

STATE OF NEW YORK

823

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sen. HOYLMAN-SIGAL -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the labor law, in relation to model management companies and model management groups; and to amend a chapter of the laws of 2024 amending the labor law relating to enacting the New York state fashion workers act, as proposed in legislative bills numbers S. 9832 and A. 5631-E, in relation to the effectiveness thereof

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

1 Section 1. Sections 1031, 1032, 1033, 1034, 1035, 1037 and 1038 of the
2 labor law, as added by a chapter of the laws of 2024 amending the labor
3 law relating to enacting the New York state fashion workers act, as
4 proposed in legislative bills numbers S. 9832 and A. 5631-E, is amended
5 to read as follows:

6 § 1031. Definitions. As used in this article:

7 1. "Client" means a [~~retail store, a manufacturer, a clothing design-~~
8 ~~er, an advertising agency, a photographer, a publishing company or any~~
9 ~~other such~~] person or entity that [~~receives~~] contracts for and manages
10 the performance of modeling services from a model or model management
11 company, directly or through intermediaries.

12 2. "Model" means an individual[~~, regardless of the individual's status~~
13 ~~as an independent contractor or employee,~~] who, in the course of such
14 individual's trade, occupation or profession, performs modeling services
15 [~~for a client and/or model management company or who provides showroom,~~
16 ~~parts, or fit modeling services~~], regardless of the individual's status
17 as an employee or independent contractor.

18 3. (a) "Model management company" means any person or entity, other
19 than a person or entity licensed as an employment agency under article
20 eleven of the general business law, that:

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

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1 [~~(a)~~] (i) is in the business of managing models participating in
2 entertainments, exhibitions or performances;

3 [~~(b)~~] (ii) procures or attempts to procure, for a fee, employment or
4 engagements for persons seeking employment or engagements as models; or

5 [~~(a)~~] (iii) renders vocational guidance or counseling services to
6 models for a fee.

7 (b) Model managing shall not include direct engagement of a model who
8 is not represented by an agency or management company for use of models
9 in a campaign or shoot.

10 4. "Model management group" means two or more model management compa-
11 nies that are majority owned by the same ultimate parent, entity or
12 persons. A model management group may satisfy any reporting and finan-
13 cial requirements of this article on a consolidated basis. As a condi-
14 tion of registration as a model management group, each company that is a
15 member of the group shall guarantee payment of all financial obligations
16 of each other member.

17 5. "Modeling services" means the appearance by a model in photographic
18 sessions or the engagement of a model in live runway, live, filmed, or
19 taped performances, including on social media platforms, requiring the
20 model to pose, provide an example or standard of artistic expression or
21 to be a representation to show the construction or appearance of some
22 thing or place for purposes of display or advertising, including the
23 provisions of castings, fittings, photoshoots, showroom, parts or fit
24 modeling services. "Modeling services" includes the use of a digital
25 replica.

26 [~~5-~~] 6. "Exclusive representation" means an agreement, or a clause
27 contained in an agreement, entered into between a model management
28 company and a model that restricts such model from [~~performing work for~~]
29 being represented by another party not subject to such agreement for a
30 specified period of time or in a specified geographical area, that is
31 similar to such model's work for the model management company.

32 [~~6-~~] 7. "Deal memo" means a summary written in plain language which
33 identifies the key components of any employment, engagement, enter-
34 tainment, exhibition, or performance, including but not limited to the
35 scope of work, rate of pay, payment term, usages, incurred expenses,
36 including any expenses to be initially incurred by either the model
37 management company or the model and reimbursed by the client, and other
38 expectations of the model. A deal memo shall be provided in the language
39 requested by the model.

40 [~~7-~~] 8. "Digital replica" means a significant, computer-generated or
41 artificial intelligence-enhanced representation of a model's likeness,
42 including but not limited to, their face, body, or voice, which substan-
43 tially replicates or replaces the model's appearance or performance,
44 excluding routine photographic edits such as color correction, minor
45 retouching, or other standard post-production modifications.

46 § 1032. Registration required. [~~A~~] 1. Except as otherwise provided in
47 this section, a model management company or model management group shall
48 not engage in business in this state or enter into any arrangement with
49 a client or model for the purpose of providing model management company
50 or model management group services in this state unless the model
51 management company or model management group is registered under this
52 article. A model management company or model management group that does
53 not comply with the provisions of this article shall not be a registered
54 model management company or model management group in this state.

