

5576

2011-2012 Regular Sessions

I N   S E N A T E

June 3, 2011

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

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:

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

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

14    8-A. "ARTIST" SHALL MEAN ACTORS AND ACTRESSES RENDERING SERVICES ON  
15    THE LEGITIMATE STAGE AND IN THE PRODUCTION OF MOTION PICTURES, RADIO  
16    ARTISTS, MUSICAL ARTISTS, MUSICAL ORGANIZATIONS, DIRECTORS OF LEGITIMATE  
17    STAGE, MOTION PICTURE AND RADIO PRODUCTIONS, MUSICAL DIRECTORS, WRITERS,  
18    CINEMATOGRAPHERS, COMPOSERS, LYRICISTS, ARRANGERS, MODELS, AND OTHER  
19    ARTISTS AND PERSONS RENDERING PROFESSIONAL SERVICES IN MOTION PICTURE,  
20    THEATRICAL, RADIO, TELEVISION AND OTHER ENTERTAINMENT ENTERPRISES.

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

24    S 2. Subdivision 1 of section 181 of the general business law, as  
25    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.

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

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

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

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

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

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

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

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

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

18 S 5. This act shall take effect immediately.