

By the Committee on Criminal Justice; and Senator Webster

307-2660-04

1 A bill to be entitled
 2 An act relating to talent agencies and
 3 advance-fee talent services; amending s.
 4 468.401, F.S.; revising, providing, and
 5 deleting definitions applicable to regulation
 6 of talent agencies and advance-fee talent
 7 services; amending s. 468.402, F.S.; specifying
 8 prohibited acts; amending s. 468.406, F.S.;
 9 requiring the posting of maximum fee, charge,
 10 and commission schedules or the inclusion of
 11 such schedules in written contracts; extending
 12 the period within which a talent agency must
 13 pay an artist from money received for the
 14 benefit of the artist; amending s. 468.408,
 15 F.S.; increasing bond requirements; requiring
 16 provision of a copy of the bond to an artist
 17 prior to execution of a contract with the
 18 artist; amending s. 468.409, F.S.; revising
 19 records required to be kept; increasing the
 20 minimum period records are required to be
 21 preserved; amending s. 468.410, F.S.; revising
 22 prohibition against registration fees;
 23 providing contract requirements; requiring
 24 background checks and fingerprinting of owners
 25 and operators; providing grounds for voiding or
 26 cancellation of contract; amending s. 468.411,
 27 F.S.; requiring prior notification regarding
 28 labor disputes; amending s. 468.412, F.S.;
 29 providing requirements for talent agencies and
 30 advance-fee talent services; amending s.
 31 468.413, F.S.; specifying acts that constitute

1 crimes; providing penalties; amending s.
2 468.415, F.S.; prohibiting sexual misconduct in
3 the operation of a talent agency or an
4 advance-fee talent service; creating s.
5 468.416, F.S.; providing for judicial
6 enforcement; creating s. 468.417, F.S.;
7 allowing a person who is injured by a violation
8 of pt. VII of ch. 468, F.S., to bring a civil
9 action for an injunction and to seek
10 appropriate civil relief; providing for court
11 costs and attorney's fees; abolishing
12 regulation of talent agencies by the Department
13 of Business and Professional Regulation;
14 providing for the use and transfer of remaining
15 regulatory funds; providing for continuation of
16 legal proceedings; repealing ss. 468.403,
17 468.404, 468.405, 468.407, and 468.414, F.S.,
18 relating to license requirements, license fees
19 and renewals, qualifications for licensure,
20 license period, form, content, display, and
21 cancellation, and collection and deposit of
22 moneys from regulatory fines, fees, and
23 penalties, respectively, to conform; providing
24 an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. Section 468.401, Florida Statutes, is
29 amended to read:
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1 468.401 ~~Regulation of Talent agencies and advance-fee~~
2 talent services; definitions.--As used in this part, the term
3 ~~or any rule adopted pursuant hereto~~:

4 (1)(a) "Advance fee" means any fee that is due from or
5 paid by an artist prior to the artist's obtaining actual
6 employment as an artist or prior to the artist's receiving
7 actual earnings as an artist or that exceeds the actual
8 earnings received by the artist as an artist.

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

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

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

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

22 4. The advance-fee talent service maintains adequate
23 records to establish that the amount to be reimbursed was
24 actually advanced or owed to a third party and that the third
25 party is not a person in which the advance-fee talent service
26 has a direct or indirect financial interest or from which the
27 advance-fee talent service receives any consideration for
28 referring the artist.

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

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

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

6 (b) Managing or directing the development or
7 advancement of the artist's career as an artist.

8 (c) Career counseling, career consulting, vocational
9 guidance, aptitude testing, evaluation, or planning, in each
10 case relating to the preparation of the artist for employment
11 as an artist.

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

16
17 The term "advance-fee talent service" does not include the
18 person or entity holding, sponsoring, advertising, or
19 organizing an event during which the services included in
20 paragraphs (a)-(d) are independently offered by an attendee to
21 any other attendee of the event.

22 (3) "Agency" means a talent agency or an advance-fee
23 talent service. The term includes owners, operators,
24 employees, and agents of the agency or service, unless
25 specifically designated otherwise.

