

8102

I N S E N A T E

June 13, 2016

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

AN ACT to amend the general business law, in relation to employment agencies

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

1 Section 1. Paragraph b of subdivision 2 of section 173 of the general
2 business law, as added by chapter 632 of the laws of 1975, is amended to
3 read as follows:

4 b. The application for a license shall be accompanied by samples or
5 accurate facsimiles of each and every form which the applicant for a
6 license will require applicants for employment to execute, and such
7 forms must be approved by the commissioner before a license may be
8 issued. The commissioner shall approve any such forms which fairly and
9 clearly represent contractual terms and conditions between the proposed
10 employment agency and applicants for employment, such as are permitted
11 by this article. THE COMMISSIONER SHALL DETERMINE IN HIS OR HER
12 DISCRETION, WHICH LANGUAGES TO PROVIDE, IN ADDITION TO ENGLISH, BASED ON
13 THE SIZE OF THE STATE POPULATION THAT SPEAKS EACH LANGUAGE AND ANY OTHER
14 FACTOR THE COMMISSIONER DEEMS RELEVANT. ALL FORMS SHALL BE MADE AVAIL-
15 ABLE TO EMPLOYMENT AGENCIES IN SUCH A MANNER AS DETERMINED BY THE
16 COMMISSIONER.

17 S 2. Subdivisions 1 and 2 of section 174 of the general business law,
18 subdivision 1 as amended by chapter 164 of the laws of 2003, subdivision
19 2 as amended by chapter 632 of the laws of 1975, are amended to read as
20 follows:

21 1. Upon the receipt of an application for a license, the commissioner
22 shall cause the name and address of the applicant, the name under which
23 the employment agency is to be conducted, and the street and number of
24 the place where the agency is to be conducted, to be posted ON THE
25 COMMISSIONER'S WEBSITE, AS WELL AS in a conspicuous place in his public
26 office. Such agency shall be used exclusively as an employment agency
27 and for no other purpose, except as hereinafter provided. The commis-
28 sioner shall investigate or cause to be investigated the character and

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

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1 responsibility of the applicant and agency manager and shall examine or
2 cause to be examined the premises designated in such application as the
3 place in which it is proposed to conduct such agency.

4 The commissioner shall require all applicants for licenses and agency
5 managers to be fingerprinted. Such fingerprints shall be submitted to
6 the division of criminal justice services for a state criminal history
7 record check, as defined in subdivision one of section three thousand
8 thirty-five of the education law, and may be submitted to the federal
9 bureau of investigation for a national criminal history record check.
10 THE CRIMINAL HISTORY INFORMATION, IF ANY, RECEIVED BY THE DEPARTMENT OF
11 LABOR SHALL BE CONSIDERED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE
12 TWENTY-THREE-A OF THE CORRECTION LAW AND SUBDIVISIONS FIFTEEN AND
13 SIXTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW. A
14 REASONABLE TIME BEFORE MAKING A DETERMINATION ON THE APPLICATION PURSU-
15 ANT TO THIS SUBDIVISION, THE DEPARTMENT SHALL PROVIDE THE APPLICANT
16 CRIMINAL HISTORY INFORMATION, IF ANY. WHERE SUCH CRIMINAL HISTORY INFOR-
17 MATION IS PROVIDED, THE DEPARTMENT SHALL ALSO PROVIDE A COPY OF ARTICLE
18 TWENTY-THREE-A OF THE CORRECTION LAW, AND INFORM SUCH APPLICANT OF HIS
19 OR HER RIGHT TO SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED
20 IN SUCH CRIMINAL HISTORY INFORMATION PURSUANT TO THE REGULATIONS AND
21 PROCEDURES ESTABLISHED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES.

