S T A T E O F N E W Y O R K

7265

I N S E N A T E

April 12, 2016

Introduced by Sen. MARTINS -- (at request of the Workers Compensation Board) -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to clarifying the definition of employees who are performers

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

Section 1. The fourth undesignated paragraph of subdivision 4 of section 2 of the workers' compensation law, as added by chapter 903 of the laws of 1986, is amended to read as follows:

"Employee" shall also mean, for purposes of this chapter, a professional musician or a person otherwise engaged in the performing arts who performs services as such for a television or radio station or network, a film production, a theatre, hotel, restaurant, night club or similar establishment unless, by written contract, such musician or person is stipulated to be an employee of another employer covered by this chapter. "Engaged in the performing arts" shall mean performing [service in connection with the production of or performance in] any artistic endeavor which requires artistic or technical skill or expertise AND SUBJECT TO AN EXPRESS OR IMPLIED CONTRACT OF EMPLOYMENT WITH THE OWNER, MANAGER OR OPERATOR OF SUCH ESTABLISHMENT. IN DETERMINING WHETHER THE PERFORMER IS AN EMPLOYEE, THE BOARD MAY CONSIDER THE PERFORMER'S MEMBERSHIP IN ANY PROFESSIONAL PERFORMER'S UNION AND MAY CONSIDER COMMON LAW FACTORS OF EMPLOYMENT.

S 2. The second undesignated paragraph of subdivision 5 of section 201 of the workers' compensation law, as added by chapter 903 of the laws of 1986, is amended to read as follows:

"Employee" shall also mean, for purposes of this chapter, a professional musician or a person otherwise engaged in the performing arts who performs services as such for a television or radio station or network, a film production, a theatre, hotel, restaurant, night club or similar establishment unless, by written contract, such musician or person is stipulated to be an employee of another employer covered by this chapter. "Engaged in the performing arts" shall mean performing [service in

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

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connection with the production of or performance in] any artistic endeavor which requires artistic or technical skill or expertise AND SUBJECT TO AN EXPRESS OR IMPLIED CONTRACT OF EMPLOYMENT WITH THE OWNER, MANAGER OR OPERATOR OF SUCH ESTABLISHMENT. IN DETERMINING WHETHER THE PERFORMER IS AN EMPLOYEE, THE BOARD MAY CONSIDER THE PERFORMER'S MEMBERSHIP IN ANY PROFESSIONAL PERFORMER'S UNION AND MAY CONSIDER COMMON LAW FACTORS OF EMPLOYMENT.

S 3. This act shall take effect immediately.