1 2. A model management company or model management group shall be
2 exempt from the registration requirements specified in this section if
3 such model management company or model management group:

4 (a) submits a properly executed request for an exemption from regis-
5 tration to the department;

6 (b) is domiciled outside this state and is licensed or registered as a
7 model management company in another state that has requirements at least
8 as strict as this article; and

9 (c) does not maintain an office in this state or solicit in any manner
10 clients located or domiciled within this state.

11 § 1033. Registration process. 1. Except as otherwise provided in this
12 section, a model management company or model management group required
13 to be registered under this article shall provide the department with
14 information required by the department on forms that the department
15 specifies.

16 2. [~~Two or more model management companies that are majority owned by~~
17 ~~the same ultimate parent, entity or persons may be registered as a model~~
18 ~~management group. A model management group may satisfy any reporting and~~
19 ~~financial requirements of this article on a consolidated basis. As a~~
20 ~~condition of registration as a model management group, each company that~~
21 ~~is a member of the group shall guarantee payment of all financial obli-~~
22 ~~gations of each other member.] At a minimum, a model management company
23 or model management group shall provide the following information:~~

24 (a) all names under which it conducts business;

25 (b) the address of the principal place of business of the model
26 management company or model management group and the address of each
27 office it maintains in New York state;

28 (c) the model management company or model management group's taxpayer
29 or employer identification number;

30 (d) a list by jurisdiction of each name under which the model manage-
31 ment company or model management group has operated in the preceding
32 five years, including any alternative names, names of predecessors and,
33 if known, successor business entities; and

34 (e) in the event the model management company or the ultimate parent
35 of a model management group is a privately or closely held company, the
36 model management company or model management group shall file a list of
37 all persons or entities that beneficially own a five percent or greater
38 interest in the model management company at the time of application and
39 a list of persons who formerly beneficially owned a five percent or
40 greater interest in the model management company or its predecessors in
41 the preceding five years. In the event the model management company or
42 the ultimate parent of a model management group is a publicly traded
43 company, the model management company or model management group shall
44 file a list of all persons or entities that beneficially own a fifty
45 percent or greater interest in the model management company or the ulti-
46 mate parent of the model management group at the time of application.

47 3. Each model management company or model management group operating
48 within this state shall [~~complete~~] submit its initial registration to
49 the department within one year after the effective date of this article.

50 4. Upon application for registration, a model management company or
51 model management group with more than five employees that either work
52 from a location in this state or perform work relating to models in this
53 state shall deposit with the department a surety bond in the sum of
54 fifty thousand dollars.

55 5. Every model management company or model management group registered
56 pursuant to the provisions of this article shall pay to the commissioner

1 a registration fee before the certificate of registration is issued. The
2 registration fee for a model management company or model management
3 group operating with five or less employees shall be five hundred
4 dollars, and for a model management company or model management group
5 operating with more than five employees, the registration fee shall be
6 seven hundred dollars. If the application for registration is denied or
7 withdrawn, one-half of the registration fee provided herein shall be
8 returned to the applicant.

9 ~~6. [A model management company shall be exempt from the registration~~
10 ~~requirements specified in this section if such model management company:~~

11 ~~(a) submits a properly executed request for an exemption from registra-~~
12 ~~tion on a form provided by the department;~~

13 ~~(b) is domiciled outside this state and is licensed or registered as a~~
14 ~~model management company in another state that has the same or greater~~
15 ~~requirements as this article; and~~

16 ~~(c) does not maintain an office in this state or solicit in any manner~~
17 ~~clients located or domiciled within this state.~~

18 ~~7. The~~ A registration or exemption from registration of a model
19 management company or model management group shall be valid for two
20 calendar years~~[; the department shall also establish a registration~~
21 ~~renewal process]~~ from the date of registration or exemption. Registra-
22 tions or exemptions may be renewed not less than ninety days before the
23 expiration date of the immediately preceding registration.

24 ~~[8.]~~ 7. The department shall maintain a list of model management
25 companies and model management groups registered under this article and
26 shall issue a certificate of registration or a certificate of exemption
27 to each model management company or model management group duly regis-
28 tered.

29 ~~[9.]~~ 8. The department shall prescribe forms necessary to promote the
30 efficient administration of this section.

