

LEGISLATIVE BILL 20

Approved by the Governor June 1, 1995

Introduced by Chambers, 11

AN ACT relating to employment; to define terms; to provide duties for employers of non-English-speaking employees; to provide powers and duties for the Commissioner of Labor; to provide a penalty; and to provide for damages and injunctive relief.

Be it enacted by the people of the State of Nebraska,

Section 1. For purposes of this act:

(1) Actively recruit means any affirmative act, as defined by the Department of Labor, done by or on behalf of an employer for the purpose of recruitment or hiring of non-English-speaking employees who reside more than five hundred miles from the place of employment;

(2) Commissioner means the Commissioner of Labor;

(3) Employ means to permit to work;

(4) Employee means any individual employed by any employer but does not include:

(a) Any individual employed in agriculture; or

(b) Any individual employed as a child care provider in or for a private home;

(5) Employer means any individual, partnership, limited liability company, association, corporation, business trust, legal representative, or organized group of persons employing one hundred or more employees at any one time, except for seasonal employment of not more than twenty weeks in any calendar year, or person acting directly or indirectly in the interest of an employer in relation to an employee but does not include the United States, the state, or any political subdivision thereof; and

(6) Non-English-speaking employee means an employee who does not speak, read, or understand English to the degree necessary for comprehension of the terms, conditions, and daily responsibilities of employment.

Sec. 2. If an employer or a representative of an employer actively recruits any non-English-speaking persons who reside more than five hundred miles from the place of employment for employment as employees in this state and if more than ten percent of the employees of an employer are non-English-speaking employees and speak the same non-English language, the employer shall provide a bilingual employee who is conversant in the identified non-English language and available at the work site for each shift during which a non-English-speaking employee is employed to (1) explain and respond to questions regarding the terms, conditions, and daily responsibilities of employment and (2) serve as a referral agent to community services for the non-English-speaking employees.

Sec. 3. (1) An employer or a representative of an employer who actively recruits any non-English-speaking persons who reside more than five hundred miles from the place of employment for employment as employees in this state and whose work force is more than ten percent non-English-speaking employees who speak the same non-English language shall file with the commissioner a written statement signed by the employer and each such employee which provides relevant information regarding the position of employment, including:

(a) The minimum number of hours the employee can expect to work on a weekly basis;

(b) The hourly wages of the position of employment including the starting hourly wage;

(c) A description of the responsibilities and tasks of the position of employment;

(d) The transportation and housing to be provided, if any, any costs to be charged for housing or transportation, how long such housing is to be provided, and that such housing is in compliance with all applicable state and local housing standards; and

(e) The occupational physical demands and hazards of the position of employment which are known to the employer.

The statement shall be written in English and in the identified language of the non-English-speaking employee, and the employer or the representative shall explain in detail the contents of the statement prior to obtaining the employee's signature. A copy of the statement shall be given to the employee.

It is a violation of this subsection if an employer or

representative knowingly and willfully provides false or misleading information on the statement or regarding the contents of the statement.

(2) An employer shall provide transportation for a recruited employee, at no cost to the employee, to the location from which the employee was recruited if the employee:

(a) Resigns from employment within four weeks after the initial date of employment; and

(b) Requests transportation within not more than three days after the employee's last day of employment with the employer which recruited the employee.

Sec. 4. The commissioner shall adopt and promulgate rules and regulations necessary to carry out this act. The commissioner or a representative of the commissioner may:

(1) Inspect employment records of an employer relating to the total number of employees, the total number of non-English-speaking employees, and the services provided to non-English-speaking employees; and

(2) Interview an employer, any representative, any agent, or an employee of the employer during working hours or at other reasonable times.

Sec. 5. Any employer who violates any provision of section 2 or 3 of this act is guilty of a Class IV misdemeanor.

Sec. 6. Any person aggrieved as a result of a violation of sections 2 to 4 of this act may file suit in any district court of this state. If the court finds that the respondent has intentionally violated any provision of sections 2 to 4 of this act, the court may award damages up to and including an amount equal to the original damages and provide injunctive relief.