

# STATE OF NEW YORK

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5102--A

2017-2018 Regular Sessions

## IN ASSEMBLY

February 6, 2017

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Introduced by M. of A. TITUS -- 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 labor law, in relation to enacting the "fair broadcast employment act of 2018"

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 2018".

3 § 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 § 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-  
22 sion in a city having a population of one million or more or is an enti-  
23 ty with its principal place of business located in such a city; or

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

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1 (2) is reasonably anticipated to receive a total annual compensation  
2 package of one hundred thousand dollars or more from a broadcast indus-  
3 try employer that is licensed by the Federal Communications Commission  
4 in a city having a population of less than one million or is an entity  
5 with its principal place of business located in such a city.

6 2. [A] Subject to the provisions of subdivision three of this section,  
7 a broadcasting industry employer shall not require as a condition of  
8 employment, whether in an employment contract or otherwise, that a  
9 broadcast employee or prospective broadcast employee refrain from  
10 obtaining employment:

11 (a) in any specified geographic area;

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

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

17 3. The restrictions in the provisions of subdivision two of this  
18 section shall not apply to employees whose services primarily include  
19 sales or management functions, or who are key employees.

20 4. Nothing in this section shall be construed to limit the enforcement  
21 by a broadcasting industry employer of a post-contract (a) right of  
22 first refusal/right to match provision, (b) exclusive negotiation  
23 provision, or (c) confidentiality/non-disclosure provision in any  
24 employment contract.

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

27 § 3. This act shall take effect immediately.