26 ~~(4)(8)~~ "Artist" means a person performing on the
27 professional stage or in the production of television, radio,
28 or motion pictures; a musician or group of musicians; or a
29 model.

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1 ~~(5)(7)~~ "Buyer" or "employer" means a person, company,
2 partnership, ~~or~~ corporation, or other business entity that
3 uses the services of an a-talent agency to provide artists.

4 ~~(6)(3)~~ "Compensation" means any one or more of the
5 following:

6 (a) Any money or other valuable consideration paid or
7 promised to be paid for services rendered by any person
8 conducting the business of a talent agency or an advance-fee
9 talent service under this part;

10 (b) Any money received by any person in excess of that
11 which has been paid out by such person for transportation,
12 transfer of baggage, or board and lodging for any applicant
13 for employment; or

14 (c) The difference between the amount of money
15 received by any person who furnishes employees, performers, or
16 entertainers for circus, vaudeville, theatrical, or other
17 entertainments, exhibitions, engagements, or performances and
18 the amount paid by him or her to such employee, performer, or
19 entertainer.

20 ~~(7)~~ "Divided fee" means the process by which, without
21 written contractual approval of the artist, any two or more
22 persons receive compensation for placing an artist and the
23 total compensation paid to such agents exceeds the
24 compensation that would have been paid to only one agent
25 acting on behalf of the artist.

26 ~~(8)(4)~~ "Engagement" means any employment or placement
27 of an artist in which, ~~where~~ the artist performs in his or her
28 artistic capacity. ~~However,~~ The term does "engagement" ~~shall~~
29 not apply to procuring opera, music, theater, or dance
30 engagements for any organization defined in s. 501(c)(3) of
31 the Internal Revenue Code or any nonprofit Florida arts

1 organization that has received a grant from the Division of
2 Cultural Affairs of the Department of State or has
3 participated in the state touring program of the Division of
4 Cultural Affairs.

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

8 (10) "Modeling or photographing a minor in the nude in
9 the absence of written permission from the minor's parents or
10 legal guardians" means the visual display of the buttocks,
11 genitals, or female breast, areolae, or nipples of a person
12 under the age of 18 years without having both the parents, if
13 living, or legal guardians, of the minor fully advised of the
14 intended activity and both parents' or guardians' execution of
15 written consent for such visual display of their child or
16 ward.

17 (11)(6) "Operator" means the person who is or who will
18 be in actual charge of a talent agency or an advance-fee
19 talent service.

20 (12)(2) "Owner" means any partner in a partnership,
21 member of a firm, or principal officer or officers of a
22 corporation, whose partnership, firm, or corporation owns a
23 talent agency or an advance-fee talent service, or any
24 individual who is the sole owner of a talent agency or an
25 advance-fee talent service.

26 (13)(9) "Person" means any individual, company,
27 society, firm, partnership, association, corporation, or
28 manager, or any agent or employee of any of the foregoing.

29 (14)(1) "Talent agency" means any business entity or
30 person who, for compensation, engages in the occupation or
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1 business of procuring or attempting to procure engagements for
2 an artist.

3 ~~(5) "Department" means the Department of Business and~~
4 ~~Professional Regulation.~~

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

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

11 Section 2. Section 468.402, Florida Statutes, is
12 amended to read:

13 468.402 Prohibited acts ~~Duties of the department;~~
14 ~~authority to issue and revoke license; adoption of rules.--It~~
15 is unlawful for any agency to:

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

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

21 ~~(1)(b) Violate~~ Violated any provision of this part,
22 ~~chapter 455, any lawful disciplinary order of the department,~~
23 ~~or any rule of the department.~~

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

28 ~~(2)(d) Make, print, publish, distribute, or cause,~~
29 authorize, or knowingly permit ~~Made, printed, published,~~
30 ~~distributed, or caused, authorized, or knowingly permitted the~~
31 ~~making, printing, publication, or distribution of any false~~

1 statement, description, or promise of such a character as to
2 reasonably induce any person to act to his or her damage or
3 injury, if such statement, description, or promises were
4 purported to be performed by the ~~talent~~ agency and if the
5 owner or operator then knew, or by the exercise of reasonable
6 care and inquiry, could have known, of the falsity of the
7 statement, description, or promise.

