
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2556 Session of
1992

INTRODUCED BY PETRONE, BELFANTI, MELIO, KOSINSKI, OLASZ,
GIGLIOTTI, WOGAN AND KRUSZEWSKI, MARCH 25, 1992

REFERRED TO COMMITTEE ON LABOR RELATIONS, MARCH 25, 1992

AN ACT

1 Regulating talent agencies; conferring powers and duties on the
2 Department of Labor and Industry; and making a repeal.

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4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Talent Agency
8 Regulation Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Artist." An actor or actress rendering services on the
14 stage or in the production of motion pictures; a radio artist; a
15 musical artist; a musical organization; a director of stage,
16 motion picture or radio production; or a musical director,
17 writer, cinematographer, composer, lyricist, arranger or other
18 artist or person rendering professional services in commercial
19 advertising, motion picture, theatrical, radio, modeling,
20 television or other entertainment or advertising enterprise.

21 "Buyer." A person, company, partnership or corporation that
22 uses the services of a talent agency to provide artists.

23 "Department." The Department of Labor and Industry of the
24 Commonwealth.

25 "Engagement." Any engagement, employment or placement of a
26 person as an actor, performer, model or entertainer in, but not
27 limited to, a circus; motion picture production, whether made on
28 or by film, electronic tape or any other electronic device used
29 to produce theatrical motion pictures, television entertainment
30 motion pictures, industrial motion pictures or television

1 commercials; vaudeville; theatrical or any other entertainment
2 exhibition or performance; modeling services; conventions;
3 radio; phonograph recordings; opera; concert; ballet; or print
4 media. The term does not include the business of managing such
5 exhibitions, performances or the artist when the business only
6 incidentally involves the seeking of employment therefor.
7 However, the term shall not apply to procuring opera, music,
8 theater or dance engagements for any organization defined in
9 section 501(c)(3) of the Internal Revenue Code of 1986 (Public
10 Law 99-514, 26 U.S.C. § 1 et seq.).

11 "Fee." Any one or more of the following:

12 (1) Any money or other valuable consideration paid or
13 promised to be paid for services rendered by a person
14 conducting the business of a talent agency under this act.

15 (2) Any money received by any person in excess of that
16 which has been paid out by the person for transportation,
17 transfer of baggage or board and lodging for an applicant for
18 employment.

19 (3) The difference between the amount of money received
20 by a person who furnishes employees, performers or
21 entertainers for circus, vaudeville, theatrical or other
22 entertainments, exhibitions, engagements or performances and
23 the amount paid by him to such employee, performer or
24 entertainer.

25 "License." A license issued by the Department of Labor and
26 Industry to carry on the business of a talent agency under this
27 act.

28 "Licensee." A talent agency that holds a valid unrevoked and
29 unforfeited license.

30 "Operator." A person who is or who will be in actual charge

1 of a talent agency.

2 "Owner." A partner in a partnership, member of a firm or
3 principal officer or officers of a corporation whose
4 partnership, firm or corporation owns a talent agency, or an
5 individual who is the sole owner of a talent agency.

6 "Sexual misconduct." Violation of the talent agent-artist
7 relationship through which the talent agent uses the
8 relationship to induce or attempt to induce the artist to engage
9 or attempt to engage in sexual activity.

10 "Talent agency." A person or corporation engaged in the
11 occupation of operating an agency, bureau, office or other place
12 for the purpose of procuring or attempting to procure
13 engagements for or for the purpose of giving information as to
14 where such engagements may be provided to an artist who seeks
15 employment by a buyer in, but not limited to, the following:
16 live or motion picture production, whether made on or by film,
17 electronic tape or any other electronic device used to produce
18 theatrical motion pictures, television entertainment motion
19 pictures, industrial motion pictures or television commercials;
20 modeling services; conventions; print media; the legitimate
21 stage; radio; circus; vaudeville; musical arts; or a musical
22 organization.

