

1852

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 12, 2011

---

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

AN ACT to amend the labor law and the workers' compensation law, in  
relation to the definition of employment as it concerns professional  
models and the individuals and entities which engage them; and to  
repeal certain provisions of the labor law and the workers' compen-  
sation law relating thereto

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

1     Section 1. Subparagraph 3 of paragraph (b) of subdivision 1 of section  
2     511 of the labor law is REPEALED.  
3     S 2. Subdivision 1 of section 511 of the labor law is amended by  
4     adding a new paragraph (c) to read as follows:  
5     (C) THE TERM "EMPLOYMENT" DOES NOT INCLUDE THE SERVICES OF A PROFES-  
6     SIONAL MODEL NOR IS A MODEL MANAGER, ADVERTISER, PERSON, CORPORATION OR  
7     OTHER ENTITY AN "EMPLOYER" OF A PROFESSIONAL MODEL FOR THE PURPOSES OF  
8     THIS ARTICLE, WHERE THE PROFESSIONAL MODEL MEETS ALL OF THE FOLLOWING  
9     CRITERIA:  
10    (1) HAS THE RIGHT TO NEGOTIATE HIS OR HER RATE OF COMPENSATION AND THE  
11    BASIS FOR REIMBURSEMENT FOR EXPENSES;  
12    (2) HAS THE RIGHT TO ACCEPT OR REJECT JOB ASSIGNMENTS, HOURS OF WORK  
13    AND PERFORMANCE LOCATIONS;  
14    (3) HAS THE RIGHT TO PERFORM SERVICES FOR OTHER ADVERTISERS, PERSONS  
15    OR ENTITIES;  
16    (4) INCURS HIS OR HER OWN EXPENSES, INCLUDING EXPENSES FOR PORTFOLIOS;  
17    (5) BEARS HIS OR HER OWN RISK OF LOSS IF A CLIENT FAILS TO PAY ITS  
18    BILL; AND  
19    (6) RECEIVES NO FRINGE BENEFITS.  
20    AS USED IN THIS PARAGRAPH, (I) "PROFESSIONAL MODEL" MEANS A PERSON  
21    WHO, IN THE COURSE OF HIS OR HER TRADE, OCCUPATION OR PROFESSION,  
22    PERFORMS MODELING SERVICES;

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

LBD05650-01-1

(II) "MODELING SERVICES" MEANS THE APPEARANCE BY A PROFESSIONAL MODEL IN PHOTOGRAPHIC SESSIONS OR THE ENGAGEMENT OF SUCH MODEL IN LIVE, FILMED OR TAPED MODELING PERFORMANCES FOR REMUNERATION;

(III) "MODEL MANAGER" MEANS A PERSON OR ENTITY WHICH REPRESENTS PROFESSIONAL MODELS WITH RESPECT TO THEIR MODELING CAREERS.

S 3. The fifth undesignated paragraph of subdivision 4 of section 2 of the workers' compensation law is REPEALED.

S 4. Section 2 of the workers' compensation law is amended by adding a new subdivision 4-a to read as follows:

4-A. THE TERM "EMPLOYEE" DOES NOT INCLUDE THE SERVICES OF A PROFESSIONAL MODEL NOR IS A MODEL MANAGER, ADVERTISER, PERSON, CORPORATION OR OTHER ENTITY AN "EMPLOYER" OF A PROFESSIONAL MODEL FOR THE PURPOSES OF THIS ARTICLE, WHERE THE PROFESSIONAL MODEL MEETS ALL OF THE FOLLOWING CRITERIA:

(A) HAS THE RIGHT TO NEGOTIATE HIS OR HER RATE OF COMPENSATION AND THE BASIS FOR REIMBURSEMENT FOR EXPENSES;

(B) HAS THE RIGHT TO ACCEPT OR REJECT JOB ASSIGNMENTS, HOURS OF WORK AND PERFORMANCE LOCATIONS;

(C) HAS THE RIGHT TO PERFORM SERVICES FOR OTHER ADVERTISERS, PERSONS OR ENTITIES;

(D) INCURS HIS OR HER OWN EXPENSES, INCLUDING EXPENSES FOR PORTFOLIOS;

(E) BEARS HIS OR HER OWN RISK OF LOSS IF A CLIENT FAILS TO PAY ITS BILL; AND

(F) RECEIVES NO FRINGE BENEFITS.

AS USED IN THIS SECTION, (I) "PROFESSIONAL MODEL" MEANS A PERSON WHO, IN THE COURSE OF HIS OR HER TRADE, OCCUPATION OR PROFESSION, PERFORMS MODELING SERVICES;

(II) "MODELING SERVICES" MEANS THE APPEARANCE BY A PROFESSIONAL MODEL IN PHOTOGRAPHIC SESSIONS OR THE ENGAGEMENT OF SUCH MODEL IN LIVE, FILMED OR TAPED MODELING PERFORMANCES FOR REMUNERATION;

(III) "MODEL MANAGER" MEANS A PERSON OR ENTITY WHICH REPRESENTS PROFESSIONAL MODELS WITH RESPECT TO THEIR MODELING CAREERS.

S 5. The closing paragraph of subdivision 5 of section 201 of the workers' compensation law is REPEALED.

S 6. Section 201 of the workers' compensation law is amended by adding a new subdivision 5-a to read as follows:

5-A. THE TERM "EMPLOYEE" DOES NOT INCLUDE THE SERVICES OF A PROFESSIONAL MODEL NOR IS A MODEL MANAGER, ADVERTISER, PERSON, CORPORATION OR OTHER ENTITY AN "EMPLOYER" OF A PROFESSIONAL MODEL FOR THE PURPOSES OF THIS ARTICLE, WHERE THE PROFESSIONAL MODEL MEETS ALL OF THE FOLLOWING CRITERIA:

(A) HAS THE RIGHT TO NEGOTIATE HIS OR HER RATE OF COMPENSATION AND THE BASIS FOR REIMBURSEMENT FOR EXPENSES;

(B) HAS THE RIGHT TO ACCEPT OR REJECT JOB ASSIGNMENTS, HOURS OF WORK AND PERFORMANCE LOCATIONS;

(C) HAS THE RIGHT TO PERFORM SERVICES FOR OTHER ADVERTISERS, PERSONS OR ENTITIES;

(D) INCURS HIS OR HER OWN EXPENSES, INCLUDING EXPENSES FOR PORTFOLIOS;

(E) BEARS HIS OR HER OWN RISK OF LOSS IF A CLIENT FAILS TO PAY ITS BILL; AND

(F) RECEIVES NO FRINGE BENEFITS.

AS USED IN THIS SECTION, (I) "PROFESSIONAL MODEL" MEANS A PERSON WHO, IN THE COURSE OF HIS OR HER TRADE, OCCUPATION OR PROFESSION, PERFORMS MODELING SERVICES;

1       (II) "MODELING SERVICES" MEANS THE APPEARANCE BY A PROFESSIONAL MODEL  
2 IN PHOTOGRAPHIC SESSIONS OR THE ENGAGEMENT OF SUCH MODEL IN LIVE, FILMED  
3 OR TAPED MODELING PERFORMANCES FOR REMUNERATION;  
4       (III) "MODEL MANAGER" MEANS A PERSON OR ENTITY WHICH REPRESENTS  
5 PROFESSIONAL MODELS WITH RESPECT TO THEIR MODELING CAREERS.  
6       S 7. This act shall take effect immediately.