

By Senator Webster

9-1268A-04

See HB

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:

27  
28 Section 1. Section 468.401, Florida Statutes, is  
29 amended to read:

30  
31

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

20           (4)(8) "Artist" means a person performing on the  
21 professional stage or in the production of television, radio,  
22 or motion pictures; a musician or group of musicians; or a  
23 model.

24           (5)(7) "Buyer" or "employer" means a person, company,  
25 partnership, or corporation, or other business entity that  
26 uses the services of an ~~a~~ talent agency to provide artists.

27           (6)(3) "Compensation" means any one or more of the  
28 following:

29           (a) Any money or other valuable consideration paid or  
30 promised to be paid for services rendered by any person  
31

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

3 (b) Any money received by any person in excess of that  
4 which has been paid out by such person for transportation,  
5 transfer of baggage, or board and lodging for any applicant  
6 for employment; or

7 (c) The difference between the amount of money  
8 received by any person who furnishes employees, performers, or  
9 entertainers for circus, vaudeville, theatrical, or other  
10 entertainments, exhibitions, engagements, or performances and  
11 the amount paid by him or her to such employee, performer, or  
12 entertainer.

13 (7) "Divided fee" means the process by which, without  
14 written contractual approval of the artist, any two or more  
15 persons receive compensation for placing an artist and the  
16 total compensation paid to such agents exceeds the  
17 compensation that would have been paid to only one agent  
18 acting on behalf of the artist.

19 ~~(8)(4)~~ "Engagement" means any employment or placement  
20 of an artist in which, ~~where~~ the artist performs in his or her  
21 artistic capacity. ~~However, The term~~ does "engagement" ~~shall~~  
22 not apply to procuring opera, music, theater, or dance  
23 engagements for any organization defined in s. 501(c)(3) of  
24 the Internal Revenue Code or any nonprofit Florida arts  
25 organization that has received a grant from the Division of  
26 Cultural Affairs of the Department of State or has  
27 participated in the state touring program of the Division of  
28 Cultural Affairs.

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

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

10           (11)(6) "Operator" means the person who is or who will  
11 be in actual charge of a talent agency or an advance-fee  
12 talent service.

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

19           (13)(9) "Person" means any individual, company,  
20 society, firm, partnership, association, corporation, or  
21 manager, or any agent or employee of any of the foregoing.

22           (14)(1) "Talent agency" means any business entity or  
23 person who, for compensation, engages in the occupation or  
24 business of procuring or attempting to procure engagements for  
25 an artist.

26           ~~(5) "Department" means the Department of Business and~~  
27 ~~Professional Regulation.~~

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

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

4           Section 2. Section 468.402, Florida Statutes, is  
5 amended to read:

6           468.402 Prohibited acts ~~Duties of the department;~~  
7 ~~authority to issue and revoke license; adoption of rules.--It~~  
8 is unlawful for any agency to:

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

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

14           ~~(1)(b) Violate~~ Violated any provision of this part,  
15 ~~chapter 455, any lawful disciplinary order of the department,~~  
16 ~~or any rule of the department.~~

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

21           ~~(2)(d) Make, print, publish, distribute, or cause,~~  
22 authorize, or knowingly permit ~~Made, printed, published,~~  
23 ~~distributed, or caused, authorized, or knowingly permitted the~~  
24 ~~making, printing, publication, or distribution of any false~~  
25 ~~statement, description, or promise of such a character as to~~  
26 ~~reasonably induce any person to act to his or her damage or~~  
27 ~~injury, if such statement, description, or promises were~~  
28 ~~purported to be performed by the talent agency and if the~~  
29 ~~owner or operator then knew, or by the exercise of reasonable~~  
30 ~~care and inquiry, could have known, of the falsity of the~~  
31 ~~statement, description, or promise.~~

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

7           (4)(f) Fail ~~Failed~~ or refuse ~~refused~~ upon demand to  
8 disclose any information, as required by this part, within his  
9 or her knowledge, or fail ~~failed~~ or refuse ~~refused~~ to produce  
10 any document, book, or record in his or her possession for  
11 inspection to any state attorney ~~the department~~ or any  
12 authorized agent thereof acting within his or her ~~its~~  
13 jurisdiction or by authority of law.

