

STATE OF NEW YORK

8257--A

2017-2018 Regular Sessions

IN ASSEMBLY

June 2, 2017

Introduced by M. of A. MOYA -- read once and referred to the Committee on Consumer Affairs and Protection -- reported and referred to the Committee on Codes -- 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 certain contracts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 181 of the general business law, as amended by
2 chapter 13 of the laws of 2017, is amended to read as follows:

3 § 181. Contracts, statements of terms and conditions, and receipts. It
4 shall be the duty of every employment agency to give to each applicant
5 for employment:

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 2. ~~[(a)] For class "C" theatrical employment: [information as to the~~
11 ~~name and address of the person to whom the applicant is to apply for~~
12 ~~such employment, the kind of service to be performed, the anticipated~~
13 ~~rate of wages or compensation, the agency's fee for the applicant based~~
14 ~~on such anticipated wages or compensation, whether such employment is~~
15 ~~permanent or temporary, the name and address of the person authorizing~~
16 ~~the hiring of such applicant, and the cost of transportation if the~~
17 ~~services are required outside of the city, town or village where such~~
18 ~~agency is located. If the job is a conditionally fee-paid job, the~~
19 ~~conditions under which the applicant will be required to pay a fee shall~~
20 ~~be clearly set forth in a separate agreement in ten point type signed by~~
21 ~~the job applicant.~~

22 (b) for] (a) Such contract in blank shall be first approved by the
23 commissioner and his or her determination shall be reviewable by

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

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1 certiorari. Each contract shall include the gross commission or fees to
2 be paid by the artist to the theatrical employment agency consistent
3 with section one hundred eighty-five of this article attached, hereto.
4 Each such contract shall also include the name, address, phone number
5 and license number of the theatrical employment agency in addition to
6 the name of the artist, the type of services covered by the contract,
7 and all terms and conditions associated with the payment of such commis-
8 sion or fees. The theatrical employment agency shall keep on file a copy
9 of each contract entered into with an artist and provide a copy of each
10 contract to the artist.

11 (b) Separate from the contract, the agency shall provide to the
12 artist, at the time of each audition or interview for specific employ-
13 ment, information as to the name and address of the person to whom the
14 artist is to apply for such employment, the service to be performed, the
15 anticipated rate of compensation, where such compensation is known prior
16 to the audition or interview, and any other material terms and condi-
17 tions of such employment that are known by the agency prior to the audi-
18 tion or interview. Such information may be provided by electronic commu-
19 nication.

20 3. For all other employment, including class "A" and "A-1" employment,
21 each contract shall include, but not be limited to, the following:
22 information as to the name and address of the person to whom the appli-
23 cant is to apply for such employment, the name, the address, the mailing
24 address, and the telephone number of the employer; the address or
25 addresses of employment, the kind of service to be performed; the antic-
26 ipated rate of wages or compensation; the anticipated hours of work per
27 day and number of days to be worked per week; the agency's fee for the
28 applicant based on such anticipated wages or compensation; any provision
29 to the employee, and costs associated with that provision including
30 housing, health insurance, healthcare, sick leave, holidays and retire-
31 ment benefits; whether such employment is permanent or temporary, the
32 anticipated period of employment, the name and address of the person
33 authorizing the hiring of such applicant; and the cost of transportation
34 if the services are required outside of the city, town or village where
35 such agency is located. If the job is a conditionally fee-paid job, the
36 conditions under which the applicant will be required to pay a fee shall
37 be clearly set forth in a separate agreement in ten-point type signed by
38 the job applicant.

39 ~~[3-]~~ 4. (a) This paragraph shall apply to all classes of employment
40 except for class "C" theatrical employment. The employment agency shall
41 provide to each applicant, a separate document accompanying each
42 contract summarizing the terms and conditions of the contract. This
43 document shall be entitled "terms and conditions" and shall include the
44 language that the document is not a contract and that such document is
45 not legally binding. The terms and conditions shall be provided in plain
46 and commonly understood terms and language which shall aid the job
47 applicant in understanding the transaction and such document shall limit
48 the use of technical terms whenever possible.

49 (b) The terms and conditions shall conform to any templates estab-
50 lished by the commissioner and be made available to employment agencies
51 in such manner as determined by the commissioner. In developing such
52 templates, the commissioner shall afford the public an opportunity to
53 submit comments on such templates.

54 (c) The commissioner may promulgate rules and regulations necessary to
55 carry out the provisions of this section.

