



121922

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/17/2016	.	
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	.	
	.	

Appropriations Subcommittee on General Government (Simpson)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 134 - 137

and insert:

Section 10. Section 468.401, Florida Statutes, is amended
to read:

468.401 ~~Regulation of~~ Talent agencies; definitions.—As used
in this part ~~or any rule adopted pursuant hereto~~:

(1) "Talent agency" means any person who, for compensation,
engages in the occupation or business of procuring or attempting



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11 to procure engagements for an artist.

12 (2) "Owner" means any partner in a partnership, member of a
13 firm, or principal officer or officers of a corporation, whose
14 partnership, firm, or corporation owns a talent agency, or any
15 individual who is the sole owner of a talent agency.

16 (3) "Compensation" means any one or more of the following:

17 (a) Any money or other valuable consideration paid or
18 promised to be paid for services rendered by any person
19 conducting the business of a talent agency under this part;

20 (b) Any money received by any person in excess of that
21 which has been paid out by such person for transportation,
22 transfer of baggage, or board and lodging for any applicant for
23 employment; or

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

29 (4) "Engagement" means any employment or placement of an
30 artist, where the artist performs in his or her artistic
31 capacity. However, the term "engagement" shall not apply to
32 procuring opera, music, theater, or dance engagements for any
33 organization defined in s. 501(c)(3) of the Internal Revenue
34 Code or any nonprofit Florida arts organization that has
35 received a grant from the Division of Cultural Affairs of the
36 Department of State or has participated in the state touring
37 program of the Division of Cultural Affairs.

38 ~~(5) "Department" means the Department of Business and~~
39 ~~Professional Regulation.~~



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40 ~~(5)-(6)~~ "Operator" means the person who is or who will be in
41 actual charge of a talent agency.

42 ~~(6)-(7)~~ "Buyer" or "employer" means a person, company,
43 partnership, or corporation that uses the services of a talent
44 agency to provide artists.

45 ~~(7)-(8)~~ "Artist" means a person performing on the
46 professional stage or in the production of television, radio, or
47 motion pictures; a musician or group of musicians; or a model.

48 ~~(8)-(9)~~ "Person" means any individual, company, society,
49 firm, partnership, association, corporation, manager, or any
50 agent or employee of any of the foregoing.

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

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

56 Section 11. Section 468.402, Florida Statutes, is repealed.

57 Section 12. Section 468.403, Florida Statutes, is repealed.

58 Section 13. Section 468.404, Florida Statutes, is repealed.

59 Section 14. Section 468.405, Florida Statutes, is repealed.

60 Section 15. Subsection (1) of section 468.406, Florida
61 Statutes, is amended to read:

62 468.406 Fees to be charged by talent agencies; rates;
63 display.—

64 (1) Each owner or operator of a talent agency shall post
65 applicant for a license shall file with the application an
66 itemized schedule of maximum fees, charges, and commissions that
67 which it intends to charge and collect for its services. This
68 schedule may thereafter be raised only by filing with the



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69 ~~department an amended or supplemental schedule at least 30 days~~
70 ~~before the change is to become effective. The schedule shall be~~
71 ~~posted~~ in a conspicuous place in each place of business of the
72 agency, and the schedule shall be printed in not less than a 30-
73 point boldfaced type, except that an agency that uses written
74 contracts containing maximum fee schedules need not post such
75 schedules.

76 Section 16. Section 468.407, Florida Statutes, is repealed.

77 Section 17. Subsection (1) of section 468.408, Florida
78 Statutes, is amended to read:

79 468.408 Bond required.-

80 (1) ~~A There shall be filed with the department for each~~
81 talent agency shall obtain license a bond in the form of a
82 surety by a reputable company engaged in the bonding business
83 and authorized to do business in this state. The bond shall be
84 for the penal sum of \$5,000, with one or more sureties ~~to be~~
85 ~~approved by the department,~~ and be conditioned that the talent
86 agency applicant conform to and not violate any of the duties,
87 terms, conditions, provisions, or requirements of this part.

