

Bill No. CS for SB 750

Barcode 410688

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Baker) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Part VII of chapter 468, Florida Statutes, consisting of sections 468.401, 468.402, 468.403, 468.404, 468.405, 468.406, 468.407, 468.408, 468.409, 468.410, 468.411, 468.412, 468.413, 468.414, and 468.415, is repealed.

Section 2. Definitions.--As used in sections 2 through 7 of this act, the term:

(1) "Advance-fee talent service" means a service practiced by a person or business entity, or the person's or business entity's employees or authorized agents, which charges, attempts to charge, or receives an advance fee from an artist for the purpose of promoting, but not procuring, the employment or engagement of the artist. Promoting the employment or engagement of an artist includes, but is not limited to, the following activities:

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1 (a) Promoting or advertising an artist to a casting
2 director, talent agency, talent manager, or any other person
3 represented to be in a position to offer assistance in
4 procuring engagements or employment for the artist.

5 (b) Promoting or advertising an artist by using the
6 Internet, trade publications, or other media.

7 (c) Registering or listing an artist for employment in
8 the entertainment industry or as a customer of the advance-fee
9 talent service.

10 (d) Managing, directing, developing, or advancing the
11 artist's career.

12 (e) Preparing the artist for employment through career
13 counseling or consulting, vocational guidance, aptitude
14 testing, or evaluation.

15 (2) "Advance fee" means a fee that is due from or paid
16 by an artist before the artist obtains employment as an artist
17 or before the artist receives earnings as an artist. An
18 advance fee also includes money paid by the artist which
19 exceeds the earnings received by the artist.

20 (a) An advance fee does not include reimbursement for
21 out-of-pocket costs actually incurred by an advance-fee talent
22 service on behalf of the artist when paying for services
23 rendered or goods provided to the artist by an independent
24 third party if all of the following conditions are met:

25 1. The advance-fee talent service does not have a
26 direct or an indirect financial interest in the third party.

27 2. The advance-fee talent service does not accept a
28 referral fee or other consideration from the third party.

29 3. The services rendered or goods provided for the
30 out-of-pocket costs are not represented to be, and are not, a
31 condition for the advance-fee talent service to register or

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1 list the artist with the advance-fee talent service.

2 4. The advance-fee talent service maintains adequate
3 records documenting that any amount to be reimbursed to the
4 advance-fee talent service was actually advanced or owed to a
5 third party, that the third party is not a person in which the
6 advance-fee talent service has a direct or indirect financial
7 interest, and that the advance-fee talent service did not
8 receive any consideration for referring the artist.

9 (b) The burden of producing evidence to support a
10 defense based upon an exemption or an exception provided in
11 paragraph (a) is on the advance-fee talent service claiming
12 the exemption or exception.

13 (3) "Artist" means a person who seeks to become or is
14 an actor, actress, director, writer, cinematographer,
15 composer, lyricist, arranger, model, extra, or other person
16 rendering professional services on the legitimate stage or in
17 the production of motion pictures, radio productions,
18 musicals, television productions, print advertisements, or
19 other entertainment enterprises.

20 (4) "Buyer" or "employer" means a person, company,
21 partnership, corporation, or other business entity that uses
22 the services of a talent agency or advance-fee talent service.

23 (5) "Compensation" means any one or more of the
24 following:

25 (a) Money or other valuable consideration paid or
26 promised to be paid for services rendered by an individual
27 conducting the business of a talent agency or an advance-fee
28 talent service;

29 (b) Money received by a person in excess of that which
30 has been paid by the person for transportation, transfer of
31 baggage, or board and lodging for an applicant for employment;

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1 or

2 (c) The difference between the amount of money
3 received by a person who furnishes employees, performers, or
4 entertainers for circus, vaudeville, theatrical, or other
5 entertainments, exhibitions, engagements, or performances and
6 the amount paid by the person to an employee, performer, or
7 entertainer.

8 (6) "Divided fee" means the process by which, without
9 written contractual approval of the artist, any two or more
10 persons receive compensation for performing services for an
11 artist and the total compensation paid to these persons
12 exceeds the compensation that would have been paid to only one
13 person acting on behalf of the artist.

14 (7) "Engagement" means any employment or placement of
15 an artist during which the artist performs in his or her
16 artistic capacity. The term does not apply to procuring opera,
17 music, theater, or dance engagements for any nonprofit
18 organization defined in s. 501(c)(3) of the Internal Revenue
19 Code or any nonprofit arts organization in this state which
20 has received a grant from the Division of Cultural Affairs of
21 the Department of State or has participated in the state
22 touring program of the Division of Cultural Affairs.

