

LABOR:-Concern charging no fee from applicant or employee, but furnishing training course for compensation to persons seeking employment, is not within Section 13190, requiring a license.

A-13190 R. S. Mo. 1929



December 7, 1933.

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Mrs. Mary Edna Cruzen,
Labor Commissioner,
Jefferson City, Missouri.

Dear Mrs. Cruzen:

We are acknowledging receipt of your letter in which you inquire as follows:

"Will you please advise if a company operating as per the enclosed letters, is subject to paying a license fee the same as a fee charging employment agency?"

I will appreciate your opinion on this question."

Section 13190, R. S. Mo. 1929, among other things, provides:

"No person, firm or corporation in this state shall open, operate or maintain an employment office or agency for hire, or where a fee is charged to either applicants for employment or for help, without first obtaining a license for the same from the state commissioner of labor and industrial inspection. * * *"

As we interpret the above section any person, firm or corporation who shall open, operate or maintain an employment office or agency for hire, is required to take out a license. If such person maintains an office or agency where a fee is charged, either to applicants for employment or applicant for help, they must also take out a license. We understand it makes no difference whether the fee is charged against the employer seeking the help, or the employee seeking the employment. The question then pertinent to your inquiry is whether or not it can be said that this concern is operating an agency for hire, or whether a fee is charged the person seeking employment or the employer seeking the labor.

It appears from the letter which you have attached to your inquiry that this concern has been appointed personnel manager for a number of firms and they have been authorized to employ, for these concerns, sales people. They state specifically that no charge is made to the employee who seeks the

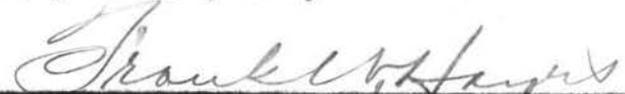
employment. This apparently is true unless it can be contended that the \$12.00 paid for the training and guidance course is a fee charged the employee within the meaning of the above statute. Apparently the contract with their clients does not provide any compensation to be paid by the employer for this service. It is apparent that they received their income for the service rendered in return for the course of salesmanship which they give to the applicants.

It is true that they find employment for people and they only give this teaching course to persons who find employment through their service. They perform a service; that is, the salesmanship course for the applicants, and that is what their charges are for. While this appears to be a close question, we doubt that this concern is operating an employment agency for hire or where fees are charged to persons seeking employment within the meaning of the statute. They, no doubt, perform a service over and above the employment feature. If the various concerns would employ their own sales people and then require them to take this course, that clearly would not be within the statute. The fact that they solicit people to take the course and find employment for them we do not believe brings them within the statute.

We believe before this concern would come within the statute that they must charge and accept a fee or compensation, either from the applicant seeking the employment or from the employer seeking the help. The applicant does not pay any fee to be placed with these concerns, nor does the employer pay any fee for the persons employed. For the \$12.00 paid by the applicant each applicant receives a six weeks training course in salesmanship, which we do not believe would be considered a fee within the purview of the statute.

It is therefore our opinion that unless the applicant pays a fee for the purpose of getting employment, or the employer pays a fee in order to acquire the employee, that this concern would ^{not} come within the statute. We do not believe the fact that the applicant pays for and takes a training course of itself is sufficient to bring it within the statute, even though the transaction contemplates that the person taking the course might find employment by reason thereof.

Very truly yours,


Assistant Attorney General.

APPROVED:

Attorney General.

FWH:S