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

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

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

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



1 ~~that are signed in the licensee's capacity as a licensed~~  
2 ~~talent agency.~~

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

6       (1) ~~Advertised, operated, or attempted to operate~~  
7 ~~under a name other than the name appearing on the license.~~

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

10       (n) ~~Operated with a revoked, suspended, inactive, or~~  
11 ~~delinquent license.~~

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

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

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

21       (9)(r) Conspire ~~Conspired~~ with another agency licensee  
22 ~~or with any other person to commit an act, or has committed an~~  
23 ~~act,~~ that would tend to coerce, intimidate, or preclude  
24 another agency licensee from advertising its ~~his or her~~  
25 services.

26       (10)(s) Solicit ~~Solicited~~ business, either personally  
27 or through an agent or ~~through any~~ other person, through the  
28 use of fraud or deception or by other means; through the use  
29 of misleading statements; or through the exercise of  
30 intimidation or undue influence.

31

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

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

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

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

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

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

21           ~~(b) Permanently revoke or suspend the license of a~~  
22 ~~talent agency.~~

23           ~~(c) Impose an administrative fine, not to exceed~~  
24 ~~\$5,000, for each count or separate offense.~~

25           ~~(d) Require restitution.~~

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

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

29           ~~(6) A person shall be subject to the disciplinary~~  
30 ~~actions specified in subsection (5) for violations of~~  
31

1 ~~subsection (1) by that person's agents or employees in the~~  
2 ~~course of their employment with that person.~~

3 ~~(7) The department may deny a license if any owner or~~  
4 ~~operator listed on the application has been associated with a~~  
5 ~~talent agency whose license has been revoked or otherwise~~  
6 ~~disciplined.~~

7 Section 3. Section 468.406, Florida Statutes, is  
8 amended to read:

9 468.406 Fees to be charged by ~~talent~~ agencies; rates;  
10 display.--

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

23 (2) All money collected by a talent agency from an  
24 employer for the benefit of an artist shall be paid to the  
25 artist, less the talent agency's commission fee, within 7 5  
26 business days after the receipt of such money by the talent  
27 agency. No talent agency is required to pay money to an artist  
28 until the talent agency receives payment from the employer or  
29 buyer.

30 Section 4. Section 468.408, Florida Statutes, is  
31 amended to read:

1           468.408 Bond required.--

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

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

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

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

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

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

12           Section 6. Section 468.410, Florida Statutes, is  
13 amended to read:

14           468.410 Prohibition against registration fees;  
15 referral; contract requirements.--

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

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

24           (3) A contract is required to be executed between an  
25 artist and an agency when the artist and the agency agree to  
26 have the agency secure employment for the artist. If the  
27 circumstances of the arrangement between the artist and the  
28 agency prevent the execution of a contract prior to the first  
29 engagement, the artist and the agency must execute the  
30 contract within 7 days after the commencement of the first  
31 engagement.

1           ~~(4)(3)~~ At the time of execution of a contract, an A  
2 talent agency must shall give each artist applicant a copy of  
3 the signed or authenticated a contract which lists the  
4 services to be provided and the fees or commissions to be  
5 charged. ~~The contract shall state that the talent agency is~~  
6 ~~regulated by the department and shall list the address and~~  
7 ~~telephone number of the department.~~

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

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

20           (7) An agency contract that does not conform to this  
21 part is voidable by the artist. If an artist voids an agency  
22 contract, the artist is not required to pay any consideration  
23 or return any consideration received from the agency to induce  
24 the artist to enter into the contract.

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

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

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

5           Section 7. Section 468.411, Florida Statutes, is  
6 amended to read:

7           468.411 Labor disputes; notice statements  
8 required.--An ~~No talent~~ agency may not ~~shall~~ knowingly send  
9 any person who has received a motion picture or videotape  
10 engagement or any other engagement to any place where a  
11 strike, lockout, or other labor dispute is in active progress,  
12 without first notifying that person of such conditions.

13           Section 8. Section 468.412, Florida Statutes, is  
14 amended to read:

15           468.412 ~~Talent Agency requirements regulations.--~~

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

20           (2) Each ~~talent~~ agency shall keep records in which  
21 shall be entered:

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

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

26           (c) The employment in which each such artist is  
27 engaged at the time of employing such ~~talent~~ agency and the  
28 amount of compensation of the artist in such employment, if  
29 any, and the employments subsequently secured by such artist  
30 during the term of the contract between the artist and the  
31

1 ~~talent~~ agency and the amount of compensation received by the  
2 artist pursuant thereto ~~and~~

3 ~~(d) Other information which the department may require~~  
4 ~~from time to time.~~

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

14 ~~(4) Each talent agency shall post in a conspicuous~~  
15 ~~place in the office of such talent agency a printed copy of~~  
16 ~~this part and of the rules adopted under this part. Such~~  
17 ~~copies shall also contain the name and address of the officer~~  
18 ~~charged with enforcing this part. The department shall furnish~~  
19 ~~to talent agencies printed copies of any statute or rule~~  
20 ~~required to be posted under this subsection.~~

21 ~~(4)(5) An~~ No ~~talent~~ agency may not knowingly issue a  
22 contract ~~for employment~~ containing any term or condition  
23 which, if complied with, would be in violation of law, or  
24 attempt to fill an order for help to be employed in violation  
25 of law.