23 (8) "Operator" means the person who is or who will be
24 in actual charge of a talent agency or an advance-fee talent
25 service.

26 (9) "Owner" means a partner in a partnership, member
27 of a firm, or one or more principal officers of a corporation
28 whose partnership, firm, or corporation owns a talent agency
29 or an advance-fee talent service, or an individual who is the
30 sole owner of a talent agency or an advance-fee talent
31 service.

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1 (10) "Talent agency" or "agency" means a business
 2 entity or person who, for compensation, engages in the
 3 occupation or business of procuring or attempting to procure
 4 engagements for an artist and includes the agency's employees
 5 and authorized agents.

6 Section 3. Bond required.--

7 (1) Each talent agency or advance-fee talent service
 8 shall obtain a bond in the form of a surety by a reputable
 9 company engaged in the bonding business which is authorized to
 10 do business in this state. The bond must be for the penal sum
 11 of not less than \$10,000 and be conditioned on the talent
 12 agency or advance-fee talent service conforming to and not
 13 violating any duty, term, condition, provision, or requirement
 14 of this act.

15 (2) A talent agency or advance-fee talent service must
 16 provide the artist with a copy of the bond.

17 (3) If a person fails to obtain or maintain a bond
 18 according to this section, the person commits:

19 (a) A misdemeanor of the second degree for a first
 20 violation, punishable as provided in section 775.082 or
 21 section 775.083, Florida Statutes.

22 (b) A misdemeanor of the first degree for a second
 23 violation, punishable as provided in section 775.082 or
 24 section 775.083, Florida Statutes.

25 (c) A felony of the third degree for a third or
 26 subsequent violation, punishable as provided in section
 27 775.082, section 775.083, or section 775.084, Florida
 28 Statutes.

29 Section 4. Office and records.--

30 (1) A talent agency or advance-fee talent service must
 31 maintain a permanent office and must maintain regular

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1 operating hours at that office. The office shall not be
2 located on or within any property where intoxicating liquor is
3 sold, where gambling is permitted, or where acts of
4 prostitution are committed.

5 (2) A talent agency or advance-fee talent service must
6 keep on file the application, registration, and fully executed
7 contract of each artist that the talent agency or advance-fee
8 talent service represents. The artist file of a talent agency
9 must also include the total amount of compensation received by
10 the artist, the amount of compensation received by the artist
11 for each performance, and documentation of all attempts made
12 by the talent agency to procure engagements for the artist.
13 The artist file of an advance-fee talent service must also
14 include documentation of all attempts to promote or advertise
15 the artist.

16 (3) A talent agency or advance-fee talent service
17 shall not knowingly make a false entry in an applicant's file
18 or receipt file.

19 (4) Each document in the file must be preserved for a
20 period of not less than 5 years after the date of the last
21 entry entered into the file.

22 (5)(a) All books, records, and other papers kept under
23 this act by a talent agency or advance-fee talent service must
24 be open to the inspection of a state attorney, or the state
25 attorney's authorized agent, at any reasonable hour. The
26 talent agency or advance-fee talent service must give the
27 state attorney a true copy of the books, records, and papers,
28 or any portion thereof, when so requested.

29 (b) A person may not refuse to disclose any
30 information within his or her knowledge as required by this
31 subsection, or fail or refuse to produce any document, book,

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1 or record for inspection which is in his or her possession, to
2 a state attorney or the state attorney's authorized agent.

3 (c) If a person fails or refuses to disclose
4 information to a state attorney as required by this
5 subsection, the person commits:

6 1. A misdemeanor of the second degree for a first
7 violation, punishable as provided in section 775.082 or
8 section 775.083, Florida Statutes.

9 2. A misdemeanor of the first degree for a second
10 violation, punishable as provided in section 775.082 or
11 section 775.083, Florida Statutes.

12 3. A felony of the third degree for a third or
13 subsequent violation, punishable as provided in section
14 775.082, section 775.083, or section 775.084, Florida
15 Statutes.

16 (6) A talent agency must maintain records that contain
17 all of the following information or documents:

18 (a) The name and current address of each artist
19 employing the talent agency.

20 (b) The amount of commissions the talent agency has
21 received from each artist.