22 2. Any person may file, within one week after such application is so
23 posted [in the said office], a written protest against the issuance of
24 such license. Such protest shall be in writing and signed by the person
25 filing the same or his authorized agent or attorney, and shall state
26 reasons why the said license should not be granted. Upon the filing of
27 such protest the commissioner shall appoint a time and place for the
28 hearing of such application, and shall give at least five days' notice
29 of such time and place to the applicant and the person filing such
30 protest. The commissioner may administer oaths, subpoena witnesses and
31 take testimony in respect to the matters contained in such application
32 and protests or complaints of any character for violation of this arti-
33 cle, and may receive evidence in the form of affidavits pertaining to
34 such matters. If it shall appear upon such hearing or from the
35 inspection, examination or investigation made by the commissioner that
36 the applicant or agency manager is not a person of good character or
37 responsibility; or that he or the agency manager has not had at least
38 two years experience as a placement employee, vocational counsellor or
39 in related activities, or other satisfactory business experience which
40 similarly tend to establish the competence of such individual to direct
41 and operate the placement activities of the agency; or that the place
42 where such agency is to be conducted is not a suitable place therefor;
43 or that the applicant has not complied with the provisions of this arti-
44 cle; the said application shall be denied and a license shall not be
45 granted. Each application should be granted or refused within thirty
46 days from the date of its filing.

47 S 3. Section 179 of the general business law, as amended by chapter
48 632 of the laws of 1975, is amended to read as follows:

49 S 179. Registers and other records to be kept. It shall be the duty of
50 every licensed person to keep a register, approved by the commissioner,
51 in which shall be entered, in the English language, the date of the
52 application for employment, the date the applicant started work and the
53 name and address of every applicant from whom a fee or deposit is
54 charged, the amount of the fee or deposit and the service for which it
55 is received or charged. Such licensed person shall also enter in the
56 same or in a separate register, approved by the commissioner, in the

1 English language, the name and address of every employer from whom a fee
2 is received or charged or to whom the licensed person refers an appli-
3 cant who has paid or is charged a fee, the date of such employer's
4 request or assent that applicants be furnished, the kind of position for
5 which applicants are requested, the names of the applicants sent from
6 whom a fee or deposit is received or charged with the designation of the
7 one employed, the amount of the fee or deposit charged, and the rate of
8 salary or wages agreed upon. It shall also be the duty of every licensed
9 person to keep complete and accurate written records in the English
10 language of all receipts and income received or derived directly from
11 the operation of his employment agency, and to keep records concerning
12 job orders. No such licensed person, his agent or employees, shall make
13 any false entry in such records. It shall be the duty of every licensed
14 person to communicate orally or in writing with at least one of the
15 persons mentioned as references for every applicant for work in private
16 families, or employed in a fiduciary capacity, and the result of such
17 investigation shall be kept on file in such agency for a period of at
18 least three years. Every register and all records kept pursuant to the
19 requirements of this article shall be retained on the premises of the
20 agency concerned for three years following the date on which the last
21 entry thereon was made [except a job order which shall be retained for
22 one year following the date on which it was received].

23 S 4. Section 181 of the general business law, as added by chapter 893
24 of the laws of 1958, subdivision 1 as added and subdivision 2 as amended
25 by chapter 632 of the laws of 1975, subdivision 3 as separately amended
26 by chapters 1010 and 1083 of the laws of 1960, and subdivision 4 as
27 amended by chapter 479 of the laws of 1963, is amended to read as
28 follows:

29 S 181. Contracts, STATEMENTS OF TERMS AND CONDITIONS, AND receipts. It
30 shall be the duty of every employment agency to give to each applicant
31 for employment:

32 1. A true copy of every contract executed between such agency and such
33 applicant, which shall have printed on it or attached to it a statement
34 setting forth in a clear and concise manner the provisions of sections
35 one hundred eighty-five, and one hundred eighty-six of this article.

