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30 enforcement; creating s. 468.417, F.S.; authorizing
 31 persons injured by a prohibited act or practice in
 32 violation of pt. VII, ch. 468, F.S., to bring a civil
 33 action for injunctive and other relief, including civil
 34 penalties, restitution and damages, and court costs and
 35 attorney's fees; abolishing regulation of talent agencies
 36 by the Department of Business and Professional Regulation;
 37 providing for the use and transfer of remaining regulatory
 38 funds; providing for continuation of legal proceedings;
 39 repealing ss. 468.403, 468.404, 468.405, 468.407, and
 40 468.414, F.S., relating to license requirements, license
 41 fees and renewals, qualifications for licensure, license
 42 period, form, content, display, and cancellation, and
 43 collection and deposit of moneys from regulatory fines,
 44 fees, and penalties, respectively, to conform; providing
 45 an effective date.

46
 47 Be It Enacted by the Legislature of the State of Florida:

48
 49 Section 1. Section 468.401, Florida Statutes, is amended
 50 to read:

51 468.401 ~~Regulation of~~ Talent agencies and advance-fee
 52 talent services; definitions.--As used in this part, the term ~~or~~
 53 ~~any rule adopted pursuant hereto~~:

54 (1)(a) "Advance fee" means any fee that is due from or
 55 paid by an artist prior to the artist's obtaining actual
 56 employment as an artist or prior to the artist's receiving
 57 actual earnings as an artist or that exceeds the actual earnings
 58 received by the artist as an artist.

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59 (b) The term does not include reimbursements for out-of-
 60 pocket costs actually incurred by an advance-fee talent service
 61 on behalf of the artist for services rendered or goods provided
 62 to the artist by an independent third party if all of the
 63 following conditions are met:

64 1. The advance-fee talent service has no direct or
 65 indirect financial interest in the third party.

66 2. The advance-fee talent service does not accept any
 67 referral fee or other consideration for referring the artist.

68 3. The services rendered or goods provided for the out-of-
 69 pocket costs are not represented to be, and are not, a condition
 70 for the advance-fee talent service to register or list the
 71 artist with the advance-fee talent service.

72 4. The advance-fee talent service maintains adequate
 73 records to establish that the amount to be reimbursed was
 74 actually advanced or owed to a third party and that the third
 75 party is not a person in which the advance-fee talent service
 76 has a direct or indirect financial interest or from which the
 77 advance-fee talent service receives any consideration for
 78 referring the artist.

79 (c) The burden of producing evidence to support a defense
 80 based upon an exemption or an exception provided in this
 81 subsection is upon the person claiming it.

82 (2) "Advance-fee talent service" means a person who
 83 charges, attempts to charge, or receives an advance fee from an
 84 artist for one or more of the following:

85 (a) Procuring, offering, promising, or attempting to
 86 procure employment or engagements for the artist.

87 (b) Managing or directing the development or advancement

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88 of the artist's career as an artist.

89 (c) Career counseling, career consulting, vocational
 90 guidance, aptitude testing, evaluation, or planning, in each
 91 case relating to the preparation of the artist for employment as
 92 an artist.

93 (d) Promoting or advertising an artist to a casting
 94 director, talent agency, talent manager, or any other person
 95 represented to be in a position to offer assistance in the
 96 procurement of engagements or employment as an artist.

97
 98 The term does not include the person or entity holding,
 99 sponsoring, advertising, or organizing an event during which the
 100 services included in paragraphs (a)-(d) are independently
 101 offered by any attendee to any other attendee of the event.

102 (3) "Agency" means a talent agency or an advance-fee
 103 talent service. The term includes owners, operators, employees,
 104 and agents of the agency or service, unless specifically
 105 designated otherwise.

106 (4)(8) "Artist" means a person performing on the
 107 professional stage or in the production of television, radio, or
 108 motion pictures; a musician or group of musicians; or a model.

109 (5)(7) "Buyer" or "employer" means a person, company,
 110 partnership, ~~or~~ corporation, or other business entity that uses
 111 the services of an a-talent agency to provide artists.

112 (6)(3) "Compensation" means any one or more of the
 113 following:

114 (a) Any money or other valuable consideration paid or
 115 promised to be paid for services rendered by any person

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116 conducting the business of a talent agency or an advance-fee
 117 talent service under this part;

118 (b) Any money received by any person in excess of that
 119 which has been paid out by such person for transportation,
 120 transfer of baggage, or board and lodging for any applicant for
 121 employment; or

122 (c) The difference between the amount of money received by
 123 any person who furnishes employees, performers, or entertainers
 124 for circus, vaudeville, theatrical, or other entertainments,
 125 exhibitions, engagements, or performances and the amount paid by
 126 him or her to such employee, performer, or entertainer.