22 (c) A record sheet for each engagement obtained by the
23 talent agency. The record sheet is the only record required to
24 show engagements. The record sheet must be kept in the
25 artist's file for a period of not less than 5 years after the
26 date of the last record sheet that was posted in the artist's
27 file.

28 (d) The engagement the artist was performing in at the
29 time the artist was retained by the talent agency. The
30 documents must include the amount of compensation received by
31 the artist from this engagement.

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1 (e) The engagements the talent agency procured for the
 2 artist after the artist and talent agency entered into a
 3 contract. The documents must include the amount of
 4 compensation received by the artist from the engagements
 5 obtained for the artist during the life of the contract.

6 (7) An advance-fee talent service must maintain
 7 records that contain all of the following information or
 8 documents:

9 (a) The name and current address of each artist
 10 employing the advance-fee talent service.

11 (b) The amount of the advance fees paid by or for the
 12 artist during the term of the contract with the advance-fee
 13 talent service.

14 (c) A record of all efforts made in promoting the
 15 artist. A record of each effort to promote the artist must be
 16 maintained in the artist's file for a period of not less than
 17 5 years after the effort to promote the artist was made.

18 (8)(a) If a person fails to maintain a permanent
 19 office and keep regular hours at that office, fails to
 20 maintain records and files as required by this subsection, or
 21 knowingly makes false entries in an artist's files, the person
 22 commits:

23 1. A misdemeanor of the second degree for a first
 24 violation, punishable as provided in section 775.082 or
 25 section 775.083, Florida Statutes.

26 2. A misdemeanor of the first degree for a second
 27 violation, punishable as provided in section 775.082 or
 28 section 775.083, Florida Statutes.

29 3. A felony of the third degree for a third or
 30 subsequent violation, punishable as provided in section
 31 775.082, section 775.083, or section 775.084, Florida

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1 Statutes.

2 (b) If a person establishes or keeps an office where
3 intoxicating liquor is sold, where gambling is permitted, or
4 where acts of prostitution are committed, the person commits a
5 felony of the second degree, punishable as provided in section
6 775.082, section 775.083, or section 775.084, Florida

7 Statutes.

8 Section 5. Contracts and fees.--

9 (1)(a) A talent agency or advance-fee talent service
10 shall post an itemized schedule of maximum fees, charges, or
11 commissions that it intends to charge and collect for its
12 services. The schedule must be posted in a conspicuous place
13 in each place of business. The schedule must be printed in not
14 less than 30-point boldfaced type.

15 (b) A talent agency that uses a written contract
16 containing a schedule of its maximum fees, charges, and
17 commissions is not required to post the schedule.

18 (c) If a person fails to post in a conspicuous place a
19 schedule of the itemized fees, charges, and commissions, if
20 required to do so, the person commits:

21 1. A misdemeanor of the second degree for a first
22 violation, punishable as provided in section 775.082 or
23 section 775.083, Florida Statutes.

24 2. A misdemeanor of the first degree for a second
25 violation, punishable as provided in section 775.082 or
26 section 775.083, Florida Statutes.

27 3. A felony of the third degree for a third or
28 subsequent violation, punishable as provided in section
29 775.082, section 775.083, or section 775.084, Florida

30 Statutes.

31 (2) An artist and a talent agency or advance-fee

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1 talent service must enter into a written contract when the
 2 parties agree that a talent agency or advance-fee talent
 3 service shall perform services for the artist. If the
 4 circumstances of the arrangement between the artist and the
 5 talent agency or advance-fee talent service prevent the
 6 execution of a contract before the artist performs, the artist
 7 and the talent agency or advance-fee talent service must
 8 execute the contract no later than 7 days after the first
 9 performance.

10 (3) The contract must incorporate the full agreement
 11 between the artist and the talent agency or advance-fee talent
 12 service, be contained in a single document, and include the
 13 elements set forth in this section.

14 (4) Each contract between an artist and an advance-fee
 15 talent service must contain all of the following provisions:

16 (a) A description of the specific services to be
 17 performed by the advance-fee talent service, the duration of
 18 the contract, and the refund provisions if the services are
 19 not provided according to the contract.

20 (b) A statement of the fees that the advance-fee
 21 talent service will charge to or collect from the artist
 22 receiving the services and the date or dates when the artist
 23 must pay the fees.