8 ~~(3)(e)~~ Knowingly commit ~~committed~~ or be ~~been~~ a party
9 to any material fraud, misrepresentation, concealment,
10 conspiracy, collusion, trick, scheme, or device whereby any
11 other person lawfully relying upon the work, representation,
12 or conduct of the talent agency acts or has acted to his or
13 her injury or damage.

14 ~~(4)(f)~~ Fail ~~Failed~~ or refuse ~~refused~~ upon demand to
15 disclose any information, as required by this part, within his
16 or her knowledge, or fail ~~failed~~ or refuse ~~refused~~ to produce
17 any document, book, or record in his or her possession for
18 inspection to any state attorney ~~the department~~ or any
19 authorized agent thereof acting within his or her ~~its~~
20 jurisdiction or by authority of law.

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

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

30 ~~(i)~~ ~~Had a license to operate a talent agency revoked,~~
31 ~~suspended, or otherwise acted against, including, but not~~

1 ~~limited to, having been denied a license for good cause by the~~
2 ~~licensing authority of another state, territory, or country.~~

3 ~~(j) Willfully made or filed a report or record that~~
4 ~~the licensee knew to be false, failed to file a report or~~
5 ~~record required by state or federal law, impeded or obstructed~~
6 ~~such filing, or induced another person to impede or obstruct~~
7 ~~such filing. Such reports or records shall include only those~~
8 ~~that are signed in the licensee's capacity as a licensed~~
9 ~~talent agency.~~

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

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

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

17 ~~(n) Operated with a revoked, suspended, inactive, or~~
18 ~~delinquent license.~~

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

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

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

28 ~~(9)(r)~~ Conspire ~~Conspired~~ with another agency licensee
29 or with any other person to commit an act, ~~or has committed an~~
30 ~~act,~~ that would tend to coerce, intimidate, or preclude
31

1 another agency licensee from advertising its ~~his or her~~
2 services.

3 ~~(10)(s)~~ Solicit ~~Solicited~~ business, either personally
4 or through an agent or ~~through any~~ other person, through the
5 use of fraud or deception or by other means; through the use
6 of misleading statements; or through the exercise of
7 intimidation or undue influence.

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

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

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

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

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

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

28 ~~(b)~~ ~~Permanently revoke or suspend the license of a~~
29 ~~talent agency.~~

30 ~~(c)~~ ~~Impose an administrative fine, not to exceed~~
31 ~~\$5,000, for each count or separate offense.~~

1 ~~(d) Require restitution.~~
2 ~~(e) Issue a public reprimand.~~
3 ~~(f) Place the licensee on probation, subject to such~~
4 ~~conditions as the department may specify.~~

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

9 ~~(7) The department may deny a license if any owner or~~
10 ~~operator listed on the application has been associated with a~~
11 ~~talent agency whose license has been revoked or otherwise~~
12 ~~disciplined.~~

13 Section 3. Section 468.406, Florida Statutes, is
14 amended to read:

15 468.406 Fees to be charged by ~~talent~~ agencies; rates;
16 display.--

17 (1) Each agency applicant ~~for a license~~ shall post
18 ~~file with the application~~ an itemized schedule of maximum
19 fees, charges, and commissions which it intends to charge and
20 collect for its services. ~~This schedule may thereafter be~~
21 ~~raised only by filing with the department an amended or~~
22 ~~supplemental schedule at least 30 days before the change is to~~
23 ~~become effective.~~ The schedule shall be posted in a
24 conspicuous place in each place of business of the agency and
25 shall be printed in not less than a 30-point boldfaced type,
26 except that an agency that uses written contracts containing
27 maximum fee, charge, and commission schedules need not post
28 such schedules.

29 (2) All money collected by a talent agency from an
30 employer for the benefit of an artist shall be paid to the
31 artist, less the talent agency's commission fee, within 7 5

1 business days after the receipt of such money by the talent
2 agency. No talent agency is required to pay money to an artist
3 until the talent agency receives payment from the employer or
4 buyer.

