STATE OF NEW YORK

5102--A

2017-2018 Regular Sessions

IN ASSEMBLY

February 6, 2017

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:

Section 1. Short title. This act shall be known and may be cited as the "fair broadcast employment act of 2018".

§ 2. Section 202-k of the labor law, as added by chapter 398 of the laws of 2008, is amended to read as follows:

§ 202-k. Protection of persons employed in the broadcast industry. 1. For the purposes of this section:

(a) "Broadcasting industry employer" includes **individual** television stations or networks, **individual** radio stations or networks, cable stations or networks, internet or satellite-based services similar to a broadcast station or network, any broadcast entities affiliated with any of the employers of this paragraph, or any other entity that provides broadcasting services such as news, weather, traffic, sports, or entertainment reports or programming.

(b) "Broadcast employee" means any on-air employee or off-air employee of a broadcasting industry employer, excluding management employees.

(c) "Key broadcast employee" means any broadcast employee, who at the time of signing an employment contract with a broadcast industry employer:

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

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

(a) in any specified geographic area;

(b) for a specific period of time; or

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

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

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

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

§ 3. This act shall take effect immediately.