26 ~~(5)(6) An~~ No ~~talent~~ agency may not publish or cause to  
27 be published any false, fraudulent, or misleading information,  
28 representation, notice, or advertisement. ~~All advertisements~~  
29 ~~of a talent agency by means of card, circulars, or signs, and~~  
30 ~~in newspapers and other publications, and all letterheads,~~  
31 ~~receipts, and blanks shall be printed and contain the licensed~~



1 ~~name, department license number, and address of the talent~~  
2 ~~agency and the words "talent agency."~~ An ~~No~~ talent agency may  
3 not give any false information or make any false promises or  
4 representations concerning an engagement or employment to any  
5 applicant who applies for an engagement or employment.

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

14 ~~(7)(8)~~ An ~~No~~ talent agency may not divide fees with  
15 anyone, including, but not limited to, an agent or other  
16 employee of an employer, a buyer, a casting director, a  
17 producer, a director, or any venue that uses entertainment.

18 ~~(8)(9)~~ If an ~~a~~ talent agency collects from an artist a  
19 fee or expenses for obtaining a specific engagement or  
20 employment for the artist, and the artist fails to procure  
21 such specific engagement or employment, or the artist fails to  
22 be paid for such specific engagement or employment if  
23 procured, such ~~talent~~ agency shall, upon demand therefor,  
24 repay to the artist the fee and expenses so collected. Unless  
25 repayment thereof is made within 48 hours after demand  
26 therefor, the ~~talent~~ agency shall pay to the artist an  
27 additional sum equal to the amount of the fee.

28 ~~(9)(10)~~ Each ~~talent~~ agency must maintain a permanent  
29 office and must maintain regular operating hours at that  
30 office.

31

1           Section 9. Section 468.413, Florida Statutes, is  
2 amended to read:

3           468.413 Legal requirements; penalties.--

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

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

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

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

26           (d) Sending or causing to be sent any person as an  
27 employee to any house of ill fame, to any house or place of  
28 amusement for immoral purposes, to any place resorted to for  
29 the purposes of prostitution, to any place for the modeling or  
30 photographing of a minor in the nude in the absence of written  
31 permission from the minor's parents or legal guardians, the

1 character of which places the agency could have ascertained  
2 upon reasonable inquiry.

3 (e) Committing fraud or deceit in the operation of an  
4 agency.

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

8 (g) Soliciting business, either personally or through  
9 an agent or other person, through the use of fraud or  
10 deception or by other means, through the use of misleading  
11 statements, or through the exercise of intimidation or undue  
12 influence.

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

16 (i) Committing sexual misconduct as prohibited in s.  
17 468.415.

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

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

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

26 ~~(a) Relocating a business as a talent agency, or~~  
27 ~~operating under any name other than that designated on the~~  
28 ~~license, unless written notification is given to the~~  
29 ~~department and to the surety or sureties on the original bond,~~  
30 ~~and unless the license is returned to the department for the~~  
31 ~~recording thereon of such changes.~~

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

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

7           ~~(a)~~(d) Failing to maintain the records required by s.  
8 468.409 or knowingly making false entries in such records.

9           ~~(b)~~(e) Requiring as a condition to registering or  
10 obtaining employment or placement for any applicant that the  
11 applicant subscribe to, purchase, or attend any publication,  
12 postcard service, advertisement, resume service, photography  
13 service, website service, school, acting school, workshop, or  
14 acting workshop.

15           ~~(c)~~(f) Failing, at the time of execution, to give each  
16 artist applicant a copy of the signed or authenticated a  
17 contract which lists the services to be provided and the fees  
18 or commissions to be charged, ~~which states that the talent~~  
19 ~~agency is regulated by the department, and which lists the~~  
20 ~~address and telephone number of the department.~~

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

23           ~~(e)~~(h) Knowingly sending or causing to be sent any  
24 artist to a prospective employer or place of business, the  
25 character or operation of which employer or place of business  
26 the ~~talent~~ agency knows to be in violation of the laws of the  
27 United States or of this state.

