

3666

2013-2014 Regular Sessions

I N S E N A T E

February 8, 2013

Introduced by Sen. LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to enacting the fair broadcast employment act of 2013

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "fair broadcast employment act of 2013".

3 S 2. Section 202-k of the labor law, as added by chapter 398 of the
4 laws of 2008, is amended to read as follows:

5 S 202-k. Protection of persons employed in the broadcast industry. 1.
6 For the purposes of this section:

7 (a) "Broadcasting industry employer" includes INDIVIDUAL television
8 stations or networks, INDIVIDUAL radio stations or networks, cable
9 stations or networks, internet or satellite-based services similar to a
10 broadcast station or network, any broadcast entities affiliated with any
11 of the employers of this paragraph, or any other entity that provides
12 broadcasting services such as news, weather, traffic, sports, or enter-
13 tainment reports or programming.

14 (b) "Broadcast employee" means any on-air employee or off-air employee
15 of a broadcasting industry employer, excluding management employees.

16 (C) "KEY BROADCAST EMPLOYEE" MEANS ANY ON-AIR OR OFF-AIR NON-MANAGE-
17 MENT EMPLOYEE OF A BROADCASTING INDUSTRY EMPLOYER, WHO IS EITHER: (1)
18 COMPENSATED IN THE HIGHEST TEN PERCENT OF ALL NON-MANAGEMENT EMPLOYEES
19 EMPLOYED BY THE BROADCAST INDUSTRY EMPLOYER IN THIS STATE, OR (2) IS ONE
20 OF FIVE DESIGNATED KEY NON-MANAGEMENT POSITIONS EMPLOYED BY THE BROAD-
21 CAST INDUSTRY EMPLOYER IN THIS STATE, PROVIDED THE EMPLOYER HAS NOTIFIED
22 THE EMPLOYEE OF SUCH DESIGNATION.

23 2. [A] SUBJECT TO THE PROVISIONS OF SUBDIVISION THREE OF THIS SECTION,
24 A broadcasting industry employer shall not require as a condition of
25 employment, whether in an employment contract or otherwise, that a

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

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1 broadcast employee or prospective broadcast employee refrain from
2 obtaining employment:
3 (a) in any specified geographic area;
4 (b) for a specific period of time; or
5 (c) with any particular employer or in any particular industry; after
6 the conclusion of employment with such broadcasting industry employer.
7 This section shall not apply to preventing the enforcement of such a
8 covenant during the term of an employment contract.
9 3. THE RESTRICTIONS IN THE PROVISIONS OF SUBDIVISION TWO OF THIS
10 SECTION SHALL NOT APPLY TO MANAGEMENT EMPLOYEES OR KEY BROADCAST EMPLOY-
11 EES, AS SO DESIGNATED BY BROADCASTING INDUSTRY EMPLOYERS.
12 4. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE ENFORCEMENT
13 BY A BROADCASTING INDUSTRY EMPLOYER OF A POST-CONTRACT (A) RIGHT OF
14 FIRST REFUSAL/RIGHT TO MATCH PROVISION, (B) EXCLUSIVE NEGOTIATION
15 PROVISION, OR (C) CONFIDENTIALITY/NON-DISCLOSURE PROVISION IN ANY
16 EMPLOYMENT CONTRACT.
17 5. Any person who violates this section shall be civilly liable to a
18 broadcast employee for damages, attorney's fees and costs.
19 S 3. This act shall take effect immediately.