

ASSEMBLY BILL

No. 2539

Introduced by Assembly Member Levine

February 19, 2016

An act to add Chapter 6 (commencing with Section 1707) to Part 6 of Division 2 of the Labor Code, relating to modeling agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2539, as introduced, Levine. Modeling agencies: licensure: models: employees.

The California Occupational Safety and Health Act of 1973 establishes certain safety and other responsibilities of employers and employees. Violations of the act under certain circumstances are a crime. Existing law establishes the Department of Industrial Relations to, among other things, foster, promote, and develop the welfare of the wage earners, to improve their working conditions, and to advance their opportunities for profitable employment.

Existing law provides for the licensure and regulation of talent agencies, as defined, by the Labor Commissioner. Existing law requires moneys collected for licenses and fines collected for violations of these provisions to be paid into the State Treasury and credited to the General Fund.

This bill would require a person engaging in the occupation of a modeling agency, as defined, to be licensed by the Labor Commissioner. The bill would require a model, as defined, to be classified as an employee of a modeling agency and require a model to obtain a specified health certification from a licensed physician before being employed as a model. The bill would require a modeling agency to obtain that health certification before hiring a model, to post in a conspicuous place

in its office a health advisory relating to eating disorders and sexual harassment or assault, and to maintain specified records relating to its employment of models. The bill would provide that a violation of the certification requirement by a modeling agency is a crime. By creating a new crime, the bill would impose a state-mandated local program. The bill would require the Occupational Safety and Health Standards Board and the State Department of Public Health to draft regulations relating to the modeling profession, as provided. The bill would impose specified license fees upon modeling agencies to be deposited into the State Treasury and credited to the General Fund. The bill would define various terms for its purposes and would make related findings.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 6 (commencing with Section 1707) is
2 added to Part 6 of Division 2 of the Labor Code, to read:

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4

CHAPTER 6. MODELING AGENCIES

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6 1707. The Legislature finds and declares all of the following:

7 (a) Professional fashion models face pervasive and hazardous
8 occupational demands to maintain extreme and unhealthy thinness.

9 These occupational pressures create a dangerous work environment.

10 Models experience a substantially elevated risk of eating disorders
11 and other severe health problems associated with starvation.

12 (b) The majority of models enter the industry as minors, making
13 them especially vulnerable to mistreatment and to the physical and

14 psychological damage caused by eating disorders. Women working
15 as professional fashion models are more likely to have a diagnosis

16 of anorexia nervosa, dangerously low body mass index, and
17 amenorrhea, which is a serious medical indicator of hormonal

18 dysregulation that can have negative health consequences for life.

1 (c) As with all workers, professional fashion models are entitled
2 to safe working conditions. The time, place, and means of the
3 services provided by professional models are typically controlled
4 by the company paying their compensation. Therefore, professional
5 models are typically required to be classified as employees rather
6 than independent contractors according to existing federal and
7 state law. Clarifying their classification as employees will enhance
8 their workplace protections.

9 (d) The impact of the fashion industry on health reaches far
10 beyond the hazardous occupational conditions that professional
11 models endure. Through its dominant presence in the mass media
12 and pervasive influence on setting cultural standards for apparel,
13 particularly for girls and young women, the fashion industry helps
14 to define, transmit, and reinforce an unrealistic standard of thinness,
15 a well-documented risk factor for eating disorders.

16 (e) Scientific research has shown that viewing media images of
17 extremely thin models leads to body dissatisfaction in adolescent
18 girls and young women, especially those who already have
19 heightened vulnerability to eating disorders. In addition, scientific
20 studies have shown that body dissatisfaction in adolescence is a
21 strong indicator that a young person may develop an eating
22 disorder.

23 (f) Improving working conditions to reduce excessive thinness
24 among professional models is likely to lead to healthier images of
25 models' weight. This change in media portrayals of models' weight
26 may help to achieve a larger societal value in making media images
27 more healthful and less damaging to girls' and young women's
28 body image, ultimately reducing their risk for eating disorders.

29 1707.1. For purposes of this chapter, the following definitions
30 shall apply:

31 (a) "License" means a license issued by the Labor Commissioner
32 to carry on the business of a modeling agency under this chapter.

33 (b) "Licensee" means a modeling agency that holds a valid
34 license under this chapter.

35 (c) "Model" means an individual who, in the course of his or
36 her occupation, performs modeling services for, or who consents
37 in writing to the transfer of his or her exclusive legal right to the
38 use of his or her name, portrait, picture, or image for advertising
39 purposes or for the purposes of trade directly to, a retail store, a

1 manufacturer, an advertising agency, a photographer, a publishing
2 company, or a modeling agency.