88 (a) If any person is aggrieved by the misconduct of any
89 talent agency, the person may maintain an action in his or her
90 own name upon the bond of the agency in any court having
91 jurisdiction of the amount claimed. All such claims shall be
92 assignable, and the assignee shall be entitled to the same
93 remedies, upon the bond of the agency or otherwise, as the
94 person aggrieved would have been entitled to if such claim had
95 not been assigned. Any claim or claims so assigned may be
96 enforced in the name of such assignee.

97 (b) The bonding company shall notify the talent agency ~~the~~



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98 ~~department~~ of any claim against such bond, and a copy of such
99 notice shall be sent to the talent agency against which the
100 claim is made.

101 Section 18. Section 468.409, Florida Statutes, is amended
102 to read:

103 468.409 Records required to be kept.—Each talent agency
104 shall keep on file the application, registration, or contract of
105 each artist. In addition, such file must include the name and
106 address of each artist, the amount of the compensation received,
107 and all attempts to procure engagements for the artist. No such
108 agency or employee thereof shall knowingly make any false entry
109 in applicant files or receipt files. Each card or document in
110 such files shall be preserved for a period of 1 year after the
111 date of the last entry thereon. ~~Records required under this~~
112 ~~section shall be readily available for inspection by the~~
113 ~~department during reasonable business hours at the talent~~
114 ~~agency's principal office. A talent agency must provide the~~
115 ~~department with true copies of the records in the manner~~
116 ~~prescribed by the department.~~

117 Section 19. Subsection (3) of section 468.410, Florida
118 Statutes, is amended to read:

119 468.410 Prohibition against registration fees; referral.—

120 (3) A talent agency shall give each applicant a copy of a
121 contract, within 24 hours after the contract's execution, which
122 lists the services to be provided and the fees to be charged.
123 ~~The contract shall state that the talent agency is regulated by~~
124 ~~the department and shall list the address and telephone number~~
125 ~~of the department.~~

126 Section 20. Section 468.412, Florida Statutes, is amended



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127 to read:

128 468.412 Talent agency regulations; prohibited acts.—

129 (1) A talent agency shall maintain a record sheet for each
130 booking. This shall be the only required record of placement and
131 shall be kept for a period of 1 year after the date of the last
132 entry in the buyer's file.

133 (2) Each talent agency shall keep records in which shall be
134 entered:

135 (a) The name and address of each artist employing such
136 talent agency;

137 (b) The amount of fees received from each such artist; and

138 (c) The employment in which each such artist is engaged at
139 the time of employing such talent agency and the amount of
140 compensation of the artist in such employment, if any, and the
141 employments subsequently secured by such artist during the term
142 of the contract between the artist and the talent agency and the
143 amount of compensation received by the artist pursuant thereto. ~~+~~
144 and

145 ~~(d) Other information which the department may require from~~
146 ~~time to time.~~

147 ~~(3) All books, records, and other papers kept pursuant to~~
148 ~~this act by any talent agency shall be open at all reasonable~~
149 ~~hours to the inspection of the department and its agents. Each~~
150 ~~talent agency shall furnish to the department, upon request, a~~
151 ~~true copy of such books, records, and papers, or any portion~~
152 ~~thereof, and shall make such reports as the department may~~
153 ~~prescribe from time to time.~~

154 (3)(4) Each talent agency shall post in a conspicuous place
155 in the office of such talent agency a printed copy of this part



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156 ~~and of the rules adopted under this part. Such copies shall also~~
157 ~~contain the name and address of the officer charged with~~
158 ~~enforcing this part. The department shall furnish to talent~~
159 ~~agencies printed copies of any statute or rule required to be~~
160 ~~posted under this subsection.~~

161 ~~(4) (a) (5) (a)~~ No talent agency may knowingly issue a
162 contract for employment containing any term or condition which,
163 if complied with, would be in violation of law, or attempt to
164 fill an order for help to be employed in violation of law.

165 (b) A talent agency must advise an artist, in writing, that
166 the artist has a right to rescind a contract for employment
167 within the first 3 business days after the contract's execution.
168 Any engagement procured by the talent agency for the artist
169 during the first 3 business days of the contract remains
170 commissionable to the talent agency.