24 (c) The following statement, in type no smaller than
 25 10-point boldfaced type and in close proximity to the artist's
 26 signature, must be included in each advance-fee talent service
 27 contract:

28
 29 RIGHT TO REFUND

30
 31 If you pay in advance all or any portion of a

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1 fee charged to you by (name of advance-fee
2 talent service) and you fail to receive the
3 services promised to you or that you were led
4 to believe would be performed, (name of
5 advance-fee talent service) shall, upon your
6 request, return the full amount paid by you
7 within 48 hours after your request for a
8 refund. If the refund is not made within 48
9 hours, (name of advance-fee talent service)
10 shall also pay to you, in addition to the
11 refund due to you, a sum equal to the amount of
12 the refund.

YOUR RIGHT TO CANCEL

(enter date of transaction)

17 You may cancel this contract for advance-fee
18 talent services without any penalty or
19 obligation if you give notice of the
20 cancellation, in writing, no later than 14 days
21 after the date of the transaction stated above.
22 If you wish to cancel the contract, you must
23 mail or deliver a signed and dated copy of the
24 following cancellation notice, another written
25 document notifying the advance-fee talent
26 service that you intend to cancel the contract,
27 or send a telegram, fax, or e-mail notifying
28 the advance-fee talent service that you intend
29 to cancel the contract, to (name of advance-fee
30 talent service) at (address of its place of
31 business) NOT LATER THAN MIDNIGHT AFTER (enter

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1 the date).

2

3 ONLY A TALENT AGENCY MAY ENGAGE IN THE
4 OCCUPATION OF PROCURING, OFFERING, PROMISING,
5 OR ATTEMPTING TO PROCURE EMPLOYMENT OR
6 ENGAGEMENTS FOR AN ARTIST.

7

8 CANCELLATION NOTICE

9

10 I hereby cancel this contract.

11

12 Dated:

13

14

15 Artist Signature.

16

17 (5) A talent agency or advance-fee talent service must
18 give each artist a copy of the signed or authenticated
19 contract listing the services to be provided and the fees,
20 charges, or commissions to be charged at the time the contract
21 is signed.

22

23 (6) A talent agency or advance-fee talent service must
24 give each artist a copy of this act at the time the contract
is signed.

25

26 (7)(a) Each employee, agent, owner, operator, or other
27 person who is acting as or has a financial interest in a
28 talent agency or advance-fee talent service must submit a full
29 set of fingerprints as required by paragraph (b) and must
30 obtain and maintain the letter provided for in paragraph (d)
31 before owning, operating, soliciting business, or otherwise
engaging in or carrying on the business of a talent agency or

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1 advance-fee talent service in this state.

2 (b) Each owner of a talent agency or advance-fee
3 talent service shall submit to the Department of Business and
4 Professional Regulation a full set of fingerprints, along with
5 the appropriate fee for processing, of each employee, agent,
6 owner, operator, or other person having a financial interest
7 in the talent agency or advance-fee talent service.

8 (c) The fingerprint card or electronic fingerprints
9 must be forwarded to the Division of Criminal Justice
10 Information Systems within the Department of Law Enforcement
11 for purposes of processing the fingerprints to determine if
12 the applicant has a criminal history record. The fingerprints
13 must also be forwarded to the Federal Bureau of Investigation
14 for purposes of processing the fingerprints to determine if
15 the applicant has a criminal history record. The information
16 obtained by the processing of the fingerprints by the
17 Department of Law Enforcement and the Federal Bureau of
18 Investigation shall be sent to the Department of Business and
19 Professional Regulation for the purpose of determining if any
20 employee, agent, owner, operator, or other person having a
21 financial interest in the talent agency or advance-fee talent
22 service has been convicted of sexual battery, lewd acts, or
23 other sexual misconduct proscribed in chapter 800, Florida
24 Statutes, or in section 794.011, section 827.071, section
25 847.012, section 847.0125, section 847.013, section 847.0133,
26 or section 847.0145, Florida Statutes.

27 (d) Upon receipt and review of each criminal history
28 record, the Department of Business and Professional Regulation
29 shall, within 30 days, issue a letter to the talent agency or
30 advance-fee talent service notifying the talent agency or
31 advance-fee talent service of the results of the criminal

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1 history record and whether a disqualifying offense is a part
2 of the criminal history record of the individual.

3 (e) Each talent agency and advance-fee talent service
4 must give the artist a copy of the letter issued by the
5 Department of Business and Professional Regulation under
6 paragraph (d) before executing a contract with an artist. The
7 letter must have been issued within the previous 36 months.