23 "Talent agent." A person who, directly or indirectly,
24 procures employment for an artist pursuant to an agent contract,
25 or who for a commission procures, offers, promises or attempts
26 to obtain employment for an artist with a talent agency. The
27 term does not include a manager agent who guides, advises or
28 directs an artist regarding the artist's career if the manager
29 agent is not primarily involved in obtaining employment for the
30 artist.

1 Section 3. Duties of department.

2 (a) Issuance.--The department may issue a license to a
3 talent agency and may revoke a license, deny an application for
4 a license, suspend the license for a reasonable period or assess
5 a civil penalty in an amount not to exceed the biennial license
6 fee when it is satisfied that the owner or operator of the
7 license or applicant for a license, or a person on behalf of the
8 owner or operator has done any of the following:

9 (1) Obtained or attempted to obtain any license by means
10 of fraud, misrepresentation or concealment.

11 (2) Violated any provision of this part or any rule of
12 the department.

13 (3) Been found guilty of or had adjudication withheld
14 with respect to a crime involving moral turpitude or
15 dishonest dealings under the laws of this Commonwealth or
16 another state or government.

17 (4) Made, printed, published, distributed or caused,
18 authorized or knowingly permitted the making, printing,
19 publication or distribution of a false statement, description
20 or promise of such a character as to reasonably induce a
21 person to act to his damage or injury, if the statement,
22 description or promises were purported to be performed by the
23 talent agency and if the owner or operator then knew, or by
24 the exercise of reasonable care and inquiry could have known,
25 of the falsity of the statement, description or promise.

26 (5) Knowingly committed or been a party to a material
27 fraud, misrepresentation, concealment, conspiracy, collusion,
28 trick, scheme or device whereby any other person lawfully
29 relying upon the work, representation or conduct of the
30 talent agency acts or has acted to his injury or damage.

1 (6) Failed or refused upon demand to disclose
2 information, within his knowledge, as required by this act,
3 or failed or refused to produce a document, book or record in
4 his possession for inspection to the department or an
5 authorized agent thereof acting within its jurisdiction or by
6 authority of law.

7 (7) Established a talent agency within a place where
8 intoxicating liquors are sold, a place where gambling is
9 permitted or a house of prostitution.

10 (8) Charged, collected or received compensation for a
11 service performed by the talent agency greater than specified
12 in its schedule of maximum fees, charges and commissions
13 previously filed with the department.

14 (9) Had a license to operate a talent agency revoked,
15 suspended or otherwise acted against, including, but not
16 limited to, having been denied a license for good cause by
17 the licensing authority of another state, territory or
18 country.

19 (10) Willfully made or filed a report or record which
20 the licensee knew to be false, failed to file a report or
21 record required by Federal or State law, impeded or
22 obstructed such filing or induced another person to impede or
23 obstruct such filing. Reports or records shall include only
24 those which are signed in the licensee's capacity as a
25 licensed talent agency.

26 (11) Advertised goods or services in a manner which was
27 fraudulent, false, deceptive or misleading in form or
28 content.

29 (12) Advertised, operated or attempted to operate under
30 a name other than the name appearing on the license.

1 (13) Been found guilty of fraud or deceit in the
2 operation of a talent agency.

3 (14) Operated with a revoked, suspended or inactive
4 license.

5 (15) Permitted, aided, assisted, procured or advised an
6 unlicensed person to operate a talent agency contrary to this
7 act or to a rule of the department.

8 (16) Failed to perform a statutory or legal obligation
9 placed on a licensed talent agency.

10 (17) Practiced or offered to practice beyond the scope
11 permitted by law or has accepted and performed professional
12 responsibilities which the licensee knows or has reason to
13 know that he is not competent to perform.

14 (18) Conspired with another licensee or other person to
15 commit an act or has committed an act which would tend to
16 coerce, intimidate, or preclude another licensee from
17 advertising his services.

18 (19) Solicited business, either personally or through an
19 agent or through another person, through the use of fraud,
20 deception or otherwise, the use of misleading statements or
21 the exercise of intimidation or undue influence.