36 2. [Information as to the name and address of the person to whom the
37 applicant is to apply for such employment, the kind of service to be
38 performed, the anticipated rate of wages or compensation, the agency's
39 fee for the applicant based on such anticipated wages or compensation,
40 whether such employment is permanent or temporary, the name and address
41 of the person authorizing the hiring of such applicant, and the cost of
42 transportation if the services are required outside of the city, town or
43 village where such agency is located. If the job is a conditionally
44 fee-paid job, the conditions under which the applicant will be required
45 to pay a fee shall be clearly set forth in a separate agreement in ten-
46 point type signed by the job applicant.] (A) EACH CONTRACT SHALL
47 INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING: INFORMATION AS TO THE
48 NAME AND ADDRESS OF THE PERSON TO WHOM THE APPLICANT IS TO APPLY FOR
49 SUCH EMPLOYMENT, THE NAME, THE ADDRESS, THE MAILING ADDRESS, AND THE
50 TELEPHONE NUMBER OF THE EMPLOYER; THE ADDRESS OR ADDRESSES OF EMPLOY-
51 MENT, THE KIND OF SERVICE TO BE PERFORMED; THE ANTICIPATED RATE OF WAGES
52 OR COMPENSATION; THE ANTICIPATED HOURS OF WORK PER DAY AND NUMBER OF
53 DAYS TO BE WORKED PER WEEK; THE AGENCY'S FEE FOR THE APPLICANT BASED ON
54 SUCH ANTICIPATED WAGES OR COMPENSATION; ANY PROVISION TO THE EMPLOYEE,
55 AND COSTS ASSOCIATED WITH THAT PROVISION INCLUDING HOUSING, HEALTH
56 INSURANCE, HEALTHCARE, SICK LEAVE, HOLIDAYS AND RETIREMENT BENEFITS;

1 WHETHER SUCH EMPLOYMENT IS PERMANENT OR TEMPORARY, THE ANTICIPATED PERI-
2 OD OF EMPLOYMENT, THE NAME AND ADDRESS OF THE PERSON AUTHORIZING THE
3 HIRING OF SUCH APPLICANT; AND THE COST OF TRANSPORTATION IF THE SERVICES
4 ARE REQUIRED OUTSIDE OF THE CITY, TOWN OR VILLAGE WHERE SUCH AGENCY IS
5 LOCATED. IF THE JOB IS A CONDITIONALLY FEE-PAID JOB, THE CONDITIONS
6 UNDER WHICH THE APPLICANT WILL BE REQUIRED TO PAY A FEE SHALL BE CLEARLY
7 SET FORTH IN A SEPARATE AGREEMENT IN TEN-POINT TYPE SIGNED BY THE JOB
8 APPLICANT.

9 (B) THE EMPLOYMENT AGENCY SHALL PROVIDE TO EACH APPLICANT, A SEPARATE
10 DOCUMENT ACCOMPANYING EACH CONTRACT SUMMARIZING THE TERMS AND CONDITIONS
11 OF THE CONTRACT IN COMMONLY UNDERSTOOD TERMS. THIS DOCUMENT SHALL BE
12 ENTITLED "TERMS AND CONDITIONS" AND SHALL INCLUDE THE LANGUAGE THAT THE
13 DOCUMENT IS NOT A CONTRACT AND THAT SUCH DOCUMENT IS NOT LEGALLY BIND-
14 ING. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS DETERMINING
15 WHAT INFORMATION SHALL BE INCLUDED IN THE TERMS AND CONDITIONS PROVIDED
16 BY AN AGENCY TO AN APPLICANT.

17 (C) WHEN A JOB APPLICANT IDENTIFIES AS HIS OR HER PRIMARY LANGUAGE A
18 LANGUAGE FOR WHICH A TEMPLATE IS NOT AVAILABLE FROM THE COMMISSIONER,
19 THE EMPLOYMENT AGENCY SHALL COMPLY WITH THIS SUBDIVISION BY PROVIDING
20 THAT EMPLOYEE AN ENGLISH-LANGUAGE STATEMENT.