127 (7) "Divided fee" means the process by which, without
 128 written contractual approval of the artist, any two or more
 129 persons receive compensation for placing an artist and the total
 130 compensation paid to such agents exceeds the compensation that
 131 would have been paid to only one agent acting on behalf of the
 132 artist.

133 ~~(8)(4)~~ "Engagement" means any employment or placement of
 134 an artist in which, ~~where~~ the artist performs in his or her
 135 artistic capacity. ~~However,~~ The term does ~~"engagement"~~ shall not
 136 apply to procuring opera, music, theater, or dance engagements
 137 for any organization defined in s. 501(c)(3) of the Internal
 138 Revenue Code or any nonprofit Florida arts organization that has
 139 received a grant from the Division of Cultural Affairs of the
 140 Department of State or has participated in the state touring
 141 program of the Division of Cultural Affairs.

142 (9) "Manager" means one who advises, guides, or directs an
 143 artist in career development and is not primarily involved in
 144 placing the artist in employment.

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145 (10) "Modeling or photographing a minor in the nude in the
 146 absence of written permission from the minor's parents or legal
 147 guardians" means the visual display of the buttocks, genitals,
 148 or female breast, areolae, or nipples of a person under the age
 149 of 18 years without having both the parents, if living, or legal
 150 guardians, of the minor fully advised of the intended activity
 151 and both parents' or guardians' execution of written consent for
 152 such visual display of their child or ward.

153 ~~(11)(6)~~ "Operator" means the person who is or who will be
 154 in actual charge of a talent agency or an advance-fee talent
 155 service.

156 ~~(12)(2)~~ "Owner" means any partner in a partnership, member
 157 of a firm, or principal officer or officers of a corporation,
 158 whose partnership, firm, or corporation owns a talent agency or
 159 an advance-fee talent service, or any individual who is the sole
 160 owner of a talent agency or an advance-fee talent service.

161 ~~(13)(9)~~ "Person" means any individual, company, society,
 162 firm, partnership, association, corporation, or manager, or any
 163 agent or employee of any of the foregoing.

164 ~~(14)(1)~~ "Talent agency" means any business entity or
 165 person who, for compensation, engages in the occupation or
 166 business of procuring or attempting to procure engagements for
 167 an artist.

168 ~~(5) "Department" means the Department of Business and~~
 169 ~~Professional Regulation.~~

170 ~~(10) "License" means a license issued by the Department of~~
 171 ~~Business and Professional Regulation to carry on the business of~~
 172 ~~a talent agency under this part.~~

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173 ~~(11) "Licensee" means a talent agency which holds a valid~~
 174 ~~unrevoked and unforfeited license issued under this part.~~

175 Section 2. Section 468.402, Florida Statutes, is amended
 176 to read:

177 468.402 Prohibited acts ~~Duties of the department;~~
 178 ~~authority to issue and revoke license; adoption of rules.--It is~~
 179 unlawful for any agency to:

180 ~~(1) The department may take any one or more of the actions~~
 181 ~~specified in subsection (5) against any person who has:~~

182 ~~(a) Obtained or attempted to obtain any license by means~~
 183 ~~of fraud, misrepresentation, or concealment.~~

184 ~~(1)(b) Violate~~ Violated any provision of this part,
 185 ~~chapter 455, any lawful disciplinary order of the department, or~~
 186 ~~any rule of the department.~~

187 ~~(c) Been found guilty of, or entered a plea of nolo~~
 188 ~~contendere to, regardless of adjudication, a crime involving~~
 189 ~~moral turpitude or dishonest dealings under the laws of this~~
 190 ~~state or any other state or government.~~

191 ~~(2)(d) Make, print, publish, distribute, or cause,~~
 192 authorize, or knowingly permit ~~Made, printed, published,~~
 193 ~~distributed, or caused, authorized, or knowingly permitted~~ the
 194 making, printing, publication, or distribution of any false
 195 statement, description, or promise of such a character as to
 196 reasonably induce any person to act to his or her damage or
 197 injury, if such statement, description, or promises were
 198 purported to be performed by the ~~talent~~ agency and if the owner
 199 or operator then knew, or by the exercise of reasonable care and
 200 inquiry, could have known, of the falsity of the statement,
 201 description, or promise.