22 (20) Exercised undue influence on an artist in such a
23 manner as to exploit the artist for financial gain of the
24 licensee or a third party, including, but not limited to, the
25 promoting or selling of services to the artist.

26 (b) Revocation.--The department may revoke any license which
27 is issued as a result of the mistake or inadvertence of the
28 department.

29 (c) Regulations.--The department may adopt reasonable rules
30 governing the exercise of its powers under this act and

1 regulations for the conduct of the business of talent agencies
2 under this act.

3 Section 4. License requirements.

4 (a) Prohibition.--A person, firm or corporation may not own,
5 operate, solicit business for or otherwise engage in or carry on
6 the business of a talent agency in this Commonwealth unless the
7 person or entity first procures a license for the talent agency
8 from the department.

9 (b) Fee.--Each application for a license shall be
10 accompanied by an application fee of \$300 to cover the costs of
11 investigating the applicant. Each application for a change of
12 operator shall be accompanied by an application fee of \$150. The
13 fees are not refundable.

14 (c) Requirements.--

15 (1) Each owner of a talent agency, if other than a
16 corporation, and each operator of a talent agency shall
17 submit to the department, with the application for licensure
18 of the agency, a full set of his fingerprints and a
19 photograph of himself taken within the preceding two years.
20 The department shall conduct an examination of fingerprint
21 records and police records.

22 (2) Each owner of a talent agency that is a corporation
23 shall submit to the department, with the application for
24 licensure of the agency, a full set of fingerprints of the
25 principal officer signing the application form and the bond
26 form, a full set of fingerprints of each operator and a
27 photograph of each taken within the preceding two years. The
28 department shall conduct an examination of fingerprint
29 records and police records.

30 (d) Contents.--Each application shall include:

1 (1) The name and address of the owner of the talent
2 agency.

3 (2) Proof of at least one year of direct experience or
4 similar experience of the operator of the agency in the
5 talent agency business or as a subagent, casting director,
6 producer, director, advertising agency, talent coordinator or
7 musical booking agent.

8 (e) Investigation.--The department shall investigate the
9 owner of an applicant talent agency only to determine his
10 ability to comply with this act and shall investigate the
11 operator of an applicant talent agency to determine his
12 employment experience and qualifications.

13 (f) Noncorporate applicants.--If the applicant is other than
14 a corporation, the application shall also include the names and
15 addresses of all persons, except bona fide employees on stated
16 salaries, financially interested, either as partners, associates
17 or profit sharers, in the operation of the talent agency in
18 question, together with the amount of their respective interest.

19 (g) Corporation.--If the applicant is a corporation, the
20 application shall include the corporate name and the names,
21 residential addresses and telephone numbers of all persons
22 actively participating in the business of the corporation and
23 shall include the names of all persons exercising managing
24 responsibility in the applicant's or licensee's office.

25 (h) Affidavits.--The application must be accompanied by
26 affidavits of at least five reputable persons, other than
27 artists, who have known or have been associated with the
28 applicant for at least three years, stating that the applicant
29 is a person of good moral character or, in the case of a
30 corporation, has a reputation for fair dealing.

(i) Updating.--If any information in the application supplied to the department by the applicant or licensee changes in any manner whatsoever, the applicant or licensee shall submit the changes to the department within 30 days after the date of the change or after the date the change is known or should have been known to the applicant or licensee.

Section 5. License, fees and renewals.

(a) Fees.--The department by rule shall establish biennial fees for initial licensing, renewal of license and reinstatement of license, none of which fees shall exceed \$400. The department may by rule establish a late renewal penalty of no more than \$50. The fees shall be adequate to proportionately fund the expenses of the department which are allocated to the regulation of talent agencies and shall be based on the department's estimate of the revenue required to administer this act.

(b) Regulations.--The department shall adopt rules establishing a procedure for the biennial renewal of licenses. The department shall notify each licensee 60 days before the renewal date of the need to renew its license. Each licensee which fails to renew its license by the expiration date thereof shall have automatically terminated the right to engage in the business for which it was licensed until it has applied for a new license and such license is issued. A license shall be issued upon written request on the application form prescribed by the department, and the form shall be accompanied by the required fee. When made in proper form, the request shall not be denied or unreasonably delayed.