21 (D) AN EMPLOYMENT AGENCY SHALL NOT BE PENALIZED FOR ERRORS OR OMIS-
22 SIONS IN THE NON-ENGLISH PORTIONS OF ANY NOTICE PROVIDED BY THE COMMIS-
23 SIONER.

24 3. A receipt for any fee, deposit, consideration, or payment which
25 such agency receives from such applicant, which shall have printed or
26 written on it the name of the applicant, the name and address of the
27 employment agency, the date and amount of such fee, deposit, consider-
28 ation or payment or portion thereof for which the receipt is given, the
29 purpose for which it was paid, and the signature of the person receiving
30 such payment. If the applicant for employment has been recruited from
31 outside the state for domestic or household employment the receipt shall
32 have printed on it, or attached to it, a copy of section one hundred
33 eighty-four of this article. THE RECEIPT SHALL ALSO INCLUDE, IMMEDIATE-
34 LY ABOVE THE PLACE FOR SIGNATURE OF THE PERSON RECEIVING PAYMENT, SET
35 OFF IN A BOX AND PRINTED IN BOLD CAPITAL LETTERS, THE FOLLOWING STATE-
36 MENT: "AN EMPLOYMENT AGENCY MAY NOT CHARGE YOU, THE JOB APPLICANT, A FEE
37 BEFORE REFERRING YOU TO A JOB THAT YOU ACCEPT. IF YOU PAY A FEE BEFORE
38 ACCEPTING A JOB OR PAY A FEE THAT OTHERWISE VIOLATES THE LAW, YOU MAY
39 DEMAND A REFUND, WHICH SHALL BE REPAID WITHIN SEVEN DAYS".

40 4. The COMPLETED original or duplicate-original copy of each such
41 contract [and receipt], STATEMENT OF TERMS AND CONDITIONS, RECEIPTS, AND
42 ANY OTHER DOCUMENTS GIVEN TO THE APPLICANT shall be retained by every
43 employment agency for three years following the date on which the
44 contract is executed or the payment is made, and shall be made available
45 for inspection by the commissioner or his duly authorized agent or
46 inspector, upon his request. Notwithstanding the other provisions of
47 such contracts, the monetary consideration to be paid by the applicant
48 shall not exceed the fee ceiling provided in subdivision eight of
49 section one hundred eighty-five OF THIS ARTICLE.

50 S 5. Subdivisions 1 and 3 of section 185 of the general business law,
51 subdivision 1 as amended by chapter 460 of the laws of 2012 and subdivi-
52 sion 3 as amended by chapter 1010 of the laws of 1960, are amended to
53 read as follows:

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

1 (a) for class "A" and "A-1" employment, and except] AND after such
2 agency has been responsible for referring such job applicant to an
3 employer or such employer to a job applicant and where as a result ther-
4 eof such job applicant has been employed by such employer[; and

5 (b)], EXCEPT for class "C" employment: [(i)] (A) after an agency has
6 been responsible for referring an artist to an employer or such employer
7 to an artist and where as a result thereof such artist has been employed
8 by such employer; or [(ii)] (B) after an agency represents an artist in
9 the negotiation or renegotiation of an original or pre-existing employ-
10 ment contract and where as a result thereof the artist enters into a
11 negotiated or renegotiated employment contract. For class "C" employment
12 pursuant to this paragraph, an employment agency shall provide an artist
13 with a statement setting forth in a clear and concise manner the
14 provisions of this section and section one hundred eighty-six of this
15 article.

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

30 3. Deposits, advance fees. [Notwithstanding any other provisions of
31 this section, an] AN employment agency [may] SHALL not require OR ACCEPT
32 a deposit or advance fee from any applicant [except an applicant for
33 class "A" or class "A1" employment, and only to the extent of the maxi-
34 mum fees hereinafter provided. Such deposit or advance fee shall be
35 offset against any fee charged or accepted when such employment is
36 obtained. Any excess above the lawful fee shall be returned without
37 demand therefor, immediately after the employment agency has been noti-
38 fied that such employment has been obtained; and all of such deposit or
39 advance fee shall be returned immediately upon demand therefor, if at
40 the time of the demand such employment has not been obtained].

