 2006 Official Edition, is
115 hereby amended by striking the entire section and inserting in place thereof the following:

116 Section 46F. Each person licensed under section forty six D to carry on the business of an
117 employment agency shall before such license issues pay to the commissioner a license fee, the
118 amount of which shall be determined annually by the commissioner of administration under the
119 provision of section three B of chapter seven for the filing thereof. Each licensee shall, before his
120 license is issued or renewed, deposit with the commissioner a bond in a penal sum of three
121 thousand dollars with two or more sureties or a duly authorized surety company, to be approved
122 by the commissioner. The bond shall be payable to the people of the commonwealth and shall be
123 on condition that the licensee will comply with the provisions of sections forty six B to forty six
124 R, inclusive, and shall pay all damages occasioned to any person by reason of any misstatement,

125 misrepresentation, fraud or deceit, or any unlawful act or omission of said licensee, his agents or
126 employees, while acting within the scope of their employment, and made, committed or omitted
127 in the business conducted under such license.

128 SECTION 7. Section 46G of Chapter 140, as appearing in the 2006 Official Edition, is
129 hereby amended by striking the entire section and inserting in place thereof the following:

130 Section 46G. All claims or suits brought in any court against a licensee may be brought in
131 the name of the person damaged upon the bond deposited by the licensee. If such licensee has
132 departed from the commonwealth with the intent to defraud his creditors or to avoid the service
133 of summons in any action brought under this section, or if the presence within the
134 commonwealth of such licensee cannot be discovered by the exercise of reasonable diligence,
135 service shall be made upon the surety and by mailing one copy of the summons to the last known
136 post office address or residence of the licensee within or without the commonwealth and a copy
137 of the summons to the place where he conducted such employment agency as shown by the
138 records of the commissioner.

139 SECTION 8. Section 46H of Chapter 140, as appearing in the 2006 Official Edition, is
140 hereby amended by striking the entire section and inserting in place thereof the following:

141 Section 46H. Each licensee shall keep a register or other record keeping device approved
142 by the commissioner, in which shall be entered under the penalties of perjury the date of each
143 application for employment and the name and address of each applicant, a file designation for
144 each such applicant, and the name and address of a former employer of the applicant, or of a
145 person to whom such applicant is known. The licensee shall also enter in the same register or
146 shall enter under the penalties of perjury in a separate register, approved by the commissioner,

147 the name and address of every employer from whom a fee is received or charged, the date of
148 such employer's request or assent that applicants be furnished, the kind of position for which
149 applicants are requested, the names of the applicants sent, the total amount of the fee received or
150 charged, and the rate of salary or wages agreed upon. Each licensee shall keep complete and
151 accurate written records of all receipts and income received or derived directly from the
152 operation of his employment agency. Each licensee or his duly authorized agent or employee
153 shall communicate with at least one of the persons given as reference by an applicant for
154 domestic or household work and the result of such communication shall be kept on file in such
155 agency for a period of at least three years. Every register shall be retained on the premises of the
156 agency concerned for three years following the date of the last entry therein. Each employment
157 agency shall also enter into its register the last home address; the name and address of the
158 emigrant agent, if any, through whom such applicant was obtained; the name and address of all
159 persons to whom the employment agency has made payments in connection with the recruitment
160 of the applicant, and the amounts of such payments; and the total charges made in the
161 employment agency to the applicant. Said charges shall be separately stated by such agency and
162 shall include: (a) charges for transportation, (b) other charges and (c) the agency fee.

163 Each recruiting domestic employment agency shall furnish the commissioner on the first
164 Wednesday of each month, in writing, the following information with respect to each out of state
165 resident engaged as a domestic or household employee and placed by that agency during the
166 preceding month: (a) the name, and out of state home address of the applicant and the file
167 designation assigned to the applicant by the agency; (b) the rate of wage to be paid the applicant,
168 and an itemization of all charges which the employment agency has made to the applicant for its
169 services; and (c) the name and address of any emigrant agent, or other person or organization to

170 whom the employment agency has made any payment, or who or which helped recruit the
171 applicant.