(c) Temporary business.--If one or more individuals on the basis of whose qualifications a talent agency license has been obtained cease to be connected with the agency for any reason,

1 the agency business may be carried on for a temporary period,
2 not to exceed 90 days, under such terms and conditions as the
3 department provides by rule for the orderly closing of the
4 business or the replacement and qualifying of a new owner or
5 operator. The licensee's good standing under this act shall be
6 contingent upon the department's approval of any new owner or
7 operator.

8 (d) Name.--No license shall be valid to protect any business
9 transacted under any name other than that designated in the
10 license, unless consent is first obtained from the department,
11 unless written consent of the surety or sureties on the original
12 bond required by section 9 is filed with the department and
13 unless the license is returned to the department for the
14 recording thereon of such changes. A charge of \$10 shall be made
15 by the department for the recording of authorization for each
16 change of name or change of location.

17 (e) Assignment.--A license issued under this act shall be
18 assignable.

19 Section 6. Qualification for talent agency license.

20 (a) Character.--Each person designated in an application
21 under this act as an owner or operator must be of good moral
22 character as determined by the department.

23 (b) Financial responsibility.--Notwithstanding the
24 qualification in subsection (a), each application must show
25 whether or not the agency or any person or owner of the agency
26 is financially interested in any other business of like nature
27 and, if so, specify the interest or interests.

28 Section 7. Fees, rates and display.

29 (a) Schedule.--Each applicant for a license shall file with
30 the application a schedule of maximum fees, charges and

1 commissions which it intends to charge and collect for its
2 services. This schedule may thereafter be raised only by filing
3 with the department an amended or supplemental schedule at least
4 30 days before the change is to become effective. The schedule
5 shall be posted in a conspicuous place in each place of business
6 of the agency and shall be printed in not less than 30-point
7 boldface type, except that an agency which uses written
8 contracts containing maximum fee schedules need not post such
9 schedules.

10 (b) Disbursement.--All money collected by a talent agency
11 from an employer for the benefit of an artist shall be paid to
12 the artist, less the talent agent's fee, within five business
13 days after the receipt of the money by the talent agency. No
14 talent agent is required to pay money to an artist until the
15 talent agent receives payment from the employer or buyer.

16 Section 8. License, content and posting.

17 (a) Time period.--The talent agency license shall be valid
18 for the biennial period in which issued in the form as
19 determined by the department. The license will at least specify
20 the name under which the applicant is to operate, the address of
21 the place of business, the expiration date of the license, the
22 full names and titles of the owner and the operator and the
23 number of the license.

24 (b) Display.--The talent agency license shall at all times
25 be displayed conspicuously in the place of business so that it
26 is open to the view of the public and subject to the inspection
27 of all duly authorized officers of the Commonwealth and the
28 county.

29 (c) Cancellation.--If a licensee desires to cancel his
30 license, he must notify the department and forthwith return to

1 the department the license so canceled. No license fee shall be
2 refunded upon cancellation of the license.

3 (d) Penalty.--A person who fails to display a license as
4 required in subsection (b) commits a summary offense and shall,
5 upon conviction, be sentenced to pay a fine of not more than
6 \$50.

7 Section 9. Bond.

8 (a) Requirement.--For each talent agency license, a bond
9 shall be filed in the form of a surety by a reputable company
10 engaged in bonding and authorized to do business in this
11 Commonwealth. The bond shall be for the penal sum of \$5,000,
12 with one or more sureties to be approved by the department, and
13 be conditioned that the applicant conform to and not violate any
14 of the duties, terms, conditions, provisions or requirements of
15 this act.

16 (b) Claims.--If a person is aggrieved by the misconduct of a
17 talent agency, the person may maintain an action in his own name
18 upon the bond of the agency in a court having jurisdiction of
19 the matter. Claims shall be assignable, and the assignee shall
20 be entitled to the same remedies upon the bond of the agency or
21 otherwise as the person aggrieved would have been entitled to if
22 the claim had not been assigned. A claim so assigned may be
23 enforced in the name of the assignee.