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202 (3)(e) Knowingly commit ~~committed~~ or be ~~been~~ a party to
 203 any material fraud, misrepresentation, concealment, conspiracy,
 204 collusion, trick, scheme, or device whereby any other person
 205 lawfully relying upon the work, representation, or conduct of
 206 the talent agency acts or has acted to his or her injury or
 207 damage.

208 (4)(f) Fail ~~Failed~~ or refuse ~~refused~~ upon demand to
 209 disclose any information, as required by this part, within his
 210 or her knowledge, or fail ~~failed~~ or refuse ~~refused~~ to produce
 211 any document, book, or record in his or her possession for
 212 inspection to any state attorney ~~the department~~ or any
 213 authorized agent thereof acting within his or her ~~its~~
 214 jurisdiction or by authority of law.

215 (5)(g) Establish an ~~Established the~~ talent agency within
 216 any place where intoxicating liquors are sold, any place where
 217 gambling is permitted, or any house of prostitution.

218 (6)(h) Charge, collect, or receive ~~Charged, collected, or~~
 219 ~~received~~ compensation for any service performed by the talent
 220 agency greater than specified in its schedule of maximum fees,
 221 charges, and commissions previously filed with the department.

222 ~~(i) Had a license to operate a talent agency revoked,~~
 223 ~~suspended, or otherwise acted against, including, but not~~
 224 ~~limited to, having been denied a license for good cause by the~~
 225 ~~licensing authority of another state, territory, or country.~~

226 ~~(j) Willfully made or filed a report or record that the~~
 227 ~~licensee knew to be false, failed to file a report or record~~
 228 ~~required by state or federal law, impeded or obstructed such~~
 229 ~~filing, or induced another person to impede or obstruct such~~
 230 ~~filing. Such reports or records shall include only those that~~

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231 ~~are signed in the licensee's capacity as a licensed talent~~
 232 ~~agency.~~

233 (7)(k) Advertise ~~Advertised~~ goods or services in a manner
 234 that is ~~was~~ fraudulent, false, deceptive, or misleading in form
 235 or content.

236 ~~(l) Advertised, operated, or attempted to operate under a~~
 237 ~~name other than the name appearing on the license.~~

238 (8)(m) Commit ~~Been found guilty of~~ fraud or deceit in the
 239 operation of an ~~a~~ talent agency.

240 ~~(n) Operated with a revoked, suspended, inactive, or~~
 241 ~~delinquent license.~~

242 ~~(o) Permitted, aided, assisted, procured, or advised any~~
 243 ~~unlicensed person to operate a talent agency contrary to this~~
 244 ~~part or to a rule of the department.~~

245 ~~(p) Failed to perform any statutory or legal obligation~~
 246 ~~placed on a licensed talent agency.~~

247 ~~(q) Practiced or offered to practice beyond the scope~~
 248 ~~permitted by law or has accepted and performed professional~~
 249 ~~responsibilities that the licensee knows or has reason to know~~
 250 ~~that he or she is not competent to perform.~~

251 (9)(r) Conspire ~~Conspired~~ with another agency licensee or
 252 with any other person to commit an act, ~~or has committed an act,~~
 253 that would tend to coerce, intimidate, or preclude another
 254 agency licensee from advertising its ~~his or her~~ services.

255 (10)(s) Solicit ~~Solicited~~ business, either personally or
 256 through an agent or ~~through any~~ other person, through the use of
 257 fraud or deception or by other means; through the use of
 258 misleading statements; or through the exercise of intimidation
 259 or undue influence.

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260 (11)(t) Exercise ~~Exercised~~ undue influence on the artist
 261 in such a manner as to exploit the artist for financial gain of
 262 the agency licensee or a third party, ~~which includes, but is not~~
 263 ~~limited to, the promoting or selling of services to the artist.~~

264 ~~(2) The department may revoke any license that is issued~~
 265 ~~as a result of the mistake or inadvertence of the department.~~

266 ~~(3) The department has authority to adopt rules pursuant~~
 267 ~~to ss. 120.536(1) and 120.54 to implement the provisions of this~~
 268 ~~part.~~

269 ~~(4) A revoked or suspended license must be returned to the~~
 270 ~~department within 7 days after the time for appeal has elapsed.~~

271 ~~(5) Upon a finding of a violation of any one or more of~~
 272 ~~the grounds enumerated in subsection (1) or any other section of~~
 273 ~~this part, the department may take the following actions:~~