8 (f) If any employee, agent, owner, operator, or other
9 person who is acting as or has a financial interest in a
10 talent agency or advance-fee talent service fails to submit
11 fingerprints for the background check as required by this
12 subsection, the person commits a felony of the second degree,
13 punishable as provided in section 775.082, section 775.083, or
14 section 775.084, Florida Statutes.

15 (8)(a) All money collected by a talent agency from an
16 employer or buyer for the benefit of an artist must be paid to
17 the artist within 7 business days after receiving the money
18 from the employer. The talent agency may reduce the amount
19 paid to the artist by the talent agency's commission.

20 (b) A talent agency is not required to pay money to an
21 artist until the talent agency receives payment from the
22 employer or buyer.

23 (9) A contract entered into by a talent agency or
24 advance-fee talent service which does not conform to this act
25 is voidable by the artist. If an artist voids a contract with
26 a talent agency or advance-fee talent service, the artist is
27 not required to pay or return any consideration received from
28 the talent agency or advance-fee talent service to induce the
29 artist to enter into the contract.

30 (10) An artist may cancel a contract with a talent
31 agency or advance-fee talent service by giving written notice

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1 of the cancellation to the talent agency or advance-fee talent
2 service no later than 14 days after the date of transaction.

3 If an artist cancels a contract, the artist is not required to
4 pay or return any consideration received from the talent
5 agency or advance-fee talent service to induce the artist to
6 enter into the contract.

7 (11) An artist shall not waive the right to cancel a
8 contract with a talent agency or advance-fee talent service as
9 provided in this act. Any attempt by a talent agency or
10 advance-fee talent service to induce an artist to waive the
11 artist's right to cancel the contract is a violation of this
12 act.

13 (12)(a) If an artist gives consideration to a talent
14 agency to be used for expenses to obtain a specific engagement
15 or employment and the talent agency fails to procure the
16 specific engagement or employment for the artist, the talent
17 agency shall, upon the artist's demand, repay all
18 consideration paid by the artist.

19 (b) The talent agency must refund the consideration to
20 the artist no later than 48 hours after receiving the demand
21 from the artist. If the talent agency does not refund the
22 artist within the prescribed time period, the talent agency
23 must pay the artist a penalty that is equal to the amount of
24 all consideration paid to the talent agency.

25 (13) An advance-fee talent service must refund fees as
26 follows:

27 (a) If the artist does not receive the services
28 promised or the services the artist was led to believe would
29 be performed, the advance-fee talent service must, upon the
30 artist's demand, refund the artist any fees collected by the
31 advance-fee talent service for those services. The advance-fee

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1 talent service must make the refund to the artist no later
 2 than 48 hours after the artist demands the refund. If the
 3 advance-fee talent service does not refund the artist within
 4 the prescribed time period, the advance-fee talent service
 5 must pay the artist a penalty that is equal to the amount of
 6 all fees paid to the advance-fee talent service.

7 (b) If an artist cancels the contract, the advance-fee
 8 talent service must refund in full all fees paid by the
 9 artist. The advance-fee talent service must refund the fees no
 10 later than 14 days after the artist cancels the contract. If
 11 the advance-fee talent service does not refund the artist
 12 within the prescribed time period, the advance-fee talent
 13 service must pay the artist a penalty that is equal to the
 14 amount of all fees paid to the advance-fee talent service.

15 (14) A talent agency or advance-fee talent service
 16 that violates this section commits:

17 (a) A misdemeanor of the second degree for a first
 18 violation, punishable as provided in section 775.082 or
 19 section 775.083, Florida Statutes.

20 (b) A misdemeanor of the first degree for a second
 21 violation, punishable as provided in section 775.082 or
 22 section 775.083, Florida Statutes.

23 (c) A felony of the third degree for a third or
 24 subsequent violation, punishable as provided in section
 25 775.082, section 775.083, or section 775.084, Florida
 26 Statutes.

27 Section 6. Prohibitions and penalties.--

28 (1)(a) A person, business entity, talent agency, or
 29 advance-fee talent service shall not accept an advance fee for
 30 procuring, offering, promising, or attempting to procure
 31 employment or engagements for an artist.

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1 (b) A person, business entity, talent agency, or
 2 advance-fee talent service that violates this subsection
 3 commits a felony of the second degree, punishable as provided
 4 in section 775.082, section 775.083, or section 775.084,
 5 Florida Statutes.