31 § 1034. Duties of model management companies. A model management
32 company shall:

33 1. be deemed to have a fiduciary duty to the models they represent and
34 shall be required to act in good faith, with the utmost honesty and
35 integrity, in the best interests of the models. This fiduciary duty
36 shall encompass all aspects of the model management company's represen-
37 tation, including, but not limited to, negotiations, contracts, finan-
38 cial management, and the protection of the models' legal and financial
39 rights;

40 2. conduct due diligence to ensure that any employment or engagement
41 procured through the model management company does not pose an unreason-
42 able risk of danger to the model. An unreasonable risk of danger shall
43 include, but not be limited to, failing to establish and communicate a
44 ~~[zero tolerance]~~ company policy ~~[for]~~ that equals or exceeds the minimum
45 standards provided for by existing laws that address abuse, harassment,
46 or any other form of inappropriate behavior towards models represented
47 by the model management company or model management group;

48 3. use its best efforts to procure employment, engagements, enter-
49 tainments, exhibitions or performances for remuneration for the models
50 signed to the model management company or model management group;

51 4. ensure that any employment, engagement, entertainment, exhibition
52 or performance which requires nudity or other sexually explicit material
53 shall comply with the requirements of subdivision three of section
54 fifty-two-c of the civil rights law, as added by chapter three hundred
55 four of the laws of two thousand twenty;

1 5. provide models with written physical or digital copies of [~~the~~
2 ~~final agreements the model management company has negotiated with~~
3 ~~clients and any~~]: (a) a deal [memos] memo memorializing [such] agree-
4 ments [at least twenty-four hours], which includes the remuneration and
5 compensation such model shall be owed upon conclusion of services that
6 the model accepts, as soon as reasonably practical prior to the
7 commencement of a model's services [~~pertaining to each agreement~~], and
8 (b) the final agreement negotiated with clients in relation to such
9 booking in the language requested by the model making best efforts to
10 sign the contract ahead of booking, provided that the final agreement
11 shall be provided to the model within seven calendar days of the conclu-
12 sion of the model's services;

13 6. clearly specify and seek prior written approval from the model of
14 all items that may be initially paid for by the model management company
15 but will ultimately be deducted from the compensation due to the model
16 at the time of payment or settlement, together with an itemized recita-
17 tion as to how each item is to be computed, provided such charges are
18 not otherwise prohibited by this article. On a quarterly basis, a model
19 shall also be given copies of any and all documentation held by or
20 available to the model management company necessary to determine the
21 validity of each charge;

22 7. disclose any financial relationship, contractual or otherwise,
23 that may exist between the model management company and the client,
24 other than the agreement relating specifically to modeling services;

25 8. notify former models in writing, including electronic notification,
26 if the model management company collects royalties due to a model whom
27 the management company no longer represents;

28 9. post a physical copy of the model management company's certificate
29 of registration in a conspicuous place in the office of the model
30 management company and a digital copy on the model management company's
31 website;

32 10. include, in clear and legible type, the registration number of the
33 model management company in any advertisement, including social media
34 profiles for the model management company, for the purpose of the solici-
35 tation of models for the model management company and in any contract
36 with a model or client; and

37 11. obtain clear written consent from the model for [~~the~~] any creation
38 or use of a model's digital replica, detailing the scope, purpose, rate
39 of pay, and duration of such use. This consent must be obtained sepa-
40 rately from the representation agreement.

41 § 1035. Prohibitions on model management companies. A model management
42 company shall not:

43 1. require or collect any fee or deposit from a model upon the signing
44 of, or as a condition to entering into, any contract or agreement
45 between the model management company and the model;

46 2. procure any accommodation for which payment shall be provided or
47 reimbursed by the model in any way, without providing a written disclo-
48 sure of the rate charged for the accommodation to the model in advance
49 of such model's stay at the accommodation;

50 3. deduct or offset from a model's payment or compensation any fee or
51 expense, including interest, other than the agreed upon commission as
52 set forth in the contract and any items advanced pursuant to subdivision
53 six of section one thousand thirty-four of this article[~~. Such prohib-~~
54 ~~ited fees and expenses include but are not limited to website fees,~~
55 ~~accommodation fees, delivery fees, and interest on payment of the~~
56 ~~model's earnings~~];

1 4. advance the cost of travel or visa-related costs without informed
2 written consent from the model;

3 5. require a model to sign a model management company contract that
4 contains a term greater than three years;

5 6. require a model to sign a model management company contract that
6 renews without the model's affirmative written consent;

7 7. impose a commission fee greater than twenty percent of the model's
8 payment or compensation;

9 8. [~~take any retaliatory action against any model who files or
10 attempts to file a complaint pursuant to this article or declines or
11 discontinues participation in any casting or booking on account of
12 reasonable, good faith concerns regarding an actual or potential
13 violation of this article,~~

14 9.] engage in discrimination or harassment of any kind against a model
15 because of any protected status covered under paragraph (a) of subdivi-
16 sion one of section two hundred ninety-six of the executive law; or

17 10. create, alter, or manipulate a model's digital replica using arti-
18 ficial intelligence without clear, conspicuous and separate written
19 consent from the model.

