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2011-2012 Regular Sessions

I N A S S E M B L Y

September 21, 2011

Introduced by M. of A. TITONE, STEVENSON, JAFFEE, BOYLAND, MILLMAN --
Multi-Sponsored by -- M. of A. COLTON, GABRYSZAK, McENENY, P. RIVERA,
SCHIMMINGER -- 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 ASSEM-
BLY, 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.

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

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

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

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

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

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

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

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

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

14 5. "ARTIST" SHALL MEAN ACTORS AND ACTRESSES RENDERING SERVICES ON THE
15 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 S 5. This act shall take effect immediately.