6 (2)(a) An advance-fee talent service shall not make
 7 any false statement, representation, promise, or implication
 8 by its choice of name that it is a talent agency. An
 9 advance-fee talent service shall not state, promise, or
 10 represent that it will procure, or attempt to procure,
 11 employment or engagements for the artist.

12 (b) A person or advance-fee talent service that
 13 violates this subsection commits a felony of the second
 14 degree, punishable as provided in section 775.082, section
 15 775.083, or section 775.084, Florida Statutes.

16 (3)(a) A person, talent agency, or advance-fee talent
 17 service, or an owner, operator, employee, or agent of a talent
 18 agency or advance-fee talent service, shall not:

19 1. Give an artist false information, make a false
 20 promise or misrepresentation concerning any engagement or
 21 employment, or make a false or misleading verbal or written
 22 promise or guarantee of any engagement as an artist.

23 2. Print, publish, distribute, or cause, authorize, or
 24 knowingly permit the making, printing, publication, or
 25 distribution of any false statement, description, or promise
 26 that would reasonably induce a person to act to his or her
 27 damage or injury.

28 3. Knowingly commit, or be a party to, any material
 29 fraud, misrepresentation, concealment, conspiracy, collusion,
 30 trick, scheme, or device whereby any other person lawfully
 31 relying upon the work, representation, or conduct of the

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1 talent agency or advance-fee talent service acts or has acted
2 to his or her injury or damage.

3 4. Commit fraud or deceit in the operation of a talent
4 agency or advance-fee talent service.

5 5. Conspire with another talent agency or advance-fee
6 talent service or with another person to commit an act that
7 coerces, intimidates, or precludes another talent agency or
8 advance-fee talent service from advertising its services.

9 6. Solicit business, either personally or through any
10 other person, using fraud, deception, or misleading statements
11 or through the exercise of intimidation or undue influence.

12 7. Exercise undue influence on the artist in order to
13 exploit the artist for the financial gain of the talent
14 agency, advance-fee talent service, or a third party.

15 8. Commit sexual misconduct with an artist. An owner,
16 operator, employee, or agent of the talent agency or
17 advance-fee talent service shall not use the artist-agent
18 relationship to induce or attempt to induce the artist to
19 engage or attempt to engage in sexual activity.

20 9. Employ an employee, agent, owner, operator, or
21 other person with a financial interest who has been convicted
22 of sexual battery, lewd acts, or other sexual misconduct
23 proscribed in chapter 800, Florida Statutes, or in section
24 794.011, section 827.071, section 847.012, section 847.0125,
25 section 847.013, section 847.0133, or section 847.0145,
26 Florida Statutes.

27 10.a. Send, or cause to send, an artist to a house of
28 ill fame, a house or place of amusement for immoral purposes,
29 a place where prostitution is performed, or a place for the
30 modeling or photographing of a minor in the nude, the
31 character of which could have been ascertained upon reasonable

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1 inquiry by the talent agency or advance-fee talent service.

2 b. For the purposes of this paragraph, the term
3 "modeling or photographing of a minor in the nude" means the
4 visual display of the buttocks, genitals, or female breast,
5 areolae, or nipples of a person younger than 18 years of age.

6 c. This subparagraph does not apply if both parents or
7 the legal guardian of the minor are fully advised of the
8 intended activity and both parents or the guardian execute a
9 written consent for the visual display of their child or ward.

10 11. Fail to submit to the fingerprint background check
11 when required by this act.

12 (b) A person, talent agency, or advance-fee talent
13 service that violates this subsection commits a felony of the
14 second degree, punishable as provided in section 775.082,
15 section 775.083, or section 775.084, Florida Statutes.

16 (4)(a) A person, talent agency, or advance-fee talent
17 service shall not:

18 1. Make, or cause to be made, any false, misleading,
19 or deceptive advertisement or representation concerning the
20 services the artist will receive or the costs the artist will
21 incur.

22 2. Publish or cause to be published any false,
23 fraudulent, or misleading information, representation, notice,
24 or advertisement.

25 3. Charge, collect, or receive compensation for any
26 service performed by the talent agency or advance-fee talent
27 service greater than the charge, fee, or compensation
28 specified in its schedule of maximum fees, charges, and
29 commissions.

30 4. Advertise goods or services in a manner that is
31 fraudulent, false, deceptive, or misleading in form or

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1 content.