171 ~~(5) (6)~~ No talent agency may publish or cause to be
172 published any false, fraudulent, or misleading information,
173 representation, notice, or advertisement. All advertisements of
174 a talent agency by means of card, circulars, or signs, and in
175 newspapers and other publications, and all letterheads,
176 receipts, and blanks shall be printed and contain the ~~licensed~~
177 ~~name, department license number,~~ and address of the talent
178 agency and the words "talent agency." No talent agency may give
179 any false information or make any false promises or
180 representations concerning an engagement or employment to any
181 applicant who applies for an engagement or employment.

182 ~~(6) (7)~~ No talent agency may send or cause to be sent any
183 person as an employee to any house of ill fame, to any house or
184 place of amusement for immoral purposes, to any place resorted



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185 to for the purposes of prostitution, to any place for the
186 modeling or photographing of a minor in the nude in the absence
187 of written permission from the minor's parents or legal
188 guardians, the character of which places the talent agency could
189 have ascertained upon reasonable inquiry.

190 (7)~~(8)~~ No talent agency, without the written consent of the
191 artist, may divide fees with anyone, including, but not limited
192 to, an agent or other employee of an employer, a buyer, a
193 casting director, a producer, a director, or any venue that uses
194 entertainment. For purposes of this subsection, to "divide fees"
195 includes the sharing among two or more persons of those fees
196 charged to an artist for services performed on behalf of that
197 artist, the total amount of which fees exceeds the amount that
198 would have been charged to the artist by the talent agency
199 alone.

200 (8)~~(9)~~ If a talent agency collects from an artist a fee or
201 expenses for obtaining employment for the artist, and the artist
202 fails to procure such employment, or the artist fails to be paid
203 for such employment if procured, such talent agency shall, upon
204 demand therefor, repay to the artist the fee and expenses so
205 collected. Unless repayment thereof is made within 48 hours
206 after demand therefor, the talent agency shall pay to the artist
207 an additional sum equal to the amount of the fee.

208 (9)~~(10)~~ Each talent agency must maintain a permanent office
209 and must maintain regular operating hours at that office.

210 (10)~~(11)~~ A talent agency may assign an engagement contract
211 to another talent agency licensed in this state only if the
212 artist agrees in writing to the assignment. The assignment must
213 occur, and written notice of the assignment must be given to the



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214 artist, within 30 days after the artist agrees in writing to the
215 assignment.

216 Section 21. Section 468.413, Florida Statutes, is amended
217 to read:

218 468.413 Legal requirements; penalties.-

219 ~~(1) Each of the following acts constitutes a felony of the~~
220 ~~third degree, punishable as provided in s. 775.082, s. 775.083,~~
221 ~~or s. 775.084:~~

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

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

227 ~~(2) Each of the following acts constitutes a misdemeanor of~~
228 ~~the second degree, punishable as provided in s. 775.082 or s.~~
229 ~~775.083:~~

230 ~~(a) Relocating a business as a talent agency, or operating~~
231 ~~under any name other than that designated on the license, unless~~
232 ~~written notification is given to the department and to the~~
233 ~~surety or sureties on the original bond, and unless the license~~
234 ~~is returned to the department for the recording thereon of such~~
235 ~~changes.~~

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

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

242 ~~(a)-(d)~~ Failing to maintain the records required by s.



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243 468.409 or knowingly making false entries in such records.

244 ~~(b)(e)~~ Requiring as a condition to registering or obtaining
245 employment or placement for any applicant that the applicant
246 subscribe to, purchase, or attend any publication, postcard
247 service, advertisement, resume service, photography service,
248 school, acting school, workshop, or acting workshop.

249 ~~(c)(f)~~ Failing to give each applicant a copy of a contract
250 which lists the services to be provided and the fees to be
251 charged ~~by, which states that~~ the talent agency is regulated by
252 the department, and which lists the address and telephone number
253 of the department.

254 ~~(d)(g)~~ Failing to maintain a record sheet as required by s.
255 468.412(1).