172 SECTION 9. Section 46I of Chapter 140, as appearing in the 2006 Official Edition, is
173 hereby amended by striking the entire section and inserting in place thereof the following:

174 Section 46I. Each employment agency shall furnish in writing each applicant for
175 employment: (1) information as to the name and address of the person for whom the applicant is
176 to apply for such employment, the kind and character of the employment, the anticipated rate of
177 wages or compensation, the agency fee, whether such employment is permanent or temporary,
178 the name and address of the person authorizing the hiring of such applicant, and the estimated
179 cost of transportation if the services are required outside of the town where such agency is
180 located; and the total fee to be exacted by the employment agency from the applicant, provided
181 that nothing in this paragraph shall be construed to prohibit a licensed employment agency from
182 directing an applicant to employment by telephone, but such telephone message shall comply
183 with the disclosure requirements of this paragraph and shall be, within one day, confirmed in
184 writing by the employment agency and sent to the applicant; a carbon copy of such confirmation
185 shall be kept by the employment agency for a period of at least one year; (2) a true copy of every
186 contract executed between it and such applicant, which shall have printed thereon or attached
187 thereto a copy of section forty six L; and (3) a receipt for every charge made by the employment
188 agency to the applicant and which the applicant has paid.

189 The original or duplicate original copy of each such contract and a duplicate receipt for
190 any charges by the employment agency to the applicant shall be retained by the employment
191 agency for three years following the date on which the contract is executed or the payment is

192 made, and shall be made available for inspection by the commissioner or his duly authorized
193 agent or inspector, upon his request.

194 SECTION 10. Section 46J of Chapter 140, as appearing in the 2006 Official Edition, is
195 hereby amended by striking the entire section and inserting in place thereof the following::

196 Section 46J. Each recruiting domestic agency which directly or indirectly engages or uses
197 the services of an emigrant agent, shall furnish the commissioner a list containing the name and
198 address of all emigrant agents from whom it accepts job applicants. If such emigrant agents are
199 required to be licensed in the places in which they recruit employees, no employment agency,
200 directly or indirectly, shall accept applicants from other than duly licensed emigrant agents.

201 Each recruiting domestic employment agency which is responsible, directly or indirectly,
202 for bringing into the commonwealth applicants from out of the commonwealth but within the
203 United States and which has arranged for their transportation to the city or town in the
204 commonwealth where the agency is licensed to conduct business shall provide that the
205 transportation of such applicants be by duly licensed common carriers of passengers. Each
206 recruiting domestic employment agency responsible for bringing into the commonwealth an
207 applicant for employment from out of the commonwealth but within the United States shall
208 provide at its own expense suitable lodging and meals for any such applicant who is not placed
209 in employment the day he arrives at the office of the employment agency from the time he
210 reports at such agency until he is placed, or is returned to the place from which he was recruited,
211 or is given the option of returning to such place as hereinafter provided.

212 Each recruiting domestic employment agency responsible for bringing into the
213 commonwealth an applicant for employment from out of the commonwealth but within the

214 United States shall provide the return fare and reasonable allowance for one day's meals to any
215 such applicant who was not placed in employment, or who was placed in employment and said
216 employment terminated within thirty days thereafter, and who is without employment, and
217 desires to return to the place from which he was recruited.

218 The bond required to be deposited under section forty six F shall secure performance of
219 the provisions of the preceding two paragraphs. No domestic recruiting employment agency shall
220 bring into the commonwealth any applicant for employment without the commonwealth but
221 within the United States unless and until such agency has given such applicant a written
222 statement, on a form approved by the commissioner showing the nature and duties of the job for
223 which the applicant is recruited, the anticipated wages, the amount of the agency fee, the amount
224 for transportation that the applicant will have to repay if such amount has been advanced by the
225 agency, and the amount of any other advances or charges. Such statement shall indicate when
226 such amounts are payable to the agency. A copy of such statement shall be kept on file by the
227 agency, and the copy shall have indicated on it the date when, and by whom, the original
228 statement was given to the applicant.

229 SECTION 11. Section 46K of Chapter 140, as appearing in the 2006 Official Edition, is
230 hereby amended by striking the entire section and inserting in place thereof the following:

231 Section 46K. An employment agency shall not engage in any of the following activities
232 or conduct:

233 (1) Publish or cause to be published any false, fraudulent or misleading information,
234 representation, promise, notice or advertisement;

235 (2) Advertise in newspapers or otherwise, or use letterheads or receipts or other written or
236 printed matter, unless such advertising or other matter contains the name and address of the
237 employment agency and the word "agency" or other language which clearly shows that the
238 advertiser is an employment agency, employment consultant, personnel consultant, employment
239 counselor or other person who conducts an employment agency.