2 5. Permit, aid, assist, procure, or advise a person to
3 operate a talent agency or advance-fee talent service contrary
4 to this act.

5 6. Fail to perform any statutory or legal obligation
6 required by law for a talent agency or advance-fee talent
7 service.

8 7. Require the applicant or artist to subscribe to or
9 purchase any publication, postcard service, advertisement,
10 resume service, photography service, website service, or video
11 or audiotapes, or attend any school, acting school, workshop,
12 or acting class as a condition to performing services for an
13 applicant or artist.

14 8. Charge or attempt to charge, directly or
15 indirectly, an artist for creating or providing photographs,
16 filmstrips, videotapes, audition tapes, demonstration reels,
17 talent brochures, or other reproductions of the artist, or for
18 providing costumes, lessons, coaching, or similar training for
19 the artist.

20 9. Refer an artist to a person who charges the artist
21 a fee for the services described in this act in which the
22 talent agency or advance-fee talent service has a direct or
23 indirect financial interest.

24 10. Accept any compensation for referring an artist to
25 a person charging the artist a fee for the services described
26 in this act.

27 11. Knowingly issue a contract containing any term or
28 condition that, if complied with, would be in violation of
29 law.

30 12. Knowingly send or influence an artist to go to a
31 prospective employer or place of business the character or

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1 operation of which the talent agency or advance-fee talent
2 service knows to be in violation of the laws of the United
3 States or this state.

4 13. Divide fees with anyone, including, but not
5 limited to, an agent or other employee of an employer, buyer,
6 casting director, producer, or director.

7 14. Fail to maintain records required by this act or
8 knowingly making false entries in the records.

9 15. Fail, either before or at the time of executing a
10 contract, to give the artist a copy of the signed or
11 authenticated contract listing the services to be provided; an
12 itemized schedule of maximum fees, charges, and commissions
13 that it intends to charge and collect for its services; a copy
14 of this act; a copy of the letter from the Department of
15 Business and Professional Regulation indicating the results of
16 the criminal history record; and a copy of a bond.

17 16. Charge a registration fee, except as permitted for
18 advance-fee talent services.

19 17. Fail to notify an artist that there is a strike,
20 lockout, or other labor dispute in active progress before
21 sending the artist to an engagement.

22 (b) A person, talent agency, or advance-fee talent
23 service that violates this subsection commits:

24 1. A misdemeanor of the second degree for a first
25 violation, punishable as provided in section 775.082 or
26 section 775.083, Florida Statutes.

27 2. A misdemeanor of the first degree for a second
28 violation, punishable as provided in section 775.082 or
29 section 775.083, Florida Statutes.

30 3. A felony of the third degree for a third or
31 subsequent violation, punishable as provided in section

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1 775.082, section 775.083, or section 775.084, Florida
2 Statutes.

3 Section 7. Remedies.--

4 (1)(a) If a state attorney believes there is probable
5 cause that a talent agency, advanced-fee talent service, or
6 other person has violated subsection (1), subsection (2), or
7 subsection (3) of section 6 of this act, the state attorney
8 may file a civil action in the circuit court to enjoin the
9 talent agency, advanced-fee talent service, or other person
10 from continuing the violation or doing any act in furtherance
11 thereof, and for such other relief as the court deems
12 appropriate.

13 (b) A state attorney may file a civil action in
14 circuit court upon the sworn affidavit of a person alleging a
15 violation of this act. The court may grant a temporary or
16 permanent injunction restraining any talent agency,
17 advanced-fee talent service, or other person from violating
18 this act and the injunction shall issue without bond.

19 (2)(a) If an artist or other person is injured by the
20 misconduct of a talent agency or advance-fee talent service,
21 the artist may file a civil action in his or her own name upon
22 the bond of the talent agency or advance-fee talent service in
23 any court having jurisdiction of the amount claimed.

24 (b) The artist or other person filing the complaint
25 may bring the action for temporary or permanent injunctive
26 relief and may seek other relief, including, but not limited
27 to, restitution for damages, court costs, a civil penalty not
28 to exceed \$5,000 for each violation, treble damages for
29 injured parties, and reasonable attorney's fees.

30 (c) Any claim made by an artist or other person is
31 assignable, and the assignee is entitled to the same remedies

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1 upon the bond of the talent agency or advance-fee talent
 2 service or otherwise as the artist or other person aggrieved
 3 would be entitled to if the claim had not been assigned. A
 4 claim so assigned may be enforced in the name of the assignee.