274 ~~(a) Deny an application for licensure as a talent agency.~~

275 ~~(b) Permanently revoke or suspend the license of a talent~~
 276 ~~agency.~~

277 ~~(c) Impose an administrative fine, not to exceed \$5,000,~~
 278 ~~for each count or separate offense.~~

279 ~~(d) Require restitution.~~

280 ~~(e) Issue a public reprimand.~~

281 ~~(f) Place the licensee on probation, subject to such~~
 282 ~~conditions as the department may specify.~~

283 ~~(6) A person shall be subject to the disciplinary actions~~
 284 ~~specified in subsection (5) for violations of subsection (1) by~~
 285 ~~that person's agents or employees in the course of their~~
 286 ~~employment with that person.~~

287 ~~(7) The department may deny a license if any owner or~~
 288 ~~operator listed on the application has been associated with a~~

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289 ~~talent agency whose license has been revoked or otherwise~~
 290 ~~disciplined.~~

291 Section 3. Section 468.406, Florida Statutes, is amended
 292 to read:

293 468.406 Fees to be charged by ~~talent~~ agencies; rates;
 294 display.--

295 (1) Each agency applicant ~~for a license~~ shall post file
 296 ~~with the application~~ an itemized schedule of maximum fees,
 297 charges, and commissions which it intends to charge and collect
 298 for its services. ~~This schedule may thereafter be raised only by~~
 299 ~~filing with the department an amended or supplemental schedule~~
 300 ~~at least 30 days before the change is to become effective.~~ The
 301 schedule shall be posted in a conspicuous place in each place of
 302 business of the agency and shall be printed in not less than a
 303 30-point boldfaced type, except that an agency that uses written
 304 contracts containing maximum fee, charge, and commission
 305 schedules need not post such schedules.

306 (2) All money collected by a talent agency from an
 307 employer for the benefit of an artist shall be paid to the
 308 artist, less the talent agency's commission fee, within 7 5
 309 business days after the receipt of such money by the talent
 310 agency. No talent agency is required to pay money to an artist
 311 until the talent agency receives payment from the employer or
 312 buyer.

313 Section 4. Section 468.408, Florida Statutes, is amended
 314 to read:

315 468.408 Bond required.--

316 (1) Each ~~There shall be filed with the department for each~~
 317 ~~talent agency~~ shall obtain license a bond in the form of a

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318 surety by a reputable company engaged in the bonding business
 319 and authorized to do business in this state. The bond shall be
 320 for the penal sum of \$10,000 ~~\$5,000, with one or more sureties~~
 321 ~~to be approved by the department,~~ and shall be conditioned on
 322 ~~that~~ the agency's conforming applicant conform to and not
 323 violating ~~violate~~ any of the duties, terms, conditions,
 324 provisions, or requirements of this part.

325 (a) If any person is aggrieved by the misconduct of any
 326 ~~talent~~ agency, the person may maintain an action in his or her
 327 own name upon the bond of the agency in any court having
 328 jurisdiction of the amount claimed. All such claims shall be
 329 assignable, and the assignee shall be entitled to the same
 330 remedies, upon the bond of the agency or otherwise, as the
 331 person aggrieved would have been entitled to if such claim had
 332 not been assigned. Any claim or claims so assigned may be
 333 enforced in the name of such assignee.

334 (b) Prior to execution of a contract with an artist, each
 335 agency must provide the artist with a copy of the bond provided
 336 in this section. ~~The bonding company shall notify the department~~
 337 ~~of any claim against such bond, and a copy of such notice shall~~
 338 ~~be sent to the talent agency against which the claim is made.~~

339 (2) Any remedies provided in this section shall not be
 340 exclusive of any other remedy. This relief shall be cumulative
 341 to any other remedies the aggrieved person may have.

342 Section 5. Section 468.409, Florida Statutes, is amended
 343 to read:

344 468.409 Records required to be kept.--Each ~~talent~~ agency
 345 shall keep on file the application, registration, and fully
 346 executed ~~or~~ contract of each artist. In addition, such file must

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347 include the name and address of each artist, the amount of the
 348 compensation received, all attempts to promote or advertise the
 349 artist, and all attempts to procure engagements for the artist.
 350 No such agency or employee thereof shall knowingly make any
 351 false entry in applicant files or receipt files. Each card or
 352 document in such files shall be preserved for a period of 5
 353 years ~~1 year~~ after the date of the last entry thereon.

