

STATE OF NEW YORK

7607

IN SENATE

January 30, 2018

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the executive law, in relation to establishing unlawful discriminatory practices relating to models

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

1 Section 1. The executive law is amended by adding a new section 296-d
2 to read as follows:

3 § 296-d. Unlawful discriminatory practices relating to models. 1. As
4 used in this section, the following terms shall have the following mean-
5 ings:

6 a. "client" means a retail store, a manufacturer, a clothing designer,
7 an advertising agency, a photographer, a publishing company or any other
8 such person or entity that receives modeling services from a model;

9 b. "model" means an individual, regardless of his or her status as an
10 independent contractor or employee, who performs modeling services for a
11 client or consents in writing to the transfer of his or her legal right
12 to the use of his or her name, portrait, picture or image, for advertis-
13 ing purposes or for the purposes of trade, directly to a client or who
14 provides showroom or fit modeling services;

15 c. "modeling entity" means a modeling agency, model management compa-
16 ny, employment agency, and/or any person or entity that: (1) is in the
17 business of managing entertainments, exhibitions or performances, or the
18 models, artists or attractions constituting the same; (2) who, for a
19 fee, procures or attempts to procure: (i) employment or engagements for
20 persons seeking employment or engagements, or (ii) employees or inde-
21 pendent contractors for employers or entities seeking the services of
22 employees or independent contractors; and/or (3) renders vocational
23 guidance or counselling services to models; and

24 d. "modeling services" means the appearance by a model in photographic
25 sessions or the engagement of a model in runway, live, filmed, or taped
26 performances requiring him or her to pose, provide an example or stand-
27 ard of artistic expression or to be a representation to show the

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

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1 construction or appearance of some thing or place for purposes of
2 display or advertising. Modeling services shall also include the
3 provisions of showroom or fit modeling services.

4 2. It shall be an unlawful discriminatory practice for a client or
5 modeling entity to:

6 a. engage in unwelcome sexual advances, requests for sexual favors, or
7 other verbal or physical conduct of a sexual nature to a model when:

8 (1) submission to such conduct is made either explicitly or implicitly
9 a term or condition of a model's provision of modeling services;

10 (2) submission to or rejection of such conduct by a model is used
11 either explicitly or implicitly as the basis for decisions concerning
12 the individual's provision of modeling services; or

13 (3) such conduct has the purpose or effect of unreasonably interfering
14 with a model's provision of modeling services by creating an intimidat-
15 ing, hostile, or offensive environment; or

16 b. subject a model to harassment based on age, race, creed, color,
17 national origin, sexual orientation, military status, sex, disability,
18 predisposing genetic characteristics, familial status, marital status,
19 or domestic violence victim status, where such harassment has the
20 purpose or effect of unreasonably interfering with an individual's
21 provision of modeling services by creating an intimidating, hostile, or
22 offensive environment.

23 3. a. Each client and modeling entity shall post, in a conspicuous
24 place at their place of business and/or at the site of each job assign-
25 ment, notices to the models hired, to be prepared or approved by the
26 division, setting forth excerpts from, or summaries of, the pertinent
27 provisions of this section and information related to filing a complaint
28 under this article including pro bono and/or legal services contact
29 information.

30 b. Each client shall provide to each model providing modeling
31 services, in writing or electronically, the names and/or offices, and a
32 reliable means of contacting such individuals or offices, to whom a
33 complaint under this article may be made.

34 c. At the initial execution of the contract between the modeling enti-
35 ty and the model, the model shall be informed in writing of the
36 provisions of this article including the procedure for filing a
37 complaint. The model shall demonstrate his or her understanding of the
38 provisions of this article and that such information has been provided
39 to him or her by signing a form, to be prepared or approved by the divi-
40 sion, to that effect.

41 4. Nothing in this section shall be construed or interpreted to limit
42 the rights of models provided under this chapter or any other provisions
43 of law.

44 § 2. Subdivision 4 of section 292 of the executive law, as amended by
45 chapter 97 of the laws of 2014, is amended to read as follows:

46 4. The term "unlawful discriminatory practice" includes only those
47 practices specified in sections two hundred ninety-six, two hundred
48 ninety-six-a ~~and~~, two hundred ninety-six-c and two hundred
49 ninety-six-d of this article.

50 § 3. This act shall take effect on the ninetieth day after it shall
51 have become a law; provided, however, that effective immediately, the
52 addition, amendment and/or repeal of any rule or regulation necessary
53 for the implementation of this act on its effective date are authorized
54 and directed to be made and completed on or before such effective date.