5 (3) The remedies provided in this section are
 6 cumulative and not exclusive of any other remedy provided by
 7 law.

8 Section 8. The regulation of talent agencies by the
 9 Department of Business and Professional Regulation is
 10 abolished. Any funds and balances associated with the
 11 regulation of talent agencies remaining in the Professional
 12 Regulation Trust Fund after July 1, 2005, shall be used to pay
 13 any remaining expenses associated with this regulation. The
 14 department shall rebate talent agency license fees, on a pro
 15 rata basis, for the period beginning July 1, 2005, through the
 16 period for which license fees have been paid. If the account
 17 is in a deficit balance, the funds shall be provided from the
 18 General Revenue Fund. Another profession regulated by the
 19 Department of Business and Professional Regulation shall not
 20 be assessed the cost of any refund. Any funds or balances
 21 remaining in the trust fund after January 1, 2006, shall be
 22 transferred to the General Revenue Fund.

23 Section 9. The Department of Business and Professional
 24 Regulation may continue to prosecute any legal proceedings and
 25 related administrative cases that are pending on July 1, 2005.

26 Section 10. This act shall take effect July 1, 2005.

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 28

29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 Delete everything before the enacting clause

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1 and insert:

2 A bill to be entitled

3 An act relating to talent agencies and

4 advance-fee talent services; repealing part VII

5 of ch. 468, F.S., relating to the regulation of

6 talent agencies; providing definitions;

7 requiring each talent agency and advance-fee

8 talent service to obtain a surety bond for a

9 specified amount; requiring each talent agency

10 and advance-fee talent service to give each

11 artist a copy of the bond; providing criminal

12 penalties for failing to comply with the

13 bonding requirements; requiring each talent

14 agency and advance-fee talent service to

15 maintain a permanent office during certain

16 specified hours; directing that certain

17 records, with specified information in them, be

18 kept for each artist; requiring that records be

19 maintained for a specified period; directing

20 that all records of a talent agency and

21 advance-fee talent service be open to the

22 inspection of a state attorney; requiring that

23 the talent agency or advance-fee talent service

24 give the state attorney a copy of the records

25 when so requested; providing criminal penalties

26 if the talent agency or advance-fee talent

27 service fails or refuses to disclose

28 information to a state attorney; providing

29 criminal penalties for failing to comply with

30 the requirements pertaining to records;

31 directing a talent agency or advance-fee talent

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1 service to post an itemized schedule of maximum
2 fees, charges, or commissions that it intends
3 to charge and collect for its services;
4 providing for the location for posting of the
5 schedule; providing criminal penalties for
6 failing to post the fee schedule; requiring
7 that an artist and a talent agency or
8 advance-fee talent service enter into a written
9 contract when such entity agrees to perform
10 services for the artist; providing an exception
11 under specified circumstances; providing for
12 the content of the written contract; requiring
13 that a talent agency or advance-fee talent
14 service provide each artist with a copy of the
15 contract; requiring any person who holds
16 himself or herself out as an employee or agent
17 of a talent agency or advance-fee talent
18 service to submit fingerprints for background
19 screening requirements; directing that a talent
20 agency or advance-fee talent service provide
21 each artist with a copy of the screening
22 results; directing that all money collected by
23 a talent agency from an employer or buyer be
24 paid to the artist within a specified period;
25 providing that a contract is voidable under
26 certain circumstances; permitting an artist to
27 cancel a contract by giving written notice of
28 the cancellation to the talent agency or
29 advance-fee talent service within a specified
30 period; prohibiting an artist from waiving the
31 right to cancel a contract; providing the way

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1 in which a talent agency or advance-fee talent
2 service must refund money to an artist;
3 providing criminal penalties for violating
4 provisions relating to contracting; specifying
5 certain prohibited acts by a talent agency or
6 advance-fee talent service; providing criminal
7 penalties for failure to comply; providing for
8 certain specified civil remedies for violations
9 of the act; removing the authority of the
10 Department of Business and Professional
11 Regulation to regulate talent agencies;
12 providing for the use of certain funds after
13 the effective date of the act; requiring the
14 department to rebate talent agency license
15 fees; authorizing the department to continue to
16 prosecute any legal proceedings and related
17 administrative cases that are pending on the
18 effective date of the act; providing an
19 effective date.
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