354 Section 6. Section 468.410, Florida Statutes, is amended
 355 to read:

356 468.410 Prohibition against registration fees; referral;
 357 contract requirements.--

358 (1) A talent agency may not charge a registration fee.

359 (2) An ~~No~~ talent agency may not ~~shall~~, as a condition to
 360 registering or obtaining employment for any applicant or artist,
 361 require the applicant or artist to subscribe to, purchase, or
 362 attend any publication, postcard service, advertisement, resume
 363 service, photography service, website service, school, acting
 364 school, workshop, acting workshop, or video or audiotapes.

365 (3) A contract is required to be executed between an
 366 artist and an agency when the artist and the agency agree to
 367 have the agency secure employment for the artist. If the
 368 circumstances of the arrangement between the artist and the
 369 agency prevent the execution of a contract prior to the first
 370 engagement, the artist and the agency must execute the contract
 371 within 7 days after the commencement of the first engagement.

372 (4)~~(3)~~ At the time of execution of a contract, an ~~A~~ talent
 373 agency must ~~shall~~ give each artist ~~applicant~~ a copy of the
 374 signed or authenticated ~~a~~ contract which lists the services to
 375 be provided and the fees or commissions to be charged. ~~The~~

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376 ~~contract shall state that the talent agency is regulated by the~~
 377 ~~department and shall list the address and telephone number of~~
 378 ~~the department.~~

379 (5) At the time of execution an agency must give each
 380 artist a copy of this part.

381 (6) Because agencies occupy positions of trust and
 382 responsibility to artists, prior to execution of a contract with
 383 an artist each agency must provide the artist a copy of a
 384 criminal background check of each owner and operator of the
 385 agency. The background check shall include, but not be limited
 386 to, fingerprinting for all purposes and checks of a statewide
 387 criminal records check through the Department of Law Enforcement
 388 and may include local criminal records checks through local law
 389 enforcement agencies. The background check must have been
 390 completed within the previous 12 months.

391 (7) An agency contract that does not conform to this part
 392 is voidable by the artist. If an artist voids an agency
 393 contract, the artist is not required to pay any consideration or
 394 return any consideration received from the agency to induce the
 395 artist to enter into the contract.

396 (8) An artist may cancel a contract with an agency by
 397 giving notice of the cancellation to the agency in writing
 398 within 14 days after the contract is signed.

399 (9) An artist may not waive the right to cancel a contract
 400 with an agency, and any attempt by an agency to have an artist
 401 wave his or her right to cancel the contract is a violation of
 402 this part.

403 (10) If an artist cancels a contract with an agency, the
 404 artist is not required to pay any consideration or return any

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405 consideration received from the agency to induce the artist to
 406 enter into the contract.

407 Section 7. Section 468.411, Florida Statutes, is amended
 408 to read:

409 468.411 Labor disputes; notice ~~statements~~ required.--~~An~~ ~~No~~
 410 ~~talent~~ agency may not shall knowingly send any person who has
 411 received a motion picture or videotape engagement or any other
 412 engagement to any place where a strike, lockout, or other labor
 413 dispute is in active progress, without first notifying that
 414 person of such conditions.

415 Section 8. Section 468.412, Florida Statutes, is amended
 416 to read:

417 468.412 ~~Talent~~ Agency requirements ~~regulations~~.--

418 (1) ~~An A~~ ~~talent~~ agency shall maintain a record sheet for
 419 each booking. This shall be the only required record of
 420 placement and shall be kept for a period of 5 years ~~1 year~~ after
 421 the date of the last entry in the buyer's file.

422 (2) Each ~~talent~~ agency shall keep records in which shall
 423 be entered:

424 (a) The name and address of each artist employing such
 425 ~~talent~~ agency.†

426 (b) The amount of fees or commissions received from each
 427 such artist.†

428 (c) The employment in which each such artist is engaged at
 429 the time of employing such ~~talent~~ agency and the amount of
 430 compensation of the artist in such employment, if any, and the
 431 employments subsequently secured by such artist during the term
 432 of the contract between the artist and the ~~talent~~ agency and the

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433 amount of compensation received by the artist pursuant thereto
 434 and

435 ~~(d) Other information which the department may require~~
 436 ~~from time to time.~~

437 (3) All books, records, and other papers kept pursuant to
 438 this part ~~act~~ by any talent agency shall be open at all
 439 reasonable hours to the inspection of any state attorney or any
 440 authorized agent thereof ~~the department and its agents~~. Each
 441 talent agency shall furnish to any state attorney or any
 442 authorized agent thereof ~~the department~~, upon request, a true
 443 copy of such books, records, and papers, or any portion thereof,
 444 and ~~shall make such reports as the department may prescribe from~~
 445 ~~time to time.~~

