

HB 728 INTRODUCED BY CONNELLY, ET AL.  
DEFINING TEMPORARY SERVICE CONTRACTORS AS EMPLOYMENT  
AGENCIES

2/12 INTRODUCED  
2/12 REFERRED TO BUSINESS & LABOR  
2/17 HEARING  
2/17 TABLED IN COMMITTEE

1 *House* BILL NO. *728*  
 2 INTRODUCED BY *Cornelly Roney Dussell Lynch*  
 3 *Walker Lybush Stager for Bob Brown*  
 4 A BILL FOR AN ACT ENTITLED "AN ACT INCLUDING TEMPORARY  
 5 SERVICE CONTRACTORS IN THE DEFINITION OF EMPLOYMENT AGENCIES  
 6 AND CLARIFYING THE DUTIES OF THE DEPARTMENT OF LABOR AND  
 7 INDUSTRY IN RELATION TO EMPLOYMENT AGENCIES; AND AMENDING  
 8 SECTIONS 39-1-102 AND 39-5-102, MCA."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 39-1-102, MCA, is amended to read:

12 "39-1-102. Duties of department. (1) The department  
 13 shall enforce all the laws of Montana relating to hours of  
 14 labor, conditions of labor, prosecution of employers who  
 15 default in payment of wages, protection of employees, and  
 16 all laws relating to child labor which regulate the  
 17 employment of children in any manner and shall administer  
 18 the laws of the state relating to free employment offices  
 19 and all other state labor laws.

20 (2) The department is not required to provide  
 21 applicant referrals, testing, or other services to an  
 22 employment agency as defined in 39-5-102."

23 Section 2. Section 39-5-102, MCA, is amended to read:

24 "39-5-102. Definitions. Unless a different meaning is  
 25 clearly required by the context, the following words and

1 phrases, as used in this chapter, have the following  
2 meanings:

3 (1) (a) "Employment agency" is synonymous with  
 4 "agency" and means any business in which any part of the  
 5 business's gross or net income is derived from a fee  
 6 received from applicants and in which any of the following  
 7 activities are engaged in:

8 (i) the offering, promising, procuring, or attempting  
 9 to procure employment for applicants; or

10 (ii) the giving of information regarding where and from  
 11 whom employment may be obtained.

12 (b) In addition, the term "employment agency" means  
 13 and includes any person, bureau, organization, or school  
 14 which for profit, by advertisement or otherwise, offers as  
 15 one of its main objects or purposes to procure employment  
 16 for any person who pays for its services or which collects  
 17 tuition or charges for service of any nature where the main  
 18 object of the person paying the same is to secure  
 19 employment.

20 (c) The term "employment agency" includes temporary  
 21 service contractors.

22 (c)(d) The term "employment agency" does not include  
 23 labor union organizations, ~~temporary-service-contractors~~  
 24 proprietary schools, musical booking services, agents for  
 25 professional athletes, or the Montana state employment



-2- INTRODUCED BILL  
 HB-728

1 agency.

2 (2) "Temporary service contractors" means any person,  
3 firm, association, or corporation conducting a business  
4 which consists of employing individuals directly for the  
5 purpose of furnishing such individuals on a part-time or  
6 temporary basis to others.

7 (3) "Employer" means any person, firm, corporation,  
8 partnership, or association employing or seeking to enter  
9 into an arrangement to employ a person through the medium or  
10 service of an employment agency.

11 (4) "Applicant", except when used to describe an  
12 applicant for an employment agency license, means any  
13 person, whether employed or unemployed, seeking or entering  
14 into any arrangement for his employment or change of his  
15 employment through the medium or service of an employment  
16 agency.

17 (5) "Person" includes an individual, a firm, a  
18 corporation, a partnership, or an association.

19 (6) "Director" means the commissioner of the  
20 department of labor and industry.

21 (7) "Musical booking service" means any person, firm,  
22 association, or corporation conducting a business which  
23 consists solely of obtaining, obtaining offers of, and  
24 negotiating employment for individuals or groups of  
25 individuals for musical entertainment purposes.

1 (8) "Agents for professional athletes" means any  
2 person, firm, association, or corporation conducting a  
3 business that consists solely of obtaining, obtaining offers  
4 of, and negotiating contracts of employment of professional  
5 athletes."

6 NEW SECTION. Section 3. Extension of authority. Any  
7 existing authority of the department of labor and industry  
8 to make rules on the subject of the provisions of this act  
9 is extended to the provisions of this act.

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