

7829

I N S E N A T E

June 12, 2014

Introduced by Sen. LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to prohibiting certain entities charging fees for performers' services from making certain false, misleading or deceptive representations

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

1 Section 1. The general business law is amended by adding a new section
2 180 to read as follows:
3 S 180. PERFORMERS' SERVICES; UNLICENSED PERSONS. NO PERSON, WHO IS NOT
4 LICENSED PURSUANT TO THIS ARTICLE AND WHO CHARGES OR IMPOSES A FEE TO
5 PROVIDE PERFORMERS' SERVICES SUCH AS PROFESSIONAL TRAINING, CAREER COUN-
6 SELING, RESUME ASSISTANCE, ONLINE RESUME HOSTING OR OTHER SIMILAR
7 SERVICES, SHALL MAKE ANY FALSE, MISLEADING OR DECEPTIVE ORAL OR WRITTEN
8 REPRESENTATION THAT IT WILL SECURE FOR A PROSPECTIVE CLIENT A JOB AS A
9 PERFORMER IN THE ENTERTAINMENT INDUSTRY IN EXCHANGE FOR SUCH FEE.
10 S 2. Section 190 of the general business law, as amended by chapter
11 632 of the laws of 1975, is amended to read as follows:
12 S 190. Penalties for violations. 1. Any person who violates and the
13 officers of a corporation and stockholders holding ten percent or more
14 of the stock of a corporation which is not publicly traded, who knowingly
15 permit the corporation to violate sections one hundred seventy-two,
16 one hundred seventy-three, one hundred seventy-six, ONE HUNDRED EIGHTY,
17 one hundred eighty-four, one hundred eighty-four-a, one hundred eighty-
18 five, one hundred eighty-five-a, one hundred eighty-six, or one hundred
19 eighty-seven of this article shall be guilty of a misdemeanor and upon
20 conviction shall be subject to a fine not to exceed one thousand
21 dollars, or imprisonment for not more than one year, or both, by any
22 court of competent jurisdiction. The violation of any other provision of
23 this article shall be punishable by a fine not to exceed one hundred
24 dollars or imprisonment for not more than thirty days. Criminal
25 proceedings based upon violations of these sections shall be instituted
26 by the commissioner and may be instituted by any persons aggrieved by
27 such violations.

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

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1 2. ANY INDIVIDUAL, WHO HAS BEEN INJURED BY REASON OF ANY VIOLATION OF
2 SECTION ONE HUNDRED EIGHTY OF THIS ARTICLE, MAY BRING AN ACTION IN HIS
3 OR HER OWN NAME TO RECOVER HIS OR HER ACTUAL DAMAGES. THE COURT MAY, IN
4 ITS DISCRETION, INCREASE THE AWARD OF SUCH DAMAGES TO AN AMOUNT NOT TO
5 EXCEED THREE TIMES THE PLAINTIFF'S ACTUAL DAMAGES, IF THE COURT FINDS
6 THE DEFENDANT WILLFULLY OR KNOWINGLY VIOLATED THE PROVISIONS OF SECTION
7 ONE HUNDRED EIGHTY OF THIS ARTICLE. IN ADDITION, THE COURT MAY AWARD
8 REASONABLE ATTORNEY'S FEES TO A PREVAILING PLAINTIFF.
9 S 3. This act shall take effect on the thirtieth day after it shall
10 have become a law.