446 ~~(4) Each talent agency shall post in a conspicuous place~~
 447 ~~in the office of such talent agency a printed copy of this part~~
 448 ~~and of the rules adopted under this part. Such copies shall also~~
 449 ~~contain the name and address of the officer charged with~~
 450 ~~enforcing this part. The department shall furnish to talent~~
 451 ~~agencies printed copies of any statute or rule required to be~~
 452 ~~posted under this subsection.~~

453 ~~(4)(5)~~ An ~~No~~ talent agency may not knowingly issue a
 454 contract ~~for employment~~ containing any term or condition which,
 455 if complied with, would be in violation of law, or attempt to
 456 fill an order for help to be employed in violation of law.

457 ~~(5)(6)~~ An ~~No~~ talent agency may not publish or cause to be
 458 published any false, fraudulent, or misleading information,
 459 representation, notice, or advertisement. ~~All advertisements of~~
 460 ~~a talent agency by means of card, circulars, or signs, and in~~
 461 ~~newspapers and other publications, and all letterheads,~~

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462 ~~receipts, and blanks shall be printed and contain the licensed~~
 463 ~~name, department license number, and address of the talent~~
 464 ~~agency and the words "talent agency."~~ An ~~No~~ talent agency may
 465 not give any false information or make any false promises or
 466 representations concerning an engagement or employment to any
 467 applicant who applies for an engagement or employment.

468 ~~(6)(7)~~ An ~~No~~ talent agency may not send or cause to be
 469 sent any person as an employee to any house of ill fame, to any
 470 house or place of amusement for immoral purposes, to any place
 471 resorted to for the purposes of prostitution, to any place for
 472 the modeling or photographing of a minor in the nude in the
 473 absence of written permission from the minor's parents or legal
 474 guardians, the character of which places the ~~talent~~ agency could
 475 have ascertained upon reasonable inquiry.

476 ~~(7)(8)~~ An ~~No~~ talent agency may not divide fees with
 477 anyone, including, but not limited to, an agent or other
 478 employee of an employer, a buyer, a casting director, a
 479 producer, a director, or any venue that uses entertainment.

480 ~~(8)(9)~~ If an ~~a~~ talent agency collects from an artist a fee
 481 or expenses for obtaining a specific engagement or employment
 482 for the artist, and the artist fails to procure such specific
 483 engagement or employment, or the artist fails to be paid for
 484 such specific engagement or employment if procured, such ~~talent~~
 485 agency shall, upon demand therefor, repay to the artist the fee
 486 and expenses so collected. Unless repayment thereof is made
 487 within 48 hours after demand therefor, the ~~talent~~ agency shall
 488 pay to the artist an additional sum equal to the amount of the
 489 fee.

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490 ~~(9)(10)~~ Each ~~talent~~ agency must maintain a permanent
 491 office and must maintain regular operating hours at that office.

492 Section 9. Section 468.413, Florida Statutes, is amended
 493 to read:

494 468.413 Legal requirements; penalties.--

495 (1) Each of the following acts related to services
 496 provided by an agency constitutes a felony of the third degree,
 497 punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

498 (a) Making, printing, publishing, distributing, causing,
 499 or authorizing, or knowingly permitting the making, printing,
 500 publication, or distribution of, any false statement,
 501 description, or promise of such a character as to reasonably
 502 induce any person to act to his or her damage or injury, if such
 503 statement, description, or promises were purported to be
 504 performed by the agency and if the owner or operator then knew,
 505 or by the exercise of reasonable care and inquiry, could have
 506 known, of the falsity of the statement, description, or promise.

507 (b) Knowingly committing or being a party to any material
 508 fraud, misrepresentation, concealment, conspiracy, collusion,
 509 trick, scheme, or device whereby any other person lawfully
 510 relying upon the work, representation, or conduct of the agency
 511 acts or has acted to his or her injury or damage.

512 (c) Establishing an agency within any place in which
 513 intoxicating liquors are sold, any place in which gambling is
 514 permitted, or any house of prostitution.

515 (d) Sending or causing to be sent any person as an
 516 employee to any house of ill fame, to any house or place of
 517 amusement for immoral purposes, to any place resorted to for the
 518 purposes of prostitution, to any place for the modeling or

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519 photographing of a minor in the nude in the absence of written
 520 permission from the minor's parents or legal guardians, the
 521 character of which places the agency could have ascertained upon
 522 reasonable inquiry.