256 ~~(e)(h)~~ Knowingly sending or causing to be sent any artist
257 to a prospective employer or place of business, the character or
258 operation of which employer or place of business the talent
259 agency knows to be in violation of the laws of the United States
260 or of this state.

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

265 ~~(2)(4)~~ In the event that ~~the department or~~ any state
266 attorney shall have probable cause to believe that a talent
267 agency or other person has violated any provision of subsection
268 (1), an action may be brought by ~~the department or~~ any state
269 attorney to enjoin such talent agency or any person from
270 continuing such violation, or engaging therein or doing any acts
271 in furtherance thereof, and for such other relief as to the



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272 court seems appropriate. ~~In addition to this remedy, the~~
273 ~~department may assess a penalty against any talent agency or any~~
274 ~~person in an amount not to exceed \$5,000.~~

275 Section 22. Section 468.414, Florida Statutes, is repealed.

276 Section 23. Section 468.415, Florida Statutes, is amended
277 to read:

278 468.415 Sexual misconduct in the operation of a talent
279 agency.—The talent agent-artist relationship is founded on
280 mutual trust. Sexual misconduct in the operation of a talent
281 agency means violation of the talent agent-artist relationship
282 through which the talent agent uses the relationship to induce
283 or attempt to induce the artist to engage or attempt to engage
284 in sexual activity. Sexual misconduct is prohibited in the
285 operation of a talent agency. ~~If~~ Any agent, owner, or operator
286 of a ~~licensed~~ talent agency who commits ~~is found to have~~
287 ~~committed~~ sexual misconduct in the operation of a talent agency,
288 ~~the agency license shall be permanently revoked. Such agent,~~
289 ~~owner, or operator~~ shall be permanently prohibited from acting
290 ~~disqualified from present and future licensure as an agent,~~
291 owner, or operator of a ~~Florida~~ talent agency.

292
293 ===== T I T L E A M E N D M E N T =====

294 And the title is amended as follows:

295 Delete lines 16 - 18

296 and insert:

297 to the applicability of ch. 447, F.S.; amending s.

298 468.401, F.S.; deleting the definitions of the terms

299 "department," "license," and "licensee"; repealing s.

300 468.402, F.S., relating to the duties of the



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301 Department of Business and Professional Regulation;
302 repealing s. 468.403, F.S., relating to licensure and
303 application requirements for owners and operators of
304 talent agencies; repealing s. 468.404, F.S., relating
305 to fees and renewal of talent agency licenses;
306 repealing s. 468.405, F.S., relating to qualification
307 for talent agency licenses; amending s. 468.406, F.S.;
308 deleting the requirement for talent agencies to file
309 with the department an itemized schedule of certain
310 fees and an amended or supplemental schedule under
311 certain circumstances; repealing s. 468.407, F.S.,
312 relating to license contents and posting; amending s.
313 468.408, F.S.; deleting a requirement that a talent
314 agency file a bond for each talent agency license;
315 deleting a departmental requirement to approve talent
316 agency bonds; requiring that a bonding company notify
317 the talent agency, rather than notifying the
318 department, of certain claims; amending s. 468.409,
319 F.S.; deleting provisions requiring talent agencies to
320 make specified records readily available for
321 inspection by the department; amending s. 468.410,
322 F.S.; deleting a reference to the department in talent
323 agency contracts; amending s. 468.412, F.S.; revising
324 the requirements for talent agencies to enter in the
325 talent agency records; revising the requirements for
326 talent agencies to post certain laws and rules;
327 revising the information required in talent agency
328 publications; amending s. 468.413, F.S.; deleting
329 provisions relating to criminal violations for failing



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330 to obtain or maintain licensure with the department;
331 deleting provisions authorizing the court to suspend
332 or revoke a license; deleting a provision authorizing
333 the court to bring certain actions; repealing s.
334 468.414, F.S., relating to collection and deposit of
335 fines, fees, and penalties collected by the
336 department; amending s. 468.415, F.S.; deleting a
337 provision authorizing the department to revoke a
338 license; amending s. 468.451, F.S.; revising