5 Section 4. Section 468.408, Florida Statutes, is
6 amended to read:

7 468.408 Bond required.--

8 (1) ~~Each~~ There shall be filed with the department for
9 ~~each talent agency shall obtain license~~ a bond in the form of
10 a surety by a reputable company engaged in the bonding
11 business and authorized to do business in this state. The bond
12 shall be for the penal sum of ~~\$10,000~~ \$5,000, ~~with one or more~~
13 ~~sureties to be approved by the department,~~ and shall be
14 conditioned ~~on that~~ the agency's conforming applicant conform
15 to and not violating ~~violate~~ any of the duties, terms,
16 conditions, provisions, or requirements of this part.

17 (a) If any person is aggrieved by the misconduct of
18 any ~~talent~~ agency, the person may maintain an action in his or
19 her own name upon the bond of the agency in any court having
20 jurisdiction of the amount claimed. All such claims shall be
21 assignable, and the assignee shall be entitled to the same
22 remedies, upon the bond of the agency or otherwise, as the
23 person aggrieved would have been entitled to if such claim had
24 not been assigned. Any claim or claims so assigned may be
25 enforced in the name of such assignee.

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

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

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

6 468.409 Records required to be kept.--Each ~~talent~~
7 agency shall keep on file the application, registration, and
8 fully executed ~~or~~ contract of each artist. In addition, such
9 file must include the name and address of each artist, the
10 amount of the compensation received, all attempts to promote
11 or advertise the artist, and all attempts to procure
12 engagements for the artist. No such agency or employee thereof
13 shall knowingly make any false entry in applicant files or
14 receipt files. Each card or document in such files shall be
15 preserved for a period of 5 years ~~1 year~~ after the date of the
16 last entry thereon.

17 Section 6. Section 468.410, Florida Statutes, is
18 amended to read:

19 468.410 Prohibition against registration fees;
20 referral; contract requirements--

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

22 (2) An ~~No talent~~ agency may not ~~shall~~, as a condition
23 to registering or obtaining employment for any applicant or
24 artist, require the applicant or artist to subscribe to,
25 purchase, or attend any publication, postcard service,
26 advertisement, resume service, photography service, website
27 service, school, acting school, workshop, acting workshop, or
28 video or audiotapes.

29 (3) A contract is required to be executed between an
30 artist and an agency when the artist and the agency agree to
31 have the agency secure employment for the artist. If the

1 circumstances of the arrangement between the artist and the
2 agency prevent the execution of a contract prior to the first
3 engagement, the artist and the agency must execute the
4 contract within 7 days after the commencement of the first
5 engagement.

6 ~~(4)(3)~~ At the time of execution of a contract, an A
7 talent agency must shall give each artist applicant a copy of
8 the signed or authenticated a contract which lists the
9 services to be provided and the fees or commissions to be
10 charged. The contract shall state that the talent agency is
11 regulated by the department and shall list the address and
12 telephone number of the department.

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

15 (6) Because agencies occupy positions of trust and
16 responsibility to artists, prior to execution of a contract
17 with an artist each agency must provide the artist a copy of a
18 criminal background check of each owner and operator of the
19 agency. The background check shall include, but not be limited
20 to, fingerprinting for all purposes and checks of a statewide
21 criminal records check through the Department of Law
22 Enforcement and may include local criminal records checks
23 through local law enforcement agencies. The background check
24 must have been completed within the previous 12 months.

25 (7) An agency contract that does not conform to this
26 part is voidable by the artist. If an artist voids an agency
27 contract, the artist is not required to pay any consideration
28 or return any consideration received from the agency to induce
29 the artist to enter into the contract.

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

4 (9) An artist may not waive the right to cancel a
5 contract with an agency, and any attempt by an agency to have
6 an artist waive his or her right to cancel the contract is a
7 violation of this part.

8 (10) If an artist cancels a contract with an agency,
9 the artist is not required to pay any consideration or return
10 any consideration received from the agency to induce the
11 artist to enter into the contract.