240 (3) Direct an applicant to an employer for the purpose of obtaining employment without
241 having first obtained a recent bona fide order therefor; provided, that a qualified applicant may
242 be directed to an employer who has previously requested that he regularly be accorded
243 interviews with applicants of certain qualifications if a confirmation of the order is sent to the
244 employer; and provided, further, that an employment agency may attempt to sell the services of
245 an applicant to an employer from whom no job order has been received as long as this fact is told
246 to the applicant before he is directed to the employer. Any applicant who is referred to an
247 employer contrary to the provisions of clause (3) without obtaining employment thereby, shall be
248 reimbursed by the employment agency for all ordinary and necessary travel expenses incurred by
249 the applicant as a result of such referral, within twenty four hours of making a demand therefor;

250 (4) Send or cause to be sent any person to any employer where the employment agency
251 knows, or reasonably should have known, that the prospective employment is or would be in
252 violation of state or federal laws governing minimum wages or child labor or in violation of the
253 law relating to compulsory education;

254 (5) Send or cause to be sent any person to any place which the employment agency
255 knows or reasonably should have known is maintained for immoral or illicit purposes; nor send
256 or cause to be sent any female to any place which the employment agency knows or should have

257 known permits persons known to be prostitutes, gamblers or procurers or intoxicated persons to
258 frequent such place;

259 (6) Compel any person to enter such agency for any purpose by use of force or otherwise;

260 (7) Require applicants for employees or employment to subscribe to any publication or
261 incidental service or contribute to the cost of advertising;

262 (8) Refuse to return on demand of an applicant any baggage or personal property
263 belonging to such applicant;

264 (9) Send or cause to be sent any applicant to any place which the agency knows or should
265 know is on strike unless the fact of such strike is told to the applicant;

266 (10) Solicit, persuade, induce or attempt to induce any employee to leave an employment
267 if such soliciting, persuading or inducing is for the purpose of securing a new fee from such
268 employee, providing that nothing herein shall prohibit notifying an applicant that a position
269 exists where the applicant has requested the agency to place him;

270 (11) Divide or share, or offer to divide or share service fees with employer clients; or

271 (12) Solicit, persuade, induce or attempt to induce any employer to create a vacancy by
272 discharge.

273 SECTION 12. Section 46L of Chapter 140, as appearing in the 2006 Official Edition, is
274 hereby amended by striking the entire section and inserting in place thereof the following:

275 Section 46L. (A) An employment agency shall not charge to or accept from an applicant
276 a fee or other consideration unless in accordance with the terms of a written contract with a job

277 applicant and unless such agency has been responsible for referring such job applicant to an
278 employer or such employer to a job applicant and where as a result thereof such job applicant has
279 been employed by such employer.

280 (B) No fee shall be charged or accepted for the registration of applicants for employees or
281 employment.

282 (C) The total fee charged to the job applicant shall not exceed the amounts enumerated in
283 the schedules set forth in this section. An employment agency shall not require an employee to
284 pay any fee at a rate faster than four equal installments each of which shall be payable at the end
285 of the first four pay periods following the employment or within a period of eight weeks,
286 whichever is shorter.

287 MAXIMUM FEES.

288 (1) For domestics or household employees, other than domestics or household employees
289 described in paragraph (a), unskilled or untrained manual workers and laborers, and agricultural
290 workers the following shall be the maximum total fee to be charged or accepted in percentage of
291 the first full month's salary or wages actually received:

292	If no meals or lodging are provided	10%
293	If one meal per working day is provided	12%
294	If two meals per working day are provided	14%
295	If three meals and lodging per working day are provided	18%

296 (a) For domestics or household employees from outside of Massachusetts and within the
297 United States in connection with whose employment the recruiting domestic agency has engaged
298 an emigrant agent and who receive from their employer three meals per day and lodging not
299 more than one week's salary plus twenty one dollars; provided, that no fee under this paragraph
300 shall exceed sixty five dollars, if the employee is paid two hundred dollars or less per month; nor
301 shall it exceed eighty dollars, if the employee is paid over two hundred dollars per month.

302 (b) Where all parties to the employment agreement understand or agree at the time such
303 employment is entered into that it shall be for a period shorter than one month, the gross fee shall
304 not exceed ten, twelve, fourteen or eighteen per cent of the salary or wages actually paid.