24 (c) Notice.--The bonding company shall notify the department
25 of any claim against the bond, and a copy of the notice shall be
26 sent to the talent agency against which the claim is made.

27 (d) Remedies.--Remedies provided in this section are not
28 exclusive of other remedies. This relief shall be cumulative to
29 any other remedies the aggrieved person may have.

30 Section 10. Records.

Each talent agency shall keep on file the application of each accepted applicant for employment, the name and address of each applicant and the amount of the fee received. No agency or employee thereof shall knowingly make a false entry in applicant files or receipt files. Each card or document in talent agency files must be preserved for a period of at least one year after the date of the last entry thereon.

Section 11. Prohibition against registration fees; referral.

(a) General rule.--A talent agency may not charge a registration fee.

(b) Other fees.--A talent agency may not, as a condition to registering or obtaining employment for any applicant or artist, require the applicant or artist to subscribe to or purchase a publication, postcard service, advertisement, resume service, photographer, school, acting school, workshop, acting workshop or videotape or audiotape.

(c) Contracts.--A talent agency shall give each applicant a copy of a contract which lists the services to be provided and the fees to be charged. The contract shall state that the talent agency is regulated by the department and shall list the address and telephone number of the department.

Section 12. Labor disputes.

A talent agency shall not knowingly send an artist who has received a motion picture or videotape engagement or any other engagement to a place where a strike, lockout or other labor dispute is in active progress without first notifying that artist of the conditions.

Section 13. Talent agency regulations.

(a) General rule.--A talent agency is required to maintain a record sheet for each booking. This is the only required record

1 of placement and must be kept for a period of one year after the
2 date of the last entry in the buyer's file.

3 (b) Records.--Each talent agency is required to keep records
4 which include the following entries:

5 (1) The name and address of each artist employing the
6 talent agency.

7 (2) The amount of fees received from each artist.

8 (3) The employment in which each artist is engaged at
9 the time of employing the talent agency and the amount of
10 compensation of the artist in such employment, if any, and
11 the employments subsequently secured by the artist during the
12 term of the contract between the artist and the talent agency
13 and the amount of compensation received by the artist
14 pursuant thereto.

15 (4) Other information which the department may require
16 by regulation.

17 (c) Inspection.--All books, records and other papers kept
18 pursuant to this act by any talent agency shall be open at all
19 reasonable hours to the inspection of the department and its
20 agents. Each talent agency shall furnish to the department, upon
21 request, a true copy of all books, records and papers, or any
22 portion thereof, and shall make such reports as the department
23 may prescribe from time to time.

24 (d) Posting.--Each talent agency is required to post in a
25 conspicuous place in its office a printed copy of this act and
26 of the rules adopted under this act. The copies must also
27 contain the name and address of the officer charged with
28 enforcing this act. The department shall furnish to talent
29 agencies printed copies of any statute or rule required to be
30 posted under this subsection.

1 (e) Illegality.--A talent agency may not knowingly issue a
2 contract for employment containing any term or condition which,
3 if complied with, would be in violation of law or attempt to
4 fill an order for help to be employed in violation of law.

5 (f) False advertising.--A talent agency may not publish or
6 cause to be published false, fraudulent or misleading
7 information, representation, notice or advertisement. All
8 advertisements of a talent agency by means of cards, circulars
9 or signs, and in newspapers and other publications, and all
10 letterheads, receipts and blanks shall be printed and contain
11 the licensed name, department license number and address of the
12 talent agency and the words "talent agency." No talent agency
13 may give false information or make false promises or
14 representations concerning an engagement or employment to an
15 applicant who applies for an engagement or employment.

16 (g) Pornography.--A talent agency may not send or cause to
17 be sent a person as an employee to a house of ill fame, to a
18 place resorted to for purposes of prostitution, to a place for
19 modeling or photographing of a minor in the nude in the absence
20 of written permission from the minor's parents or legal
21 guardians, or to any place for immoral purposes, the character
22 of which places the talent agency could have ascertained upon
23 reasonable inquiry.