12 Section 7. Section 468.411, Florida Statutes, is
13 amended to read:

14 468.411 Labor disputes; notice statements
15 required.--An No talent agency may not shall knowingly send
16 any person who has received a motion picture or videotape
17 engagement or any other engagement to any place where a
18 strike, lockout, or other labor dispute is in active progress,
19 without first notifying that person of such conditions.

20 Section 8. Section 468.412, Florida Statutes, is
21 amended to read:

22 468.412 ~~Talent Agency~~ requirements regulations.--

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

27 (2) Each ~~talent~~ agency shall keep records in which
28 shall be entered:

29 (a) The name and address of each artist employing such
30 ~~talent agency.~~

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

3 (c) The employment in which each such artist is
4 engaged at the time of employing such ~~talent~~ agency and the
5 amount of compensation of the artist in such employment, if
6 any, and the employments subsequently secured by such artist
7 during the term of the contract between the artist and the
8 ~~talent~~ agency and the amount of compensation received by the
9 artist pursuant thereto; ~~and~~

10 ~~(d) Other information which the department may require~~
11 ~~from time to time.~~

12 (3) All books, records, and other papers kept pursuant
13 to this part ~~act~~ by any ~~talent~~ agency shall be open at all
14 reasonable hours to the inspection of any state attorney or
15 any authorized agent thereof ~~the department and its agents.~~
16 Each ~~talent~~ agency shall furnish to any state attorney or any
17 authorized agent thereof ~~the department~~, upon request, a true
18 copy of such books, records, and papers, or any portion
19 thereof, ~~and shall make such reports as the department may~~
20 ~~prescribe from time to time.~~

21 ~~(4) Each talent agency shall post in a conspicuous~~
22 ~~place in the office of such talent agency a printed copy of~~
23 ~~this part and of the rules adopted under this part. Such~~
24 ~~copies shall also contain the name and address of the officer~~
25 ~~charged with enforcing this part. The department shall furnish~~
26 ~~to talent agencies printed copies of any statute or rule~~
27 ~~required to be posted under this subsection.~~

28 ~~(4)(5)~~ An ~~No~~ talent agency may not knowingly issue a
29 contract ~~for employment~~ containing any term or condition
30 which, if complied with, would be in violation of law, or
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1 attempt to fill an order for help to be employed in violation
2 of law.

3 ~~(5)(6)~~ An ~~No talent~~ agency may not publish or cause to
4 be published any false, fraudulent, or misleading information,
5 representation, notice, or advertisement. ~~All advertisements~~
6 ~~of a talent agency by means of card, circulars, or signs, and~~
7 ~~in newspapers and other publications, and all letterheads,~~
8 ~~receipts, and blanks shall be printed and contain the licensed~~
9 ~~name, department license number, and address of the talent~~
10 ~~agency and the words "talent agency."~~ An ~~No talent~~ agency may
11 not give any false information or make any false promises or
12 representations concerning an engagement or employment to any
13 applicant who applies for an engagement or employment.

14 ~~(6)(7)~~ An ~~No talent~~ agency may not send or cause to be
15 sent any person as an employee to any house of ill fame, to
16 any house or place of amusement for immoral purposes, to any
17 place resorted to for the purposes of prostitution, to any
18 place for the modeling or photographing of a minor in the nude
19 in the absence of written permission from the minor's parents
20 or legal guardians, the character of which places the ~~talent~~
21 agency could have ascertained upon reasonable inquiry.

22 ~~(7)(8)~~ An ~~No talent~~ agency may not divide fees with
23 anyone, including, but not limited to, an agent or other
24 employee of an employer, a buyer, a casting director, a
25 producer, a director, or any venue that uses entertainment.

26 ~~(8)(9)~~ If an ~~a talent~~ agency collects from an artist a
27 fee or expenses for obtaining a specific engagement or
28 employment for the artist, and the artist fails to procure
29 such specific engagement or employment, or the artist fails to
30 be paid for such specific engagement or employment if
31 procured, such ~~talent~~ agency shall, upon demand therefor,

1 | repay to the artist the fee and expenses so collected. Unless
2 | repayment thereof is made within 48 hours after demand
3 | therefor, the ~~talent~~ agency shall pay to the artist an
4 | additional sum equal to the amount of the fee.

