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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, HOOPER, McENENY,
P. RIVERA, SCHIMMINGER -- read once and referred to the Committee on
Labor -- recommitted to the Committee on Labor in accordance with
Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered
reprinted as amended and recommitted to said committee

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.

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

LBD11532-02-2

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

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

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

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

16 1. Circumstances permitting fee. An employment agency shall not charge
17 or accept a fee or other consideration unless in accordance with the
18 terms of a written contract with a job applicant, except: (A) for class
19 "A" and "A-1" employment, and except after such agency has been respon-
20 sible for referring such job applicant to an employer or such employer
21 to a job applicant and where as a result thereof such job applicant has
22 been employed by such employer; AND (B) FOR CLASS "C" EMPLOYMENT: (I)
23 AFTER AN AGENCY HAS BEEN RESPONSIBLE FOR REFERRING AN ARTIST TO AN
24 EMPLOYER OR SUCH EMPLOYER TO AN ARTIST AND WHERE AS A RESULT THEREOF
25 SUCH ARTIST HAS BEEN EMPLOYED BY SUCH EMPLOYER; OR, (II) AFTER AN AGENCY
26 REPRESENTS AN ARTIST IN THE NEGOTIATION OR RENEGOTIATION OF AN ORIGINAL
27 OR PRE-EXISTING EMPLOYMENT CONTRACT AND WHERE AS A RESULT THEREOF THE
28 ARTIST ENTERS INTO A NEGOTIATED OR RENEGOTIATED EMPLOYMENT CONTRACT. FOR
29 CLASS "C" EMPLOYMENT PURSUANT TO THIS PARAGRAPH, AN EMPLOYMENT AGENCY
30 SHALL PROVIDE AN ARTIST WITH A STATEMENT SETTING FORTH IN A CLEAR AND
31 CONCISE MANNER THE PROVISIONS OF THIS SECTION AND SECTION ONE HUNDRED
32 EIGHTY-SIX OF THIS ARTICLE. The maximum fees provided for herein for
33 all types of placements or employment may be charged to the job appli-
34 cant and a similar fee may be charged to the employer provided, however,
35 that with regard to placements in class "B" employment, a fee of up to
36 one and one-half times the fee charged to the job applicant may be
37 charged to the employer. By agreement with an employment agency, the
38 employer may voluntarily assume payment of the job applicant's fee. The
39 fees charged to employers by any licensed person conducting an employ-
40 ment agency for rendering services in connection with, or for providing
41 employment in classes "A", "A-1" and "B", as hereinafter defined in
42 subdivision four of this section where the applicant is not charged a
43 fee shall be determined by agreement between the employer and the
44 employment agency. No fee shall be charged or accepted for the registra-
45 tion of applicants for employees or employment.

46 2. Size of fee; payment schedule. The gross fee charged to the job
47 applicant and the gross fee charged to the employer each shall not
48 exceed the amounts enumerated in the schedules set forth in this
49 section, for any single employment or engagement, except as hereinabove
50 provided; and such fees shall be subject to the provisions of section
51 one hundred eighty-six of this article. Except as otherwise provided
52 herein, AND EXCEPT FOR CLASS "C" EMPLOYMENT, an employment agency shall
53 not require an applicant while employed in the continental United
54 States, and paid weekly to pay any fee at a rate greater than in ten
55 equal weekly [instalments] INSTALLMENTS each of which shall be payable
56 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 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.

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.