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

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

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

3       (i) Failing to maintain a bond as required in s.  
4 468.408.

5       (j) Violating any provision of this part.

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

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

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

15       (n) Dividing fees with anyone, including, but not  
16 limited to, an agent or other employee of an employer, a  
17 buyer, a casting director, a producer, a director, or any  
18 venue that uses entertainment.

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

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

25       (q) Failing or refusing upon demand to disclose any  
26 information, as required by this part, within his or her  
27 knowledge, or failing or refusing to produce any document,  
28 book, or record in his or her possession for inspection, to  
29 any state attorney or any authorized agent thereof acting  
30 within the jurisdiction of the state attorney or by authority  
31 of law.

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

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

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

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

9           (v) Failing to maintain records as provided in s.  
10 468.409.

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

15           (3)(4) In the event ~~the department or~~ any state  
16 attorney shall have probable cause to believe that an ~~a~~ talent  
17 agency or other person has violated any provision of  
18 subsection (1) or subsection (2), an action may be brought by  
19 the ~~department or any~~ state attorney to enjoin such ~~talent~~  
20 agency or any person from continuing such violation, or  
21 engaging therein or doing any acts in furtherance thereof, and  
22 for such other relief as to the court seems appropriate. ~~In~~  
23 ~~addition to this remedy, the department may assess a penalty~~  
24 ~~against any talent agency or any person in an amount not to~~  
25 ~~exceed \$1,000.~~

26           Section 10. Section 468.415, Florida Statutes, is  
27 amended to read:

28           468.415 Sexual misconduct in the operation of a talent  
29 agency or an advance-fee talent service.--The ~~talent~~  
30 agent-artist relationship between a talent agency or an  
31 advance-fee talent service and an artist is founded on mutual

1 trust. Sexual misconduct in the operation of a talent agency  
2 or an advance-fee talent service means violation of the ~~talent~~  
3 ~~agent-artist relationship through which the talent~~ agency or  
4 advance-fee talent service or owner, operator, or employee of  
5 the agency or service ~~agent~~ uses the relationship to induce or  
6 attempt to induce the artist to engage or attempt to engage in  
7 sexual activity. Sexual misconduct is prohibited in the  
8 operation of a talent agency or an advance-fee talent service.  
9 ~~if any agent, owner, or operator of a licensed talent agency~~  
10 ~~is found to have committed sexual misconduct in the operation~~  
11 ~~of a talent agency, the agency license shall be permanently~~  
12 ~~revoked. Such agent, owner, or operator shall be permanently~~  
13 ~~disqualified from present and future licensure as owner or~~  
14 ~~operator of a Florida talent agency.~~

15 Section 11. Section 468.416, Florida Statutes, is  
16 created to read:

17 468.416 Judicial enforcement.--In addition to other  
18 penalties provided in this part, state attorneys and their  
19 assistants are authorized to apply to the court of competent  
20 jurisdiction within their respective jurisdictions, upon the  
21 sworn affidavit of any person alleging a violation of any of  
22 the provisions of this part. Such court shall have  
23 jurisdiction, upon hearing and for cause shown, to grant a  
24 temporary or permanent injunction restraining any person from  
25 violating any provision of this part, whether or not there  
26 exists an adequate remedy at law; and such injunction shall  
27 issue without bond.

28 Section 12. Section 468.417, Florida Statutes, is  
29 created to read:

30 468.417 Civil actions.--Any person injured by a  
31 prohibited act or practice in violation of this part may bring

1 a civil action in circuit court for temporary or permanent  
2 injunctive relief and may seek appropriate civil relief,  
3 including, but not limited to, a civil penalty not to exceed  
4 \$5,000 for each violation, restitution and treble damages for  
5 injured parties, and court costs and reasonable attorney's  
6 fees.

7       Section 13. The regulation of talent agencies by the  
8 Department of Business and Professional Regulation is  
9 abolished. Any funds and balances associated with the  
10 regulation of talent agencies remaining in the Professional  
11 Regulation Trust Fund after the effective date of this act  
12 shall be used to pay any remaining expenses associated with  
13 this regulation. Any funds or balances remaining in the trust  
14 fund after January 1, 2005, shall be transferred to the  
15 General Revenue Fund.

16       Section 14. The Department of Business and  
17 Professional Regulation may continue to prosecute any legal  
18 proceedings and related administrative cases that are in  
19 existence on the effective date of this act.

20       Section 15. Sections 468.403, 468.404, 468.405,  
21 468.407, and 468.414, Florida Statutes, are repealed.

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