5 | ~~(9)(10)~~ Each ~~talent~~ agency must maintain a permanent
6 | office and must maintain regular operating hours at that
7 | office.

8 | Section 9. Section 468.413, Florida Statutes, is
9 | amended to read:

10 | 468.413 Legal requirements; penalties.--

11 | (1) Each of the following acts related to services
12 | provided by an agency constitutes a felony of the third
13 | degree, punishable as provided in s. 775.082, s. 775.083, or
14 | s. 775.084:

15 | (a) Making, printing, publishing, distributing,
16 | causing, or authorizing, or knowingly permitting the making,
17 | printing, publication, or distribution of, any false
18 | statement, description, or promise of such a character as to
19 | reasonably induce any person to act to his or her damage or
20 | injury, if such statement, description, or promises were
21 | purported to be performed by the agency and if the owner or
22 | operator then knew, or by the exercise of reasonable care and
23 | inquiry, could have known, of the falsity of the statement,
24 | description, or promise.

25 | (b) Knowingly committing or being a party to any
26 | material fraud, misrepresentation, concealment, conspiracy,
27 | collusion, trick, scheme, or device whereby any other person
28 | lawfully relying upon the work, representation, or conduct of
29 | the agency acts or has acted to his or her injury or damage.

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

4 (d) Sending or causing to be sent any person as an
5 employee to any house of ill fame, to any house or place of
6 amusement for immoral purposes, to any place resorted to for
7 the purposes of prostitution, to any place for the modeling or
8 photographing of a minor in the nude in the absence of written
9 permission from the minor's parents or legal guardians, the
10 character of which places the agency could have ascertained
11 upon reasonable inquiry.

12 (e) Committing fraud or deceit in the operation of an
13 agency.

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

17 (g) Soliciting business, either personally or through
18 an agent or other person, through the use of fraud or
19 deception or by other means, through the use of misleading
20 statements, or through the exercise of intimidation or undue
21 influence.

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

25 (i) Committing sexual misconduct as prohibited in s.
26 468.415.

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

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

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

4 ~~(a) Relocating a business as a talent agency, or~~
5 ~~operating under any name other than that designated on the~~
6 ~~license, unless written notification is given to the~~
7 ~~department and to the surety or sureties on the original bond,~~
8 ~~and unless the license is returned to the department for the~~
9 ~~recording thereon of such changes.~~

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

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

16 ~~(a)~~(d) Failing to maintain the records required by s.
17 468.409 or knowingly making false entries in such records.

18 ~~(b)~~(e) Requiring as a condition to registering or
19 obtaining employment or placement for any applicant that the
20 applicant subscribe to, purchase, or attend any publication,
21 postcard service, advertisement, resume service, photography
22 service, website service, school, acting school, workshop, or
23 acting workshop.

24 ~~(c)~~(f) Failing, at the time of execution, to give each
25 artist applicant a copy of the signed or authenticated a
26 contract which lists the services to be provided and the fees
27 or commissions to be charged, ~~which states that the talent~~
28 ~~agency is regulated by the department, and which lists the~~
29 ~~address and telephone number of the department.~~

30 ~~(d)~~(g) Failing to maintain a record sheet as required
31 by s. 468.412(1).

1 ~~(e)(h)~~ Knowingly sending or causing to be sent any
2 artist to a prospective employer or place of business, the
3 character or operation of which employer or place of business
4 the ~~talent~~ agency knows to be in violation of the laws of the
5 United States or of this state.

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

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

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

12 (i) Failing to maintain a bond as required in s.
13 468.408.

14 (j) Violating any provision of this part.

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

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

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

24 (n) Dividing fees with anyone, including, but not
25 limited to, an agent or other employee of an employer, a
26 buyer, a casting director, a producer, a director, or any
27 venue that uses entertainment.

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

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

4 (q) Failing or refusing upon demand to disclose any
5 information, as required by this part, within his or her
6 knowledge, or failing or refusing to produce any document,
7 book, or record in his or her possession for inspection, to
8 any state attorney or any authorized agent thereof acting
9 within the jurisdiction of the state attorney or by authority
10 of law.

