S T A T E O F N E W Y O R K

5886

2009-2010 Regular Sessions

I N A S S E M B L Y

February 23, 2009

Introduced by M. of A. ESPAILLAT -- Multi-Sponsored by -- M. of A. BOYLAND, ROBINSON -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

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

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

Section 1. Subdivision 2 of section 171 of the general business law is amended by adding a new paragraph f to read as follows:

F. "EMPLOYMENT AGENCY" INCLUDES ANY BUSINESS ENTITY THAT MANAGES, REPRESENTS, REFERS FOR EMPLOYMENT, OR SUBSTANTIALLY CONTROLS EMPLOYMENT OPPORTUNITIES FOR FASHION INDUSTRY PROFESSIONALS, INCLUDING, BUT NOT LIMITED TO, MODELS, PHOTOGRAPHERS, STYLISTS, MAKE-UP ARTISTS, PHOTOGRAPHERS' ASSISTANTS, AND HAIR STYLISTS.

S 2. Section 171 of the general business law is amended by adding a new subdivision 12 to read as follows:

12. "COMPOSITE CARD" MEANS ANY COLLECTION OR GROUPING OF PHOTOGRAPHS OR OTHER IMAGES WITH OR WITHOUT A DESCRIPTION OF THE SUBJECT PERSON'S PHYSICAL ATTRIBUTES.

S 3. Section 172 of the general business law, as amended by chapter 617 of the laws of 1988, is amended to read as follows:

S 172. License required. No person shall open, keep, maintain, own, operate, or carry on any employment agency OR MODELING OR TALENT MANAGEMENT AGENCY NOR ADVERTISE OR OTHERWISE SOLICIT THE PUBLIC IN ANY WAY WHICH ALLUDES TO OBTAINING EMPLOYMENT FOR MEMBERS OF THE PUBLIC unless such person shall have first procured a license therefor as provided in this article. Such license shall be issued by the commissioner of labor, except that if the employment agency OR MODELING OR TALENT MANAGEMENT AGENCY is to be conducted in the city of New York, such license shall be issued by the commissioner of consumer affairs of such city. Such license shall be posted in a conspicuous place in said agency.

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

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S 4. Subdivision 3 of section 185 of the general business law, as amended by chapter 1010 of the laws of 1960, is amended to read as follows:

3. Deposits, advance fees. Notwithstanding any other provisions of this section, an employment agency, may not require a deposit [or], advance fee, REGISTRATION FEE OR ANY OTHER PRELIMINARY FEE from any applicant OR OTHER MEMBER OF THE PUBLIC SEEKING TO DO BUSINESS WITH SAID AGENCY, except an applicant for class "A" or class "A1" employment, and only to the extent of the maximum fees hereinafter provided. Such deposit or advance fee shall be offset against any fee charged or accepted when such employment is obtained. Any excess above the lawful fee shall be returned without demand therefor, immediately after the employment agency OR MODELING OR TALENT MANAGEMENT AGENCY has been notified that such employment has been obtained; and all of such deposit or advance fee shall be returned immediately upon demand therefor, if at the time of the demand such employment has not been obtained.

S 5. Subdivision 3 of section 187 of the general business law, as added by chapter 893 of the laws of 1958, is amended and two new subdivisions 15 and 16 are added to read as follows:

(3) Advertise in newspapers or otherwise, or use letterheads or receipts or other written or printed matter, unless such advertising or other matter contains the name and address of the employment agency OR MODELING OR TALENT MANAGEMENT AGENCY and the word "agency", TOGETHER WITH ITS LICENSING AUTHORITY AND LICENSE NUMBER.

(15) ACCEPT A COMMISSION OR FEE OR ENTER INTO ANY OTHER ARRANGEMENT WHEREBY SUCH AGENCY RECEIVES, DIRECTLY OR INDIRECTLY, REMUNERATION OR ANY OTHER THING OF VALUE FROM ANY PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, CORPORATION, OR OTHER ENTITY WHICH COLLECTS FEES FROM APPLICANTS INCLUDING, BUT NOT LIMITED TO, PERSONS OR ENTITIES PROVIDING PRINTING, COMPOSITE CARDS, OR PHOTOGRAPHY SERVICES.

(16) SELL, CHARGE A FEE FOR OR ACCEPT A FEE, DIRECTLY OR INDIRECTLY, FOR THE TAKING, PROCESSING, OR DEVELOPING OF PHOTOGRAPHS OR OTHER IMAGES OR COMPOSITE CARDS.

S 6. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, any rules and regulations necessary for the timely implementation of this act on its effective date shall be promulgated on or before such date.