20 § 1037. Duties of clients. A client shall:

21 1. compensate models at an hourly rate at least fifty percent higher
22 than the contracted hourly rate for any employment, engagement, enter-
23 tainment, exhibition or performance that exceeds eight hours in any
24 twenty-four hour period;

25 2. provide at least one thirty minute meal break for any employment,
26 engagement, entertainment, exhibition or performance that exceeds eight
27 hours in any twenty-four hour period;

28 3. only offer an employment or engagement to a model that does not
29 pose an unreasonable risk of danger to the model. An unreasonable risk
30 of danger shall include, but not be limited to, failure to establish and
31 communicate a [~~zero-tolerance~~] company policy [~~for~~] that equals or
32 exceeds the minimum standards provided for by existing law that
33 addresses abuse, harassment, or any other form of inappropriate behav-
34 ior;

35 4. ensure that any employment, engagement, entertainment, exhibition
36 or performance which requires nudity or other sexually explicit material
37 shall comply with the requirements of subdivision three of section
38 fifty-two-c of the civil rights law, as added by chapter three hundred
39 four of the laws of two thousand twenty;

40 5. allow the model to be accompanied by their agent, manager, chaper-
41 one, or other representative to any employment, engagement, enter-
42 tainment, exhibition or performance;

43 6. provide [~~adequate levels of~~] liability insurance to cover and safe-
44 guard the health and safety of models; and

45 7. obtain clear and conspicuous prior written consent from the model
46 for any creation or use of a model's digital replica, detailing the
47 scope, purpose, rate of pay, and duration of such use.

48 § 1038. Violations, penalties and procedures. 1. Any model management
49 company or model management group that has failed to comply with the
50 registration requirements of section one thousand thirty-two of this
51 article shall be deemed to have violated this article.

52 2. Any model management company or model management group that has
53 failed to comply within the time specified by law with an order issued
54 by the commissioner to comply with the registration requirements of
55 section one thousand thirty-two of this article shall be deemed to have
56 violated this article.

1 3. (a) The commissioner may impose a civil penalty upon a model
2 management company, model management group, or client that has been
3 deemed to have violated this article, for [~~no more than~~] three thousand
4 dollars for the initial violation, and for [~~no more than~~] five thousand
5 dollars for a second or subsequent violation.

6 (b) The order imposing such civil penalty may be served personally or
7 by certified mail [~~at the last known mailing address of the person being~~
8 ~~served~~] in accordance with section thirty-three of this chapter. Such
9 order shall be in writing and shall describe the nature of the
10 violation, including reference to the provisions of subdivisions one,
11 two and three of this section alleged to have been violated.

12 4. An order issued under this section shall be final and not subject
13 to review by any court or agency unless a review is had pursuant to
14 section one hundred one of this chapter. Provided that no proceeding for
15 administrative or judicial review as provided in this chapter shall then
16 be pending and the time for initiation of such proceeding shall have
17 expired, the commissioner may file with the county clerk of the county
18 where the person against whom the penalty has been imposed has a place
19 of business the order of the commissioner or the decision of the indus-
20 trial board of appeals containing the amount of the civil penalty. The
21 filing of such order or decision shall have the full force and effect of
22 a judgment duly docketed in the office of such clerk. The order or deci-
23 sion may be enforced by and in the name of the commissioner in the same
24 manner, and with like effect, as that prescribed by the civil practice
25 law and rules for the enforcement of a money judgment.

26 5. If any model management company has failed to comply within twenty
27 days of an order by the commissioner to register or renew registration,
28 the commissioner may seek to enjoin such unlawful activity, pursuant to
29 the civil practice law and rules.

30 6. The attorney general may bring and maintain an action in a court of
31 competent jurisdiction to enforce the provisions of this article when
32 the attorney general has determined there is reasonable cause to believe
33 that a model management company, model management group, or client has
34 engaged in repeated fraudulent or illegal acts or otherwise demonstrates
35 persistent fraud or illegality in the carrying on, conducting, or trans-
36 acting of business.