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

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

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

17 (u) Failing to return fees as provided in s.
18 468.412(8).

19 (v) Failing to maintain records as provided in s.
20 468.409.

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

25 ~~(3)(4)~~ In the event ~~the department or~~ any state
26 attorney shall have probable cause to believe that an a talent
27 agency or other person has violated any provision of
28 subsection (1) or subsection (2), an action may be brought by
29 the ~~department or any~~ state attorney to enjoin such ~~talent~~
30 agency or any person from continuing such violation, or
31 engaging therein or doing any acts in furtherance thereof, and

1 for such other relief as to the court seems appropriate. ~~In~~
2 ~~addition to this remedy, the department may assess a penalty~~
3 ~~against any talent agency or any person in an amount not to~~
4 ~~exceed \$1,000.~~

5 Section 10. Section 468.415, Florida Statutes, is
6 amended to read:

7 468.415 Sexual misconduct in the operation of a talent
8 agency or an advance-fee talent service.--The ~~talent~~
9 agent-artist relationship between a talent agency or an
10 advance-fee talent service and an artist is founded on mutual
11 trust. Sexual misconduct in the operation of a talent agency
12 or an advance-fee talent service means violation of the ~~talent~~
13 agent-artist relationship through which the talent agency or
14 advance-fee talent service or owner, operator, or employee of
15 the agency or service ~~agent~~ uses the relationship to induce or
16 attempt to induce the artist to engage or attempt to engage in
17 sexual activity. Sexual misconduct is prohibited in the
18 operation of a talent agency or an advance-fee talent service.
19 ~~If any agent, owner, or operator of a licensed talent agency~~
20 ~~is found to have committed sexual misconduct in the operation~~
21 ~~of a talent agency, the agency license shall be permanently~~
22 ~~revoked. Such agent, owner, or operator shall be permanently~~
23 ~~disqualified from present and future licensure as owner or~~
24 ~~operator of a Florida talent agency.~~

25 Section 11. Section 468.416, Florida Statutes, is
26 created to read:

27 468.416 Judicial enforcement.--In addition to other
28 penalties provided in this part, state attorneys and their
29 assistants are authorized to apply to the court of competent
30 jurisdiction within their respective jurisdictions, upon the
31 sworn affidavit of any person alleging a violation of any of

1 the provisions of this part. Such court shall have
2 jurisdiction, upon hearing and for cause shown, to grant a
3 temporary or permanent injunction restraining any person from
4 violating any provision of this part, whether or not there
5 exists an adequate remedy at law; and such injunction shall
6 issue without bond.

7 Section 12. Section 468.417, Florida Statutes, is
8 created to read:

9 468.417 Civil actions.--Any person injured by a
10 prohibited act or practice in violation of this part may bring
11 a civil action in circuit court for temporary or permanent
12 injunctive relief and may seek appropriate civil relief,
13 including, but not limited to, a civil penalty not to exceed
14 \$5,000 for each violation, restitution and treble damages for
15 injured parties, and court costs and reasonable attorney's
16 fees.

17 Section 13. The regulation of talent agencies by the
18 Department of Business and Professional Regulation is
19 abolished. Any funds and balances associated with the
20 regulation of talent agencies remaining in the Professional
21 Regulation Trust Fund after the effective date of this act
22 shall be used to pay any remaining expenses associated with
23 this regulation. Any funds or balances remaining in the trust
24 fund after January 1, 2005, shall be transferred to the
25 General Revenue Fund.

26 Section 14. The Department of Business and
27 Professional Regulation may continue to prosecute any legal
28 proceedings and related administrative cases that are in
29 existence on the effective date of this act.

30 Section 15. Sections 468.403, 468.404, 468.405,
31 468.407, and 468.414, Florida Statutes, are repealed.

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

2

3 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
4 COMMITTEE SUBSTITUTE FOR
5 Senate Bill 2408

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6 The CS further clarifies the definition of "advance-fee talent
7 service" created by the bill.

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