523 (e) Committing fraud or deceit in the operation of an
 524 agency.

525 (f) Conspiring with another agency or with any other
 526 person to commit an act that would tend to coerce, intimidate,
 527 or preclude another agency from advertising its services.

528 (g) Soliciting business, either personally or through an
 529 agent or other person, through the use of fraud or deception or
 530 by other means, through the use of misleading statements, or
 531 through the exercise of intimidation or undue influence.

532 (h) Exercising undue influence on the artist in such a
 533 manner as to exploit the artist for financial gain of the agency
 534 or a third party.

535 (i) Committing sexual misconduct as prohibited in s.
 536 468.415.

537 ~~(a) Owning or operating, or soliciting business as, a~~
 538 ~~talent agency in this state without first procuring a license~~
 539 ~~from the department.~~

540 ~~(b) Obtaining or attempting to obtain a license by means~~
 541 ~~of fraud, misrepresentation, or concealment.~~

542 (2) Each of the following acts related to services
 543 provided by an agency constitutes a misdemeanor of the second
 544 degree, punishable as provided in s. 775.082 or s. 775.083:

545 ~~(a) Relocating a business as a talent agency, or operating~~
 546 ~~under any name other than that designated on the license, unless~~
 547 ~~written notification is given to the department and to the~~

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548 ~~surety or sureties on the original bond, and unless the license~~
 549 ~~is returned to the department for the recording thereon of such~~
 550 ~~changes.~~

551 ~~(b) Assigning or attempting to assign a license issued~~
 552 ~~under this part.~~

553 ~~(c) Failing to show on a license application whether or~~
 554 ~~not the agency or any owner of the agency is financially~~
 555 ~~interested in any other business of like nature and, if so,~~
 556 ~~failing to specify such interest or interests.~~

557 (a)(d) Failing to maintain the records required by s.
 558 468.409 or knowingly making false entries in such records.

559 (b)(e) Requiring as a condition to registering or
 560 obtaining employment or placement for any applicant that the
 561 applicant subscribe to, purchase, or attend any publication,
 562 postcard service, advertisement, resume service, photography
 563 service, website service, school, acting school, workshop, or
 564 acting workshop.

565 (c)(f) Failing, at the time of execution, to give each
 566 artist applicant a copy of the signed or authenticated a
 567 contract which lists the services to be provided and the fees or
 568 commissions to be charged, ~~which states that the talent agency~~
 569 ~~is regulated by the department, and which lists the address and~~
 570 ~~telephone number of the department.~~

571 (d)(g) Failing to maintain a record sheet as required by
 572 s. 468.412(1).

573 (e)(h) Knowingly sending or causing to be sent any artist
 574 to a prospective employer or place of business, the character or
 575 operation of which employer or place of business the ~~talent~~

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576 agency knows to be in violation of the laws of the United States
577 or of this state.

578 (f) Failing to provide a copy of this part as required in
579 s. 468.410(5).

580 (g) Failing to provide a copy of a criminal background
581 check as required in s. 468.410(6).

582 (h) Failing to provide a copy of a bond as required in s.
583 468.408.

584 (i) Failing to maintain a bond as required in s. 468.408.

585 (j) Violating any provision of this part.

586 (k) Charging, collecting, or receiving compensation for
587 any service performed by the agency greater than specified in
588 its schedule of maximum fees, charges, and commissions.

589 (l) Failing to post in a conspicuous place or include in
590 the contract an itemized schedule of maximum fees, charges, and
591 commissions which it intends to charge and collect for its
592 services.

593 (m) Charging a registration fee, except as permitted for
594 advance-fee talent services.

595 (n) Dividing fees with anyone, including, but not limited
596 to, an agent or other employee of an employer, a buyer, a
597 casting director, a producer, a director, or any venue that uses
598 entertainment.

599 (o) Advertising goods or services in a manner that is
600 fraudulent, false, deceptive, or misleading in form or content.

601 (p) Failing to notify an artist prior to sending an artist
602 to an engagement that there is a strike, lockout, or other labor
603 dispute in active progress.

604 (q) Failing or refusing upon demand to disclose any

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605 information, as required by this part, within his or her
 606 knowledge, or failing or refusing to produce any document, book,
 607 or record in his or her possession for inspection, to any state
 608 attorney or any authorized agent thereof acting within the
 609 jurisdiction of the state attorney or by authority of law.

