

N.D.A.G. Letter to Hagen (May 8, 1991)

May 8, 1991

Honorable Craig Hagen
Commissioner of Labor
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

Dear Commissioner Hagen:

Thank you for your April 26, 1991, letter concerning the three classes of employment agency licenses provided for under N.D.C.C. ch. 34-13, and the charging of license fees therefor.

N.D.C.C. ch. 34-13 authorizes the Commissioner of Labor to regulate the licensing of private employment agencies in this state. Section 34-13-03 provides for a license application and that the application is to state "the kind of license desired." This reference is in the singular as to the license desired, and does not provide for applying for a combination of licenses.

Section 34-13-04 provides for a license fee of \$200 annually, and is likewise expressed in the singular. Section 34-13-06 deals with the contents of an employment agency license and provides that the license is to be numbered, dated, and "state whether it is a class one, class two, or class three license, as provided in section 34-13-11." This language is expressed individually for each of the license classes, not in combination.

Section 34-13-11 defines the three separate classes of employment agency licenses, and authorizes the holder of a class one license to serve those included under a class two license, but prohibits the operation of a theatrical agency unless the holder has a class three license. This section provides that any question of classification arising under the provisions of this chapter must be determined by the Commissioner.

Throughout N.D.C.C. ch. 34-13, there are various requirements for the holders of employment agency licenses, depending on whether they hold a class one, class two, or class three. Section 34-13-15(1) requires the holder of a license, regardless of the class of that license, to hang the license in a conspicuous place in the agency office.

It is my opinion, after a review of N.D.C.C. ch. 34-13, as noted above, that your instructions to your staff to require a fee of \$200 for each class of license applied for and ultimately granted is authorized by law. The application form that you use for administering the subject chapter should clearly state the requirements imposed, especially because you indicate that it may be a change in policy and practice within your office. You are authorized to adopt administrative rules, which have the force and effect of

law, for providing detail and clarity to the statute administered. N.D.C.C. § 28-32-02(1).

Sincerely,

Nicholas J. Spaeth

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