37 7. (a) A model who is aggrieved by a violation of this article may
38 file a complaint with the commissioner within six years after the acts
39 alleged to have violated this article occurred. The commissioner shall
40 prescribe the form of the complaint, which shall include, at a minimum:

41 (i) the name and mailing address of the model and of the person or
42 entity alleged to have violated this article;

43 (ii) a statement detailing the terms of the model's contract, includ-
44 ing a copy of such contract if available;

45 (iii) the model's occupation;

46 (iv) a statement detailing the alleged violations of this article; and

47 (v) a signed affirmation that all facts alleged in the complaint are
48 true.

49 (b) (i) [~~Within twenty days of~~] Upon receiving a complaint alleging a
50 violation of this article, the commissioner shall send the person or
51 entity named in the complaint a written notice of complaint. The
52 commissioner shall send such notice by certified mail in accordance with
53 section thirty-three of the labor law and shall bear the cost of sending
54 such notice.

55 (ii) Notice shall include:

56 (1) a copy of the complaint;

1 (2) materials of remedies available to the model for the violations of
2 said article by the person or entity named in the complaint;

3 (3) materials informing the person or entity that twenty days after
4 receiving the notice of complaint, the person or entity identified in
5 the complaint must answer; and

6 (4) materials informing the person or entity that failure to respond
7 to the complaint will create a rebuttable presumption in any civil
8 action commenced pursuant to this article that such person or entity
9 committed the violations alleged in the complaint.

10 (c) The response shall include:

11 (i) a written statement that the model has been paid in full and proof
12 of such payment; [~~ex~~]

13 (ii) a written statement that the model has not been paid in full and
14 the reasons for the failure to provide such payment; or

15 (iii) a written statement and any proof responding to the violations
16 alleged in the complaint.

17 (d) (i) [~~Within twenty days of~~] Upon receiving the written response,
18 the commissioner shall send the model a copy of:

19 (1) the response;

20 (2) any enclosures submitted to the commissioner with the response;
21 and

22 (3) any other information about the status of the complaint.

23 (ii) If the commissioner receives no response from the person or enti-
24 ty alleged to have violated this article to the notice of complaint
25 within the time provided by this subdivision, then there shall be a
26 [~~rebuttable presumption~~] determination that such person or entity
27 committed the violations alleged in the complaint. The commissioner
28 shall mail a notice of non-response to both the model and the person or
29 entity named in the complaint by regular mail and shall include with
30 such notice proof that the commissioner previously mailed the notice of
31 complaint to the person or entity named in the complaint by certified
32 mail.

33 8. An aggrieved model may bring and maintain an action in a court of
34 competent jurisdiction to enforce the provisions of sections one thou-
35 sand thirty-four and one thousand thirty-five of this article. A model
36 management company or model management group that violates these
37 sections shall be liable for actual damages to any model that has
38 suffered damages due to such violation, reasonable attorneys' fees and
39 costs, and, unless the [~~employer~~] model management company or group
40 proves a good faith basis to believe that its actions were in compliance
41 with the law, an additional amount as liquidated damages in an amount of
42 no more than one hundred percent of the total amount of actual damages,
43 except such liquidated damages may be up to three hundred percent if
44 found that the actions were willful.

45 9. No client, model management company, or model management group
46 shall be permitted to retaliate against a model for exercising any of
47 such model's rights under this article, including the right to raise
48 complaints with the client, model management company, model management
49 group, commissioner, or attorney general. Any violation of this section
50 shall be subject to enforcement in the same manner as prescribed in
51 section two hundred fifteen of this chapter.

52 § 2. Section 2 of a chapter of the laws of 2024 amending the labor law
53 relating to enacting the New York state fashion workers act, as proposed
54 in legislative bills numbers S. 9832 and A. 5631-E, is amended to read
55 as follows:

1 § 2. This act shall take effect on the one hundred eightieth day after
2 it shall have become a law; provided, however, that section 1032 of the
3 labor law as added by section one of this act shall take effect one year
4 after such effective date. Effective immediately, the addition, amend-
5 ment and/or repeal of any rule or regulation necessary for the implemen-
6 tation of this act on its effective date are authorized to be made and
7 completed on or before such effective date.

8 § 3. This act shall take effect immediately; provided, however, that
9 section one of this act shall take effect on the same date and in the
10 same manner as a chapter of the laws of 2024 amending the labor law
11 relating to enacting the New York state fashion workers act, as proposed
12 in legislative bills numbers S. 9832 and A. 5631-E, takes effect.