41 S 6. Subdivision 2 of section 186 of the general business law, as
42 amended by chapter 1010 of the laws of 1960, is amended to read as
43 follows:

44 2. Failure to report: If a job applicant accepts employment and there-
45 after fails to report for work, the gross fee charged to such applicant
46 shall not exceed twenty-five per cent of the maximum fee allowed by
47 section one hundred eighty-five of this article[, provided however, if
48 the applicant remains with his same employer, the fee shall not exceed
49 fifty per cent]. If a job applicant accepts employment and fails to
50 report for work, no fee shall be charged to the employer.

51 S 7. Subdivision 3 of section 187 of the general business law, as
52 added by chapter 893 of the laws of 1958, is amended to read a follows:

53 (3) Advertise in newspapers or otherwise, or use letterheads or
54 receipts or other written or printed matter, unless such advertising or
55 other matter contains the name and address of the employment agency
56 [and], the word "agency" AND THE AGENCY'S LICENSE NUMBER.

1 S 8. Section 188 of the general business law, as amended by chapter
2 632 of the laws of 1975, is amended to read as follows:

3 S 188. Copies of law to be posted. 1. Every licensed person shall post
4 in a conspicuous place in the main room of such agency sections one
5 hundred seventy-eight, [one hundred eighty,] one hundred eighty-one, one
6 hundred eighty-five, and one hundred eighty-six, of this article[, which
7 shall be printed in large type in languages in which persons commonly
8 doing business with such office can understand]. Such poster shall also
9 contain the name and address of the commissioner charged with the
10 enforcement of this article in the place where the agency is located.

11 2. THE COMMISSIONER, IN CONJUNCTION WITH THE DIRECTOR OF THE OFFICE
12 FOR NEW AMERICANS, SHALL DEVELOP, ESTABLISH AND IMPLEMENT A PUBLIC
13 AWARENESS CAMPAIGN REGARDING THE RIGHTS OF JOB SEEKERS. SUCH PUBLIC
14 AWARENESS CAMPAIGN SHALL BE MADE AVAILABLE TO THE PUBLIC BY ANY MEANS
15 DEEMED APPROPRIATE BY THE COMMISSIONER AND THE DIRECTOR OF THE OFFICE
16 FOR NEW AMERICANS. ANY MATERIALS DEVELOPED AND DISSEMINATED TO JOB SEEK-
17 ERS ACCORDING TO THIS SUBDIVISION MUST ALSO BE DISTRIBUTED TO LICENSED
18 EMPLOYMENT AGENCIES.

19 S 9. Section 189 of the general business law, as amended by chapter
20 479 of the laws of 1963, subdivisions 1 and 2 as amended by chapter 721
21 of the laws of 2004, subdivisions 4 and 5 as amended by chapter 632 of
22 the laws of 1975, is amended to read as follows:

23 S 189. Enforcement of provisions of this article. 1. This article,
24 article nineteen-B of the labor law and sections 37.01, 37.03 and 37.05
25 of the arts and cultural affairs law shall be enforced by the commis-
26 sioner of labor, except that in the city of New York this article and
27 such sections shall be enforced by the commissioner of consumer affairs
28 of such city. IN ADDITION TO THE POWERS OF THE COMMISSIONER, THE ATTOR-
29 NEY GENERAL MAY ENFORCE THE PROVISIONS OF THIS ARTICLE TO THE EXTENT
30 PERMITTED UNDER SECTION SIXTY-THREE OF THE EXECUTIVE LAW.

