

STATE OF NEW YORK

6369--A

Cal. No. 1324

2017-2018 Regular Sessions

IN SENATE

May 11, 2017

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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.~~

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

LBD11746-05-7

~~(b) for~~ (a) Such contract in blank shall be first approved by the commissioner and his or her determination shall be reviewable by certiorari. Each contract 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 this article attached, hereto. 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.

(b) Separate 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. For all other employment, including class "A" and "A-1" employment, each contract shall include, but not be limited to, the following: information as to the name and address of the person to whom the applicant is to apply for such employment, the name, the address, the mailing address, and the telephone number of the employer; the address or addresses of employment, the kind of service to be performed; the anticipated rate of wages or compensation; the anticipated hours of work per day and number of days to be worked per week; the agency's fee for the applicant based on such anticipated wages or compensation; any provision to the employee, and costs associated with that provision including housing, health insurance, healthcare, sick leave, holidays and retirement benefits; whether such employment is permanent or temporary, the anticipated period of employment, the name and address of the person authorizing the hiring of such applicant; and the cost of transportation if the services are required outside of the city, town or village where such agency is located. If the job is a conditionally fee-paid job, the conditions under which the applicant will be required to pay a fee shall be clearly set forth in a separate agreement in ten-point type signed by the job applicant.

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

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

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

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

6 ~~[4-]~~ 5. A receipt for any fee, deposit, consideration, or payment
7 which such agency receives from such applicant, which shall have printed
8 or written on it the name of the applicant, the name and address of the
9 employment agency, the date and amount of such fee, deposit, consider-
10 ation or payment or portion thereof for which the receipt is given, the
11 purpose for which it was paid, and the signature of the person receiving
12 such payment. If the applicant for employment has been recruited from
13 outside the state for domestic or household employment the receipt shall
14 have printed on it, or attached to it, a copy of section one hundred
15 eighty-four of this article. ~~[The]~~ Except as provided below for class
16 "C" theatrical employment, the receipt shall also include, immediately
17 above the place for signature of the person receiving payment, set off
18 in a box and printed in bold capital letters, the following statement:
19 "An employment agency may not charge you, the job applicant, a fee
20 before referring you to a job that you accept. If you pay a fee before
21 accepting a job or pay a fee that otherwise violates the law, you may
22 demand a refund, which shall be repaid within seven days". For class "C"
23 employment such receipt shall state: "A theatrical employment agency may
24 not charge you, the artist, a fee before referring you to a job that you
25 accept. A theatrical employment agency may charge you, the artist, a fee
26 after an agency represents you in the negotiation or renegotiation of an
27 original or pre-existing employment contract. If you pay a fee that
28 otherwise violates the law, you may demand a refund, which shall be
29 repaid within seven days".

30 ~~[5-]~~ 6. The completed original or duplicate-original copy of each such
31 contract, statement of terms and conditions, receipts, and any other
32 documents given to the applicant shall be retained by every employment
33 agency for three years following the date on which the contract is
34 executed or the payment is made, and shall be made available for
35 inspection by the commissioner or his or her duly authorized agent or
36 inspector, upon his or her request. Notwithstanding the other provisions
37 of such contracts, the monetary consideration to be paid by the appli-
38 cant shall not exceed the fee ceiling provided in subdivision eight of
39 section one hundred eighty-five of this article.

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

42 § 37.03. Theatrical employment; contracts. ~~[Every licensed person who~~
43 ~~shall procure for or offer to an applicant a theatrical engagement shall~~
44 ~~have executed in duplicate a contract or deliver to the parties as here-~~
45 ~~in set forth a statement containing the name and address of the appli-~~
46 ~~cant, the name and address of the employer of the applicant and of the~~
47 ~~person acting for such employer in employing such applicant, the time~~
48 ~~and duration of such engagement, the amount to be paid to such appli-~~
49 ~~cant, the character of entertainment to be given or services to be~~
50 ~~rendered, the number of performances per day or per week that are to be~~
51 ~~given by said applicant, if a vaudeville engagement, the name of the~~
52 ~~person by whom the transportation is to be paid, and if by the appli-~~
53 ~~cant, either the cost of transportation between the places where said~~
54 ~~entertainment or services are to be given or rendered, or the average~~
55 ~~cost of transportation between the places where such services are to be~~
56 ~~given or rendered, and if a dramatic engagement, the cost of transporta-~~

~~tion 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.