(d) An employment agency shall not be penalized for errors or omissions in the non-English portions of any templates provided by the commissioner.

[4-] 5. A receipt for any fee, deposit, consideration, or payment which such agency receives from such applicant, which shall have printed or written on it the name of the applicant, the name and address of the employment agency, the date and amount of such fee, deposit, consideration or payment or portion thereof for which the receipt is given, the purpose for which it was paid, and the signature of the person receiving such payment. If the applicant for employment has been recruited from outside the state for domestic or household employment the receipt shall have printed on it, or attached to it, a copy of section one hundred eighty-four of this article. ~~[The]~~ Except as provided below for class "C" theatrical employment, the receipt shall also include, immediately above the place for signature of the person receiving payment, set off in a box and printed in bold capital letters, the following statement: "An employment agency may not charge you, the job applicant, a fee before referring you to a job that you accept. If you pay a fee before accepting a job or pay a fee that otherwise violates the law, you may demand a refund, which shall be repaid within seven days". For class "C" employment such receipt shall state: "A theatrical employment agency may not charge you, the artist, a fee before referring you to a job that you accept. A theatrical employment agency may charge you, the artist, a fee after an agency represents you in the negotiation or renegotiation of an original or pre-existing employment contract. If you pay a fee that otherwise violates the law, you may demand a refund, which shall be repaid within seven days".

[5-] 6. The completed original or duplicate-original copy of each such contract, statement of terms and conditions, receipts, and any other documents given to the applicant shall be retained by every employment agency for three years following the date on which the contract is executed or the payment is made, and shall be made available for inspection by the commissioner or his or her duly authorized agent or inspector, upon his or her request. Notwithstanding the other provisions of such contracts, the monetary consideration to be paid by the applicant shall not exceed the fee ceiling provided in subdivision eight of section one hundred eighty-five of this article.

§ 2. Section 37.03 of the arts and cultural affairs law is amended to read as follows:

§ 37.03. Theatrical employment; contracts. ~~[Every licensed person who shall procure for or offer to an applicant a theatrical engagement shall have executed in duplicate a contract or deliver to the parties as here-in set forth a statement containing the name and address of the applicant, the name and address of the employer of the applicant and of the person acting for such employer in employing such applicant, the time and duration of such engagement, the amount to be paid to such applicant, the character of entertainment to be given or services to be rendered, the number of performances per day or per week that are to be given by said applicant, if a vaudeville engagement, the name of the person by whom the transportation is to be paid, and if by the applicant, either the cost of transportation between the places where said entertainment or services are to be given or rendered, or the average cost of transportation between the places where such services are to be given or rendered, and if a dramatic engagement, the cost of transportation to the place where the services begin, if paid by the applicant, and the gross commission or fees to be paid by said applicant and to~~

~~whom. Such contracts or statements shall contain no other conditions and provisions except such as are equitable between the parties thereto and do not constitute an unreasonable restriction of business. Forms of such contract and statement in blank shall be first approved by the commissioner and his determination shall be reviewable by certiorari. One of such duplicate contracts or of such statements shall be delivered to the person engaging the applicant and the other shall be retained by the applicant. The licensed person procuring such engagement for such applicant shall keep on file or enter in a book provided for that purpose a copy of such contract or statement.]~~ Contracts between a theatrical employment agency and an artist shall include the gross commission or fees to be paid by the artist to the theatrical employment agency consistent with section one hundred eighty-five of the general business law attached, hereto. Such contracts shall contain no other conditions and provisions except such as are equitable between the parties thereto and do not constitute an unreasonable restriction of business. In addition, such contracts in blank shall be first approved by the commissioner of labor and his or her determination shall be reviewable by certiorari. Each such contract shall also include the name, address, phone number and license number of the theatrical employment agency in addition to the name of the artist, the type of services covered by the contract, and all terms and conditions associated with the payment of such commission or fees. The theatrical employment agency shall keep on file a copy of each contract entered into with an artist and provide a copy of each contract to the artist. Separately from the contract, the agency shall provide to the artist, at the time of each audition or interview for specific employment, information as to the name and address of the person to whom the artist is to apply for such employment, the service to be performed, the anticipated rate of compensation, where such compensation is known prior to the audition or interview, and any other material terms and conditions of such employment that are known by the agency prior to the audition or interview. Such information may be provided by electronic communication.

§ 3. This act shall take effect immediately.