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

7783

2011-2012 Regular Sessions

I N A S S E M B L Y

May 17, 2011

Introduced by M. of A. BING -- read once and referred to the Committee on Labor

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:

Section 1. Subdivisions 8 and 9 of section 171 of the general business law, as amended by chapter 617 of the laws of 1988, are amended and a new subdivision 8-a is added to read as follows:

8. "Theatrical employment agency" means any person (as defined in subdivision seven of this section) who procures or attempts to procure employment or engagements for [circus, vaudeville, the variety field, the legitimate theater, motion pictures, radio, television, phonograph recordings, transcriptions, opera, concert, ballet, modeling or other entertainments or exhibitions or performances] AN ARTIST, but such term does not include the business of managing [such] entertainments, exhibitions or performances, or the artists or attractions constituting the same, where such business only incidentally involves the seeking of employment therefor.

8-A. "ARTIST" SHALL MEAN ACTORS AND ACTRESSES RENDERING SERVICES ON THE LEGITIMATE STAGE AND IN THE PRODUCTION OF MOTION PICTURES, RADIO ARTISTS, MUSICAL ARTISTS, MUSICAL ORGANIZATIONS, DIRECTORS OF LEGITIMATE STAGE, MOTION PICTURE AND RADIO PRODUCTIONS, MUSICAL DIRECTORS, WRITERS, CINEMATOGRAPHERS, COMPOSERS, LYRICISTS, ARRANGERS, MODELS, AND OTHER ARTISTS AND PERSONS RENDERING PROFESSIONAL SERVICES IN MOTION PICTURE, THEATRICAL, RADIO, TELEVISION AND OTHER ENTERTAINMENT ENTERPRISES.

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

S 2. Subdivision 1 of section 181 of the general business law, as added by chapter 632 of the laws of 1975, is amended to read as follows:

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

LBD11532-01-1

1. A true copy of every contract executed between such agency and such applicant, which shall have printed on it or attached to it a statement setting forth in a clear and concise manner the provisions of sections one hundred eighty-five, and one hundred eighty-six of this article; PROVIDED HOWEVER, THAT CONTRACTS FOR CLASS C EMPLOYMENT MAY INSTEAD PROVIDE NOTICE OF THE APPLICABILITY OF SECTIONS ONE HUNDRED EIGHTY-FIVE AND ONE HUNDRED EIGHTY-SIX OF THIS ARTICLE.

S 3. Subdivisions 1 and 2 of section 185 of the general business law, as amended by chapter 617 of the laws of 1988, are amended to read as follows:

1. Circumstances permitting fee. An employment agency shall not charge or accept a fee or other consideration unless in accordance with the terms of a written contract with a job applicant, except: (A) for class "A" [and], "A-1" AND "C" employment[, and except] after such agency has been responsible for referring such job applicant to an employer or such employer to a job applicant and where as a result thereof such job applicant has been employed by such employer; OR, (B) IN THE CASE OF CLASS "C" EMPLOYMENT AFTER AN AGENCY REPRESENTS AN ARTIST IN THE NEGOTIATION OR RENEGOTIATION OF AN ORIGINAL OR PRE-EXISTING EMPLOYMENT CONTRACT. The maximum fees provided for herein for all types of placements or employment may be charged to the job applicant and a similar fee may be charged to the employer provided, however, that with regard to placements in class "B" employment, a fee of up to one and one-half times the fee charged to the job applicant may be charged to the employer. By agreement with an employment agency, the employer may voluntarily assume payment of the job applicant's fee. The fees charged to employers by any licensed person conducting an employment agency for rendering services in connection with, or for providing employment in classes "A", "A-1" and "B", as hereinafter defined in subdivision four of this section where the applicant is not charged a fee shall be determined by agreement between the employer and the employment agency. No fee shall be charged or accepted for the registration of applicants for employees or employment.

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

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

3. "Theatrical employment agency" means any person (as defined in subdivision one hereof) who procures or attempts to procure employment or engagements for [circus, vaudeville, the variety field, the legiti-

mate theater, motion pictures, radio, television, phonograph recordings, transcriptions, opera, concert, ballet, modeling or other entertainments or exhibitions or performances] AN ARTIST, but such term does not include the business of managing [such] entertainments, exhibitions or performances, or the artists or attractions constituting the same, where such business only incidentally involves the seeking of employment therefor.

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

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

S 5. This act shall take effect immediately.