305 (2) For nonprofessional trained or skilled industrial workers or mechanics the total fee
306 charged or accepted shall not exceed one week's wages.

307 Where all parties to the employment contract agree and understand at the time such
308 employment contract is entered into that it shall be for a period shorter than ten weeks, the gross
309 fee shall not exceed ten per cent of the wages or salary actually received.

310 (3) For models the gross fee to the agency from all sources shall not exceed ten per cent
311 of the amount payable to the applicant, provided, that the applicant is advised in writing of such
312 fees; and provided, further, that model agencies engaged in fields other than radio, television,
313 film, video tape, film commercials, or transcriptions, may charge an employer of an applicant for
314 ancillary services provided that the applicant is notified in writing of all such additional ancillary
315 services.

316 (4) For all other employment the gross fee shall not exceed in percentage of the first full
317 month's salary or wages the following:

318	(a) Where such first full month's salary or wages is:	
319	(1) less than \$225	25%
320	(2) at least \$225 but less than \$270	35%
321	(3) at least \$270 but less than \$300	40%
322	(4) at least \$300 but less than \$330	45%
323	(5) at least \$330 but less than \$365	50%
324	(6) at least \$365 but less than \$400	55%
325	(7) at least \$400	60%

326 (b) Where such other employment is such that the applicant will be paid on a straight
327 commission basis or on the basis of a drawing account plus commissions, the total fee shall be
328 based on the percentages in the above schedule applied to an amount equivalent to one twelfth of
329 the computed first year earnings as estimated by the employer.

330 (c) Where all parties to the employment contract agree and understand at the time such
331 employment contract is entered into that it shall be for a period shorter than four months, the
332 gross fee shall not exceed fifty per cent of the fee prescribed in the above schedule or ten per
333 cent of the wages or salary actually received, whichever is less.

334 (D) The fees established under this section shall be based upon the wage or salary at
335 which the applicant is hired.

336 If an applicant accepts employment, and fails to report initially for work, the total fee
337 charged to such applicant shall not exceed twenty five per cent of the maximum fee allowed
338 under this section; provided, however, if the applicant remains with his same employer the fee
339 shall not exceed fifty percent.

340 In no case shall an employment agency receive any fees from employees which, when
341 added to the employer's fees to the employment agency exceed the fees specified in this section.
342 Each applicant shall be advised in writing by the agency of the total amount of any fee paid it by
343 the employer for placing such applicant.

344 The provisions of this section shall not apply to applicants who are hired at an annual
345 wage of over forty thousand dollars, nor shall they apply to any agency which is paid solely by
346 employer clients. Any contract in violation of this section shall be void.

347 SECTION 13. Section 46M of Chapter 140, as appearing in the 2006 Official Edition, is
348 hereby amended by striking the entire section and inserting in place thereof the following:

349 Section 46M. Any employment agency which collects, receives or retains a fee, deposit
350 or other payment contrary to or in excess of the provisions of section forty six L, shall return the
351 excess portion thereof within seven days of the receipt of a demand therefor.

352 SECTION 14. Section 46N of Chapter 140, as appearing in the 2006 Official Edition, is
353 hereby amended by striking the entire section and inserting in place thereof the following:

354 Section 46N. An employment agency other than one recruiting domestic
355 employees shall contract in writing with the applicant (employee) for services in securing
356 employment for the payment by the applicant of a service fee, in an amount mutually agreed

357 upon between the applicant and such employment agency, and shall file with the commissioner
 358 for approval a sample copy of the agreement to be entered into between the applicant and the
 359 employment agency. The licensee or his authorized representative shall verbally make clear to
 360 the applicant the terms and conditions of the contract, with particular emphasis upon the fee to be
 361 paid for services to be rendered. Every applicant shall be given a copy of the contract he has
 362 entered into or is to enter into with the employment agency, and such contract shall carry the
 363 statement

364 "I have thoroughly read my contract with (Name of agency) and accept its terms."
 365 (Signature of Applicant)

366 In addition to the above, the following schedule ranging from \$55 a week to \$200 a week
 367 must be reproduced on cards or paper, the size of which should allow for legible reading. Each
 368 applicant must be given a copy complete with service charges indicated beside the weekly salary
 369 and a copy signed by the applicant must be retained by the employment agency.

