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:

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

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

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

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

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

d. "modeling services" means the appearance by a model in photographic sessions or the engagement of a model in runway, live, filmed, or taped performances requiring him or her to pose, provide an example or standard 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.

LBD13446-03-7

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

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

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

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

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

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

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

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

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

c. At the initial execution of the contract between the modeling entity and the model, the model shall be informed in writing of the provisions of this article including the procedure for filing a complaint. The model shall demonstrate his or her understanding of the provisions of this article and that such information has been provided to him or her by signing a form, to be prepared or approved by the division, to that effect.

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

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

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

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