31 2. To effectuate the purposes of this article, article nineteen-B of
32 the labor law and sections 37.01, 37.03 and 37.05 of the arts and
33 cultural affairs law, the commissioner or any duly authorized agent or
34 inspector designated by such commissioner, shall have authority to
35 inspect the premises, registers, contract forms, COMPLETED CONTRACTS,
36 STATEMENTS OF TERMS AND CONDITIONS, receipt books, application forms,
37 referral forms, reference forms, reference reports and financial records
38 of fees charged and refunds made of each employment agency, AND ANY
39 OTHER RECORD THAT THE EMPLOYMENT AGENCY IS REQUIRED TO MAINTAIN PURSUANT
40 TO THIS ARTICLE, which are essential to the operation of such agency,
41 and of each applicant for an employment agency license, as frequently as
42 necessary to ensure compliance with this article and such sections[; but
43 in]. IN no event shall any employment agency be inspected less frequent-
44 ly than once every eighteen months. INSPECTIONS MAY CONSIST OF IN-PER-
45 SON VISITS TO EMPLOYMENT AGENCIES. The commissioner shall also have
46 authority to subpoena records and witnesses or otherwise to conduct
47 investigations of any employer or other person where he or she has
48 reasonable grounds for believing that such employer or person is violat-
49 ing or has conspired or is conspiring with an employment agency to
50 violate this article or such sections.

51 3. To effectuate the purposes of this article, the commissioner may
52 make reasonable administrative rules within the standards set in this
53 article. Before such rules shall be issued, the commissioner shall
54 conduct a public hearing, giving due notice thereof to all interested
55 parties. No rule shall become effective until fifteen days after it has
56 been filed in the office of the department of state, if it is a rule of

1 the industrial commissioner, or in the office of the clerk of the city
2 of New York, if it is a rule of the commissioner of licenses of such
3 city, and copies thereof shall be furnished to all employment agencies
4 affected at least fifteen days prior to the effective date of such rule.

5 4. Complaints against any such licensed OR UNLICENSED person [shall]
6 MAY be made orally or in writing to the commissioner, or be sent in an
7 affidavit form without appearing in person, and may be made by recog-
8 nized employment agencies, trade associations, or others. The commis-
9 sioner may hold a hearing on a complaint with the powers provided by
10 section one hundred seventy-four of this article. If a hearing is held,
11 reasonable notice thereof, not less than five days, shall be given in
12 writing to said [licensed] person by serving upon the [licensed] person
13 either personally, by mail, or by leaving the same with the person in
14 charge of his office, a concise statement of the facts constituting the
15 complaint, and the hearing shall commence before the commissioner with
16 reasonable speed but in no event later than two weeks from the date of
17 the filing of the complaint. The commissioner when investigating any
18 matters pertaining to the granting, issuing, transferring, renewing,
19 revoking, suspending or cancelling of any license is authorized in his
20 discretion to take such testimony as may be necessary on which to base
21 official action. When taking such testimony he may subpoena witnesses
22 and also direct the production before him of necessary and material
23 books and papers. A daily calendar of all hearings shall be kept by the
24 commissioner and shall be posted in a conspicuous place in his public
25 office for at least one day before the date of such hearings. The
26 commissioner shall render his decision within thirty days from the time
27 the matter is finally submitted to him. The commissioner shall keep a
28 record of all such complaints and hearings. THE OFFICE OF NEW AMERICANS
29 SHALL, PURSUANT TO SECTION NINETY-FOUR-B OF THE EXECUTIVE LAW, RECEIVE
30 COMPLAINTS, ATTEMPT TO MEDIATE SUCH COMPLAINTS, AND WHERE APPROPRIATE
31 REFER SUCH COMPLAINTS TO THE ATTORNEY GENERAL OR OTHER FEDERAL, STATE OR
32 LOCAL AGENCY AUTHORIZED BY LAW TO TAKE ACTION ON SUCH COMPLAINT.