24 (h) Fee sharing.--A talent agency may not divide fees with
25 anyone, including, but not limited to, an agent or other
26 employee of an employer, buyer, casting director, producer or
27 director.

28 (i) Refund.--If a talent agency collects from an artist a
29 fee or expenses for obtaining employment for the artist and the
30 artist fails to procure such employment or the artist fails to

1 be paid for such employment if procured, the talent agency
2 shall, upon demand therefor, repay to the artist the fee and
3 expenses so collected. Unless repayment thereof is made within
4 48 hours after demand therefor, the talent agency shall pay to
5 the artist an additional sum equal to the amount of the fee.

6 (j) Office.--Each talent agency must maintain a permanent
7 office and must maintain regular operating hours at that office.

8 Section 14. Legal requirements and penalties.

9 (a) Felonies.--A person commits a felony if he:

10 (1) Owns or operates, or solicits business as, a talent
11 agency in this Commonwealth without first procuring a license
12 from the department.

13 (2) Obtains or attempts to obtain a license by means of
14 fraud, misrepresentation or concealment.

15 (b) Misdemeanors.--A person commits a misdemeanor of the
16 second degree if he:

17 (1) Relocates a business as a talent agency or operates
18 under any name other than that designated on the license
19 unless written notification is given to the department and to
20 the surety or sureties on the original bond and unless the
21 license is returned to the department for the recording
22 thereon of such changes.

23 (2) Assigns or attempts to assign a license issued under
24 this act.

25 (3) Fails to show on a license application that the
26 agency or any owner of the agency is financially interested
27 in any other business of like nature and, if so, fails to
28 specify the interest or interests.

29 (4) Fails to maintain the records required by this act
30 or knowingly makes false entries in the records.

1 (5) Requires as a condition to registering or obtaining
2 employment or placement for an applicant that the applicant
3 subscribe to a publication, postcard service, advertisement
4 or resume service; hire a photographer; enroll in a school,
5 acting school, workshop or acting workshop.

6 (6) Fails to give each applicant a copy of a contract
7 which lists the services to be provided and the fees to be
8 charged, states that the talent agency is regulated by the
9 department and lists the address and telephone number of the
10 department.

11 (7) Fails to maintain a record sheet.

12 (8) Knowingly sends or causes to be sent an artist to a
13 prospective employer or place of business, the character or
14 operation of which employer or place of business the talent
15 agency knows to be, or has reason to believe, is in violation
16 of Federal or State law.

17 (c) Additional penalties.--The court may, in addition to
18 other punishment provided for, suspend or revoke the license of
19 a licensee who has been found guilty of an offense enumerated in
20 this section.

21 (d) Injunction.--In the event the department or any
22 prosecuting attorney shall have probable cause to believe that a
23 talent agency or other person has violated any provision of
24 subsection (a), an action may be brought by the department or
25 the Attorney General to enjoin the talent agency or any person
26 from continuing the violation or engaging therein or doing any
27 act in furtherance thereof, and for such other relief as to the
28 court seems appropriate. In addition to this remedy, the
29 department may, after a hearing, assess a penalty against such
30 talent agency or a person in an amount of not more than \$1,000.

1 Section 15. Sexual misconduct.

2 Sexual misconduct is prohibited in the operation of a talent
3 agency. If an agent, owner or operator of a licensed talent
4 agency is found to have committed sexual misconduct in the
5 operation of a talent agency, the agency license shall be
6 permanently revoked. The agent, owner or operator shall be
7 permanently disqualified from present and future licensure as
8 owner or operator of a talent agency in this Commonwealth.

9 Section 16. Repeal.

10 The act of July 31, 1941 (P.L.616, No.261), known as the
11 Employment Agency Law, is repealed insofar as it is inconsistent
12 with this act.

13 Section 17. Effective date.

14 This act shall take effect in 60 days.