

How Does New York State's Fashion Workers Act Impact Modeling Businesses and Their Clients?

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On December 21, 2024, New York Governor Kathy Hochul signed the Fashion Workers Act (the "Act") into law, which provides greater protections for fashion workers and will take effect on **June 19, 2025**. The Act also imposes duties and obligations on model management companies and their clients.

Definitions Under the Act

- **"Client"** is defined as a retail store, a manufacturer, a clothing designer, an advertising agency, a photographer, a publishing company, or any other such person or entity that receives modeling services from a model directly or through intermediaries.
- **"Digital Replica"** means a significant, computer-generated, or artificial intelligence-enhanced representation of a model's likeness, including but not limited to, their face, body, or voice, which substantially replicates or replaces the model's appearance or performance.
- **"Model"** is defined as an individual, regardless of the individual's status as an independent contractor or employee, who performs modeling services for a client and/or model management company or who provides showroom, parts, or fit modeling services.
- **"Model Management Company"** is defined as any person or entity that:
 - (a) is in the business of managing models participating in entertainment, exhibitions, or performances;
 - (b) procures or attempts to procure, for a fee, employment or engagements for persons seeking employment or engagements as models; or
 - (c) renders vocational guidance or counseling services to models for a fee.
- **"Modeling Services"** means the appearance by a model in photographic sessions or the engagement of a model in live runway, live, filmed, or taped performances, including on social media platforms, requiring the

model to pose, provide an example or standard of artistic expression or to be a representation to show the construction or appearance of something or place for purposes of display or advertising, including the provisions of castings, fittings, photoshoots, showroom, parts or fit modeling services. “Modeling services” include the use of a “digital replica.”

Model Management Company Registration Requirements

All model management companies must register in New York by **June 19, 2025**, and renew their registration every two years. The registration process includes:

- all names under which the model management company conducts business;
- the address of the model management company’s principal place of business and the address for each of its New York offices;
- taxpayer or employer identification number;
- a list by jurisdiction of each name under which the model management company has operated in the preceding five years;
- ownership information if the model management company is a privately held company or a publicly traded company;
- depositing a \$50,000 surety bond with the Department of Labor if the model management company has more than five employees; and
- paying a registration fee of \$500 for model management companies that have five or fewer employees or \$700 for companies that have more than five employees.

A model management company is exempt from the registration requirements if it:

- submits a request for an exemption from registration on a form provided by the Department;
- is domiciled outside of New York and is licensed or registered as a model management company in another state that has the same or greater requirement than the Act; and
- does not maintain an office in New York or solicit clients in New York.

Model Management Companies’ Duties and Prohibitions

Under the Act, a model management company owes the following duties to its models:

- acting in good faith and in the best interest of the models. This duty encompasses all aspects of model representation, including negotiations, contracts, financial management, and the protection of the models’ legal and financial rights;
- conducting due diligence to ensure that any employment procured through the model management company does not pose an unreasonable risk of danger to the model;
- using its best efforts to procure employment for the models;

- ensuring that any employment that requires nudity or sexually explicit material complies with Section 52(c)(3) of the Civil Rights Law;
- providing models with written or digital copies of the final agreements the model management company has negotiated with clients and any deal memos memorializing such agreements at least 24 hours prior to the commencement of the model's services;
- specifying all items that were initially paid for by the model management company that will ultimately be deducted from the model's compensation, together with an itemized recitation as to each item's computation;
- disclosing any financial relationship that may exist between the model management company and the client;
- notifying former models if the model management company collects royalties due to a model whom the management company no longer represents;
- posting a physical copy of the model management company's certificate of registration in a conspicuous place in the model management company's office and on its website. It must also include the registration number of the model management company in any advertisement for the purpose of solicitation of models for the model management company and in any contract with a model or client; and
- obtaining written consent for the creation or use of a model's digital replica, detailing the scope, purpose, rate of pay, and duration of such use. This consent must be obtained separately from the representation agreement.

In addition, the Act also prohibits model management companies from performing the following actions:

- requiring or collecting any fee or deposit from a model upon the signing of any contract or agreement between the model management company and the model;
- procuring any accommodation for which the model is responsible for paying without providing a written disclosure of the rate charged for the accommodation to the model in advance of such model's stay at the accommodation;
- deducting or offsetting from a model's pay any fee or expense other than the agreed upon commission and any items advanced;
- advancing the cost of travel or visa-related costs without the model's informed written consent;
- requiring a model to sign a model management company contract for a term greater than three years or a contract that renews without the model's affirmative written consent;
- imposing a commission fee greater than 20 percent of the model's compensation;
- retaliating against any model who files or attempts to file a complaint pursuant to the Act or declines or discontinues participation in any casting or booking on account of reasonable, good faith concerns regarding an action or potential violation of the Act;
- discriminating or harassing a model because of any protected status; and
- creating, altering, or manipulating a model's digital replica using artificial intelligence without clear, conspicuous, and separate written consent from the model.

Client Duties

The Act also provides duties for a client, including:

- compensating models at an hourly rate at least 50 percent higher than the contracted hourly rate for any employment that exceeds eight hours in any 24-hour period;
- providing at least one 30-minute meal break for any employment that exceeds eight hours in a 24-hour period;
- offering employment to a model that does not pose an unreasonable risk of danger to the model;
- ensuring that any employment that requires nudity or other sexually explicit material complies with Section 52(c)(3) of the Civil Rights Law;
- allowing the model to be accompanied by their agent, manager, chaperone, or other representative to any employment;
- providing adequate levels of liability insurance to cover and safeguard the health and safety of models; and
- obtaining clear and conspicuous prior written consent for any creation or use of a model's digital replica, detailing the scope, purpose, rate of pay, and duration of such use.

Violations

- The Commissioner may impose a civil penalty upon a model management company that has violated the Act for up to \$3,000 for the initial violation and up to \$5,000 for each subsequent violation.
- A model can commence a private cause of action against a “person or entity” for violating the Act by filing a complaint with the Commissioner within six years of the alleged violation.
- A model can also commence a cause of action in a court of competent jurisdiction to enforce the provisions regarding the duties and prohibitions of a model management company.
- A model management company found in violation of the Act will be liable for actual damages, reasonable attorneys' fees and costs, and, “unless the employer proves a good faith basis to believe its actions were in compliance with the law, an additional amount as liquidated damages” up to 100 percent of the total amount of actual damages, and up to 300 percent if it acted willfully.

Conclusion

The Fashion Workers Act represents a significant step forward in protecting models and ensuring greater accountability for model management companies and their clients. By establishing clear duties, prohibitions, and penalties, the Act seeks to create a fairer and more transparent industry.

As the **June 19, 2025**, effective date approaches, model management companies, clients, and models alike should familiarize themselves with these new requirements to ensure compliance. If you have questions about how the Act may impact your business or rights, consulting with legal counsel can help you navigate this evolving regulatory landscape.

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