3 (d) “Modeling agency” means a person that compensates a
4 model and that dictates the assignments, hours of work, or
5 performance locations of the model.

6 (e) “Modeling services” means the appearance by a model in
7 photographic sessions or the engagement of a model in runway,
8 live, filmed, or taped performances requiring him or her to pose,
9 provide an example or standard of artistic expression, or to be a
10 representation to show the construction or appearance of some
11 thing or place for purposes of display or advertising.

12 (f) “Person” means any individual, company, society, firm,
13 partnership, association, corporation, limited liability company,
14 manager, or their agents or employees.

15 1707.2. (a) A model shall be classified as an employee of a
16 modeling agency.

17 (b) (1) A modeling agency shall not hire a model without first
18 obtaining the health certification described in Section 1707.4.

19 (2) Any modeling agency that does not obtain the certification
20 described in subdivision (a) of Section 1707.4 is guilty of a
21 misdemeanor and subject to a fine not to exceed five thousand
22 dollars (\$5,000).

23 1707.3. (a) A person shall not engage in or carry on the
24 occupation of a modeling agency without first procuring a license
25 therefor from the Labor Commissioner. The license shall be posted
26 in a conspicuous place in the office of the licensee. The license
27 number shall be referred to in any advertisement for the purpose
28 of the solicitation of a model for the modeling agency.

29 (b) A filing fee of twenty-five dollars (\$25) shall be paid to the
30 Labor Commissioner at the time the application for issuance of a
31 modeling agency license is filed.

32 (c) In addition to the filing fee required for application for
33 issuance of a modeling agency license, every modeling agency
34 shall pay to the Labor Commissioner annually at the time a license
35 is issued or renewed the following:

36 (1) A license fee of two hundred and twenty-five dollars (\$225).

37 (2) Fifty dollars (\$50) for each branch office maintained by the
38 modeling agency in this state.

39 1707.4. (a) A model shall obtain written certification from a
40 licensed physician that he or she is in healthy physical condition

1 and submit this certification to a modeling agency before being
2 hired by a modeling agency. A model shall make his or her medical
3 records available to the physician, and the physician shall review
4 the model's medical records as part of the certification of the
5 model's physical condition.

6 (b) Every modeling agency shall keep records, in a form
7 approved by the Labor Commissioner, that include all of the
8 following:

9 (1) A copy of the certification described in subdivision (a) for
10 each model it employs.

11 (2) The dates of employment and the amount of compensation
12 paid for each model.

13 (c) (1) Every modeling agency shall post in a conspicuous place
14 in its office a health advisory relating to eating disorders that
15 includes a phone number to the Occupational Safety and Health
16 Standards Board, a phone number to an entity where a model can
17 report sexual harassment or assault, and any other information that
18 may specified by the Labor Commissioner.

19 (2) Any modeling agency that violates the requirements of
20 paragraph (1) shall be subject to a fine not to exceed five hundred
21 dollars (\$500) per day that those requirements are violated.

22 1707.5. (a) The Occupational Safety and Health Standards
23 Board and the State Department of Public Health shall draft
24 regulations, in consultation with physicians and other health
25 professionals with expertise in eating disorders, that do all of the
26 following:

27 (1) Include detailed requirements of the certification and record
28 retention requirements described in Section 1707.4.

29 (2) Require no less than three medical check-ups per year by
30 models.

31 (3) Require a model to obtain a nutrition consultation with a
32 qualified health professional.

33 (4) Address any medical testing that should be done by a model
34 to determine his or her fitness to perform his or her job duties and
35 provide a model with information about the privacy of these test
36 results.

37 (b) The regulations shall be adopted in accordance with the
38 rulemaking provisions of the Administrative Procedure Act
39 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
40 Division 3 of Title 2 of the Government Code).

1 1707.6. (a) All books, records, and other papers kept pursuant
2 to this chapter by a modeling agency shall be open at all reasonable
3 hours to the inspection of the Labor Commissioner and his agents.
4 Every modeling agency shall furnish to the Labor Commissioner
5 upon request a true copy of these books, records, and papers or
6 any portion thereof.

7 (b) Every modeling agency that violates subdivision (a) shall
8 be subject to a fine of five hundred dollars (\$500).

9 1707.7. All moneys collected for licenses and all fines collected
10 for violations of this chapter shall be paid into the State Treasury
11 and credited to the General Fund.

12 SEC. 2. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.