33 5. [Following such hearing if it has been shown] UPON A FINDING that
34 the licensed person or his agent, employee or anyone acting on his
35 behalf is guilty of violating any provision of this article or is not a
36 person of good character and responsibility, the commissioner may
37 suspend or revoke the license of such licensed person [and/or levy a
38 fine against such licensed person for each violation not to exceed five
39 hundred dollars]. ANY EMPLOYMENT AGENCY FOUND TO HAVE VIOLATED ANY
40 PROVISION OF THIS ARTICLE SHALL BE SUBJECT, FOR THE FIRST OFFENSE, TO A
41 CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS PER VIOLATION, AND, FOR
42 EACH SUBSEQUENT OFFENSE WITHIN SIX YEARS OF SUCH PREVIOUS OFFENSE, TO A
43 CIVIL PENALTY, NOT TO EXCEED FIVE THOUSAND DOLLARS PER VIOLATION. WHEN
44 IT IS DETERMINED THAT THERE HAS BEEN A VIOLATION OF THIS ARTICLE BY AN
45 EMPLOYMENT AGENCY, THE COMMISSIONER SHALL PROVIDE THE EMPLOYMENT AGENCY
46 WITH A SPECIFIC TIME PERIOD FOR SUCH EMPLOYMENT AGENCY TO CURE OR
47 CORRECT SUCH VIOLATION OR TAKE OTHER AMELIORATIVE ACTION AS DIRECTED BY
48 THE COMMISSIONER, THE SUCCESSFUL COMPLETION OF WHICH SHALL PREVENT THE
49 IMPOSITION OF PENALTIES ON THE EMPLOYMENT AGENCY FOR SUCH VIOLATION.
50 Whenever such commissioner shall suspend or revoke the license of any
51 employment agency, or shall levy a fine against [such] ANY agency, said
52 determination shall be subject to judicial review in proceedings brought
53 pursuant to article seventy-eight of the civil practice law and rules.
54 Whenever [such] AN EMPLOYMENT AGENCY'S license is revoked, another
55 license or agency manager permit shall not be issued within three years
56 from the date of such revocation to said licensed person or his agency

1 manager or to any person with whom the licensee has been associated in
2 the business of furnishing employment or engagements. Deputy commission-
3 ers, or other officials designated to act on behalf of the commissioner,
4 may conduct hearings and act upon applications for licenses, and revoke
5 or suspend such licenses, or levy fines AGAINST AN EMPLOYMENT AGENCY.

6 6. IF ANY PROVISIONS OF THIS ARTICLE OR THE APPLICATION THEREOF TO
7 ANY PERSON OR CIRCUMSTANCES IS HELD UNCONSTITUTIONAL, THE REMAINDER OF
8 THE ARTICLE AND THE APPLICATION OF THAT PROVISION TO OTHER PERSONS AND
9 CIRCUMSTANCES SHALL NOT BE AFFECTED THEREBY.

10 S 10. 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. Any person who violates and the offi-
13 cers of a corporation and stockholders holding ten percent or more of
14 the stock of a corporation which is not publicly traded, who knowingly
15 permit the corporation to violate sections one hundred seventy-two, one
16 hundred seventy-three, one hundred seventy-six, one hundred eighty-four,
17 one hundred eighty-four-a, one hundred eighty-five, one hundred eighty-
18 five-a, one hundred eighty-six, or one hundred eighty-seven of this
19 article shall be guilty of a misdemeanor and upon conviction shall be
20 subject to a fine not to exceed [one thousand] TWO THOUSAND FIVE HUNDRED
21 dollars PER VIOLATION, or imprisonment for not more than one year, or
22 both, by any court of competent jurisdiction. The violation of any other
23 provision of this article shall be punishable by a fine not to exceed
24 [one] FIVE hundred dollars or imprisonment for not more than thirty
25 days. Criminal proceedings based upon violations of these sections shall
26 be instituted by the commissioner and may be instituted by any persons
27 aggrieved by such violations.

28 S 11. This act shall take effect immediately.