610 (r) Failing to maintain a permanent office and regular
 611 operating hours at that office.

612 (s) Attempting to have an artist waive his or her right to
 613 cancel a contract with the agency.

614 (t) Failing to provide payment to an artist as provided in
 615 s. 468.406(2).

616 (u) Failing to return fees as provided in s. 468.412(8).

617 (v) Failing to maintain records as provided in s. 468.409.

618 ~~(3) The court may, in addition to other punishment~~
 619 ~~provided for in subsection (2), suspend or revoke the license of~~
 620 ~~any licensee under this part who has been found guilty of any~~
 621 ~~misdemeanor listed in subsection (2).~~

622 ~~(3)(4)~~ In the event ~~the department or~~ any state attorney
 623 shall have probable cause to believe that ~~an a talent~~ agency or
 624 other person has violated any provision of subsection (1) or
 625 subsection (2), an action may be brought by the ~~department or~~
 626 ~~any~~ state attorney to enjoin such ~~talent~~ agency or any person
 627 from continuing such violation, or engaging therein or doing any
 628 acts in furtherance thereof, and for such other relief as to the
 629 court seems appropriate. ~~In addition to this remedy, the~~
 630 ~~department may assess a penalty against any talent agency or any~~
 631 ~~person in an amount not to exceed \$1,000.~~

632 Section 10. Section 468.415, Florida Statutes, is amended
 633 to read:

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634 468.415 Sexual misconduct in the operation of a talent
 635 agency or an advance-fee talent service.--The ~~talent~~ agent-
 636 artist relationship between a talent agency or an advance-fee
 637 talent service and an artist is founded on mutual trust. Sexual
 638 misconduct in the operation of a talent agency or an advance-fee
 639 talent service means violation of the ~~talent~~ agent-artist
 640 relationship through which the talent agency or advance-fee
 641 talent service or owner, operator, or employee of the agency or
 642 service agent uses the relationship to induce or attempt to
 643 induce the artist to engage or attempt to engage in sexual
 644 activity. Sexual misconduct is prohibited in the operation of a
 645 talent agency or an advance-fee talent service. ~~If any agent,~~
 646 ~~owner, or operator of a licensed talent agency is found to have~~
 647 ~~committed sexual misconduct in the operation of a talent agency,~~
 648 ~~the agency license shall be permanently revoked. Such agent,~~
 649 ~~owner, or operator shall be permanently disqualified from~~
 650 ~~present and future licensure as owner or operator of a Florida~~
 651 ~~talent agency.~~

652 Section 11. Section 468.416, Florida Statutes, is created
 653 to read:

654 468.416 Judicial enforcement.--In addition to other
 655 penalties provided in this part, state attorneys and their
 656 assistants are authorized to apply to the court of competent
 657 jurisdiction within their respective jurisdictions, upon the
 658 sworn affidavit of any person alleging a violation of any of the
 659 provisions of this part. Such court shall have jurisdiction,
 660 upon hearing and for cause shown, to grant a temporary or
 661 permanent injunction restraining any person from violating any

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662 provision of this part, whether or not there exists an adequate
 663 remedy at law; and such injunction shall issue without bond.

664 Section 12. Section 468.417, Florida Statutes, is created
 665 to read:

666 468.417 Civil actions.--Any person injured by a prohibited
 667 act or practice in violation of this part may bring a civil
 668 action in circuit court for temporary or permanent injunctive
 669 relief and may seek appropriate civil relief, including, but not
 670 limited to, a civil penalty not to exceed \$5,000 for each
 671 violation, restitution and treble damages for injured parties,
 672 and court costs and reasonable attorney's fees.

673 Section 13. The regulation of talent agencies by the
 674 Department of Business and Professional Regulation is abolished.
 675 Any funds and balances associated with the regulation of talent
 676 agencies remaining in the Professional Regulation Trust Fund
 677 after the effective date of this act shall be used to pay any
 678 remaining expenses associated with this regulation. Any funds or
 679 balances remaining in the trust fund after January 1, 2005,
 680 shall be transferred to the General Revenue Fund.

681 Section 14. The Department of Business and Professional
 682 Regulation may continue to prosecute any legal proceedings and
 683 related administrative cases that are in existence on the
 684 effective date of this act.

685 Section 15. Sections 468.403, 468.404, 468.405, 468.407,
 686 and 468.414, Florida Statutes, are repealed.

687 Section 16. This act shall take effect July 1, 2004.