

3666--B

2013-2014 Regular Sessions

I N S E N A T E

February 8, 2013

Introduced by Sen. LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to enacting the "fair broadcast employment act of 2014"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "fair broadcast employment act of 2014".
3 S 2. Section 202-k of the labor law, as added by chapter 398 of the
4 laws of 2008, is amended to read as follows:
5 S 202-k. Protection of persons employed in the broadcast industry. 1.
6 For the purposes of this section:
7 (a) "Broadcasting industry employer" includes INDIVIDUAL television
8 stations or networks, INDIVIDUAL radio stations or networks, cable
9 stations or networks, internet or satellite-based services similar to a
10 broadcast station or network, any broadcast entities affiliated with any
11 of the employers of this paragraph, or any other entity that provides
12 broadcasting services such as news, weather, traffic, sports, or enter-
13 tainment reports or programming.
14 (b) "Broadcast employee" means any on-air employee or off-air employee
15 of a broadcasting industry employer, excluding management employees.
16 (c) "KEY BROADCAST EMPLOYEE" MEANS ANY BROADCAST EMPLOYEE, WHO AT THE
17 TIME OF SIGNING AN EMPLOYMENT CONTRACT WITH A BROADCAST INDUSTRY EMPLOY-
18 ER:
19 (1) IS REASONABLY ANTICIPATED TO RECEIVE A TOTAL ANNUAL COMPENSATION
20 PACKAGE OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR MORE FROM A BROADCAST
21 INDUSTRY EMPLOYER THAT IS LICENSED BY THE FEDERAL COMMUNICATIONS COMMIS-

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

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1 SION IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE OR IS AN ENTI-
2 TY WITH ITS PRINCIPAL PLACE OF BUSINESS LOCATED IN SUCH A CITY; OR

3 (2) IS REASONABLY ANTICIPATED TO RECEIVE A TOTAL ANNUAL COMPENSATION
4 PACKAGE OF ONE HUNDRED THOUSAND DOLLARS OR MORE FROM A BROADCAST INDUS-
5 TRY EMPLOYER THAT IS LICENSED BY THE FEDERAL COMMUNICATIONS COMMISSION
6 IN A CITY HAVING A POPULATION OF LESS THAN ONE MILLION OR IS AN ENTITY
7 WITH ITS PRINCIPAL PLACE OF BUSINESS LOCATED IN SUCH A CITY.

8 2. [A] SUBJECT TO THE PROVISIONS OF SUBDIVISION THREE OF THIS SECTION,
9 A broadcasting industry employer shall not require as a condition of
10 employment, whether in an employment contract or otherwise, that a
11 broadcast employee or prospective broadcast employee refrain from
12 obtaining employment:

13 (a) in any specified geographic area;

14 (b) for a specific period of time; or

15 (c) with any particular employer or in any particular industry; after
16 the conclusion of employment with such broadcasting industry employer.
17 This section shall not apply to preventing the enforcement of such a
18 covenant during the term of an employment contract.

19 3. THE RESTRICTIONS IN THE PROVISIONS OF SUBDIVISION TWO OF THIS
20 SECTION SHALL NOT APPLY TO EMPLOYEES WHOSE SERVICES PRIMARILY INCLUDE
21 SALES OR MANAGEMENT FUNCTIONS, OR WHO ARE KEY EMPLOYEES.

22 4. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE ENFORCEMENT
23 BY A BROADCASTING INDUSTRY EMPLOYER OF A POST-CONTRACT (A) RIGHT OF
24 FIRST REFUSAL/RIGHT TO MATCH PROVISION, (B) EXCLUSIVE NEGOTIATION
25 PROVISION, OR (C) CONFIDENTIALITY/NON-DISCLOSURE PROVISION IN ANY
26 EMPLOYMENT CONTRACT.

27 5. Any person who violates this section shall be civilly liable to a
28 broadcast employee for damages, attorney's fees and costs.

29 S 3. This act shall take effect immediately.