370	NAME OF AGENCY		ADDRESS OF AGENCY			
371	Weekly	Service	Weekly	Service	Weekly	Service
372	Salary	Charge	Salary	Charge	Salary	Charge
373	\$ 55.00	\$.....	\$105.00	\$.....	\$155.00	\$.....
374	\$ 60.00	\$.....	\$110.00	\$.....	\$160.00	\$.....
375	\$ 65.00	\$.....	\$115.00	\$.....	\$165.00	\$.....
376	\$ 70.00	\$.....	\$120.00	\$.....	\$170.00	\$.....

377	\$ 75.00	\$.....	\$125.00	\$.....	\$175.00	\$.....
378	\$ 80.00	\$.....	\$130.00	\$.....	\$180.00	\$.....
379	\$ 85.00	\$.....	\$135.00	\$.....	\$185.00	\$.....
380	\$ 90.00	\$.....	\$140.00	\$.....	\$190.00	\$.....
381	\$ 95.00	\$.....	\$145.00	\$.....	\$195.00	\$.....
382	\$100.00	\$.....	\$150.00	\$.....	\$200.00	\$.....

383 The contract fee must be based only upon the original wage or salary at which the
384 applicant was hired.

385 Where employment is temporary, the employment agency shall be entitled to an amount
386 equivalent to ten per cent of the gross weekly wages paid or fraction thereof, but in no case
387 where employment is temporary shall a fee be charged in excess of the fee for permanent
388 employment.

389 Permanent employment shall be defined as employment which in itself is good for ten
390 weeks or more. Temporary employment is employment which in itself is good for less than ten
391 weeks.

392 When a contract entered into between the employment agency and the applicant for
393 employment clearly stipulates that voluntary resignation from employment or acceptance of
394 employment and failure to report for work by the applicant does not relieve the applicant from
395 paying to the employment agency the same fee he would have paid had he reported for duty or
396 remained in employment for a period of ten weeks or more, then the employment agency shall be

397 entitled to collect the full service fee, provided the applicant's failure to report for duty or his
398 voluntary resignation is not occasioned by extenuating circumstances. Any question as to what
399 constitutes "extenuating circumstance" shall be decided by the commissioner. Acceptance of
400 other employment shall not fall within the meaning of "extenuating circumstances". Any
401 employee supplied by an employment agency shall be paid at a rate not less than the applicable
402 minimum wage or the applicable collective bargain rate for that position, whichever is greater.

403 SECTION 15. Section 46O of Chapter 140, as appearing in the 2006 Official Edition, is
404 hereby amended by striking the entire section and inserting in place thereof the following:

405 Section 46O. Refunds shall be made by employment agencies under the following
406 conditions:

407 (a) If an applicant furnished employment is discharged within one month after the time of
408 entering upon such employment and such discharge is not for just cause, the employment agency
409 shall on demand refund to the applicant that portion of the fee paid in excess of ten per cent of
410 the gross wages paid to the applicant.

411 (b) Should it be determined that no employment of the kind applied for was open at the
412 place to which the applicant was directed or as specified by the employment agency, then all of
413 the fee paid together with cost of transportation in going to and returning from such place of
414 employment shall be refunded. An employment agency shall not be responsible to an applicant
415 or an employer for any expense incurred in connection with an interview unless the employment
416 agency has failed to truthfully inform the employer and the applicant of facts related to the
417 applicant or employment with which the employment agency is in possession.

418 (c) If an applicant for employment was unable to accept employment or to keep
419 engagement for unavoidable reasons, all of the fee paid shall be refunded.

420 (d) If an applicant for employment was unable to find the place of employment because
421 of insufficient address or directions all of the fee paid is to be refunded.

422 (e) The maximum fee shall be reduced to the extent that payment would result in the
423 applicant's average hourly wages for that period falling below the rates established by any
424 applicable federal or state minimum wage provision or by any applicable collective bargaining
425 agreement.

426 (f) Any employer who utilizes an employment agency or who obtains applicants from an
427 employment agency shall not directly or indirectly deduct any part of the fees paid to an
428 employment agency from the wages or salary of any of his employees placed by such
429 employment agency.

