

5576--B

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I N S E N A T E

June 3, 2011

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general business law and the arts and cultural affairs law, in relation to theatrical employment agencies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 8 and 9 of section 171 of the general business
2 law, as amended by chapter 617 of the laws of 1988, are amended and a
3 new subdivision 8-a is added to read as follows:
4 8. "Theatrical employment agency" means any person (as defined in
5 subdivision seven of this section) who procures or attempts to procure
6 employment or engagements for [circus, vaudeville, the variety field,
7 the legitimate theater, motion pictures, radio, television, phonograph
8 recordings, transcriptions, opera, concert, ballet, modeling or other
9 entertainments or exhibitions or performances] AN ARTIST, but such term
10 does not include the business of managing [such] entertainments, exhibi-
11 tions or performances, or the artists or attractions constituting the
12 same, where such business only incidentally involves the seeking of
13 employment therefor.
14 8-A. "ARTIST" SHALL MEAN ACTORS AND ACTRESSES RENDERING SERVICES ON
15 THE LEGITIMATE STAGE AND IN THE PRODUCTION OF MOTION PICTURES, RADIO
16 ARTISTS, MUSICAL ARTISTS, MUSICAL ORGANIZATIONS, DIRECTORS OF LEGITIMATE
17 STAGE, MOTION PICTURE AND RADIO PRODUCTIONS, MUSICAL DIRECTORS, WRITERS,
18 CINEMATOGRAPHERS, COMPOSERS, LYRICISTS, ARRANGERS, MODELS, AND OTHER

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 ARTISTS AND PERSONS RENDERING PROFESSIONAL SERVICES IN MOTION PICTURE,
2 THEATRICAL, RADIO, TELEVISION AND OTHER ENTERTAINMENT ENTERPRISES.

3 9. "Theatrical engagement" means any engagement or employment of [a
4 person as an actor, performer or entertainer in employment described in
5 subdivision eight of this section] AN ARTIST.

6 S 2. Subdivisions 1 and 2 of section 185 of the general business law,
7 as amended by chapter 617 of the laws of 1988, are amended to read as
8 follows:

9 1. Circumstances permitting fee. An employment agency shall not charge
10 or accept a fee or other consideration unless in accordance with the
11 terms of a written contract with a job applicant, except:

12 (A) for class "A" and "A-1" employment, and except after such agency
13 has been responsible for referring such job applicant to an employer or
14 such employer to a job applicant and where as a result thereof such job
15 applicant has been employed by such employer; AND

16 (B) FOR CLASS "C" EMPLOYMENT: (I) AFTER AN AGENCY HAS BEEN RESPONSIBLE
17 FOR REFERRING AN ARTIST TO AN EMPLOYER OR SUCH EMPLOYER TO AN ARTIST AND
18 WHERE AS A RESULT THEREOF SUCH ARTIST HAS BEEN EMPLOYED BY SUCH EMPLOY-
19 ER; OR (II) AFTER AN AGENCY REPRESENTS AN ARTIST IN THE NEGOTIATION OR
20 RENEGOTIATION OF AN ORIGINAL OR PRE-EXISTING EMPLOYMENT CONTRACT AND
21 WHERE AS A RESULT THEREOF THE ARTIST ENTERS INTO A NEGOTIATED OR RENEGO-
22 TIATED EMPLOYMENT CONTRACT. FOR CLASS "C" EMPLOYMENT PURSUANT TO THIS
23 PARAGRAPH, AN EMPLOYMENT AGENCY SHALL PROVIDE AN ARTIST WITH A STATEMENT
24 SETTING FORTH IN A CLEAR AND CONCISE MANNER THE PROVISIONS OF THIS
25 SECTION AND SECTION ONE HUNDRED EIGHTY-SIX OF THIS ARTICLE.

26 The maximum fees provided for herein for all types of placements or
27 employment may be charged to the job applicant and a similar fee may be
28 charged to the employer provided, however, that with regard to place-
29 ments in class "B" employment, a fee of up to one and one-half times the
30 fee charged to the job applicant may be charged to the employer. By
31 agreement with an employment agency, the employer may voluntarily assume
32 payment of the job applicant's fee. The fees charged to employers by any
33 licensed person conducting an employment agency for rendering services
34 in connection with, or for providing employment in classes "A", "A-1"
35 and "B", as hereinafter defined in subdivision four of this section
36 where the applicant is not charged a fee shall be determined by agree-
37 ment between the employer and the employment agency. No fee shall be
38 charged or accepted for the registration of applicants for employees or
39 employment.

40 2. Size of fee; payment schedule. The gross fee charged to the job
41 applicant and the gross fee charged to the employer each shall not
42 exceed the amounts enumerated in the schedules set forth in this
43 section, for any single employment or engagement, except as hereinabove
44 provided; and such fees shall be subject to the provisions of section
45 one hundred eighty-six of this article. Except as otherwise provided
46 herein, AND EXCEPT FOR CLASS "C" EMPLOYMENT, an employment agency shall
47 not require an applicant while employed in the continental United
48 States, and paid weekly to pay any fee at a rate greater than in ten
49 equal weekly [instalments] INSTALLMENTS each of which shall be payable
50 at the end of each of the first ten weeks of employment, or if paid less
51 frequently, in five equal installments, each of which shall be payable
52 at the end of the first five pay periods following his employment, or
53 within a period of ten weeks, whichever period is longer. An employer's
54 fee shall be due and payable at the time the applicant begins employ-
55 ment, unless otherwise determined by agreement between the employer and
56 the agency.

1 S 3. Subdivisions 3 and 4 of section 37.01 of the arts and cultural
2 affairs law are amended and a new subdivision 5 is added to read as
3 follows:

4 3. "Theatrical employment agency" means any person (as defined in
5 subdivision one hereof) who procures or attempts to procure employment
6 or engagements for [circus, vaudeville, the variety field, the legiti-
7 mate theater, motion pictures, radio, television, phonograph recordings,
8 transcriptions, opera, concert, ballet, modeling or other entertainments
9 or exhibitions or performances] AN ARTIST, but such term does not
10 include the business of managing [such] entertainments, exhibitions or
11 performances, or the artists or attractions constituting the same, where
12 such business only incidentally involves the seeking of employment
13 therefor.

14 4. "Theatrical engagement" means any engagement or employment of [a
15 person as an actor, performer or entertainer] AN ARTIST in employment
16 described in subdivision three of this section.

17 5. "ARTIST" SHALL MEAN ACTORS AND ACTRESSES RENDERING SERVICES ON THE
18 LEGITIMATE STAGE AND IN THE PRODUCTION OF MOTION PICTURES, RADIO
19 ARTISTS, MUSICAL ARTISTS, MUSICAL ORGANIZATIONS, DIRECTORS OF LEGITIMATE
20 STAGE, MOTION PICTURE AND RADIO PRODUCTIONS, MUSICAL DIRECTORS, WRITERS,
21 CINEMATOGRAPHERS, COMPOSERS, LYRICISTS, ARRANGERS, MODELS, AND OTHER
22 ARTISTS AND PERSONS RENDERING PROFESSIONAL SERVICES IN MOTION PICTURE,
23 THEATRICAL, RADIO, TELEVISION AND OTHER ENTERTAINMENT ENTERPRISES.

24 S 4. This act shall take effect immediately.