

# 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.