430 SECTION 16. Section 46P of Chapter 140, as appearing in the 2006 Official Edition, is
431 hereby amended by striking the entire section and inserting in place thereof the following:

432 Section 46P. Each employment agency shall post in a conspicuous place in such agency a
433 copy of sections forty six A to forty six O, inclusive, which shall be printed in large type in
434 languages in which persons commonly doing business with such office can understand. Such
435 poster shall also contain the name and address of the commissioner charged with the
436 enforcement of said sections.

437 SECTION 17. Section 46Q of Chapter 140, as appearing in the 2006 Official Edition, is
438 hereby amended by striking the entire section and inserting in place thereof the following:

439 Section 46Q. The commissioner, or any duly authorized agent or inspector designated by
440 him, shall have authority to inspect the premises, registers, contract forms, receipt books,
441 application forms, referral forms, reference forms, reference reports, financial and other records
442 of fees charged and refunds made of each employment agent, which are essential to the operation
443 of such agency, and of each applicant for an employment agency license. The commissioner may
444 suspend or revoke the license of any employment agency if it fails to furnish information
445 required under this section, or if such agency or any of its employees hinders or interferes with
446 any such duly authorized agent or inspector while in the performance of his duties as
447 hereinbefore provided. The commissioner or any such agent or inspector may make a record of
448 such information, and may require each agency to furnish quarterly, on a form supplied by the
449 department of labor and industries, any or all such information.

450 The commissioner may, subject to the provisions of chapter thirty A, establish such rules
451 and regulations as he deems necessary to carry out the provisions of sections forty six B to forty
452 six R, inclusive.

453 Any complaint against any person operating as an employment agency shall be made to
454 the commissioner by any interested person. The commissioner shall give reasonable notice
455 thereof, not later than five days thereafter, to said person by serving upon him either personally,
456 by registered mail, at his last place of residence, or by leaving with the person in charge of his
457 office, a concise statement of the facts constituting such complaint. The commission shall hold a
458 hearing on such complaint not later than two weeks from the date of the notice of such
459 complaint. The commissioner when investigating any matter pertaining to the issuance, transfer,
460 revocation or suspension of a license may take such testimony as may be necessary on which to
461 base official action. When taking such testimony he may subpoena witnesses and also direct the

462 production before him of necessary material, books and papers. A calendar of all hearings shall
463 be kept by the commissioner and shall be posted in a conspicuous place in his office for at least
464 one day before the date of such hearings. The commissioner shall render his decision within
465 eight days from the time the matter is finally submitted to him. Said commissioner shall keep a
466 record of all such complaints and hearings.

467 If such hearings reveal that the employment agency or any employee thereof is guilty of
468 any immoral, fraudulent or illegal conduct in connection with the operation of such agency, or of
469 any violation of the provisions of sections forty six B to forty six R, inclusive, the commissioner
470 may suspend or revoke the license of such employment agency. If the commissioner suspends or
471 revokes the license of any employment agency, said action shall be subject to judicial review in
472 proceedings brought pursuant to chapter thirty A. If a license is revoked, another license shall not
473 be issued within three years from the date of such revocation to said licensed person or his
474 representative.

475 SECTION 18. Section 46R of Chapter 140, as appearing in the 2006 Official Edition, is
476 hereby amended by striking the entire section and inserting in place thereof the following:

477 Section 46R. Whoever violates any provision of sections forty six B, forty six C, forty six
478 E, forty six F, forty six J, forty six K, forty six L, forty six M, forty six N and forty six O, shall
479 be punished by a fine of not more than five hundred dollars, or by imprisonment in the house of
480 correction for not more than one year, or both. Whoever violates any provision of sections forty
481 six H, forty six I, and forty six P, shall be punishable by a fine of not more than twenty five
482 dollars. The commissioner may institute proceedings based upon any such violation. Each
483 violation of said sections shall constitute a separate offense. Criminal prosecution for any such

484 violation shall not preclude any person from recovering money unlawfully collected, in a civil
485 action.

486 Information secured pursuant to sections forty six A to forty six Q shall be confidential
487 and for the exclusive use and information of the commissioner in the discharge of his duties
488 hereunder. Whoever, except with the authority of the commissioner or pursuant to his rules or
489 regulations, or as otherwise required or authorized by law, shall disclose the same, shall be
490 punished by a fine of not more than one hundred dollars or by imprisonment for not more than
491 six months, or both; provided, that nothing herein shall be construed to prevent the commissioner
492 from conducting any investigation or hearing as provided for in said sections.