

MODEL ALLIANCE

FACT SHEET: Fashion Workers Act

The fashion industry is a \$2.5 trillion global industry, and New York is its center in the U.S. Boasting world-class creative talent and best-in-class production companies and fashion and design schools, New York's fashion industry employs 180,000 people, accounting for 6 percent of the city's workforce and generating \$10.9 billion in total wages. New York Fashion Week – a semiannual event – draws more than 230,000 visitors to the city and has long been a major economic driver, generating close to \$600 million in income each year. That is more than the economic impact of Milan, Paris and London's fashion weeks combined, and it's almost double the revenue generated by the 2014 Super Bowl at the MetLife Stadium.

And yet, the creative workforce behind the industry's success – namely, models, influencers, stylists, makeup artists, hair stylists, and other creative artists – are not afforded basic labor protections in New York. This discrepancy is due to the multi-level structure of hiring of these professionals as independent contractors through management companies. Unlike talent agencies, modeling and creative agencies are considered to be management companies under New York State General Business Law §171(8), known as the “incidental booking exception,” allowing them to escape licensing and regulation. In almost every case, agencies are granted “power of attorney” as part of their agreement to represent talent, giving agencies power to accept payments on behalf of the model, deposit checks and deduct expenses, as well as book jobs, negotiate the model's rate of pay, and give third parties permission to use the model's image.

This leaves models and creatives unprotected outside the terms of their individual contracts – which tend to be exploitative and one-sided in favor of the management company – and creates a lack of financial transparency and accountability when it comes to issues of both payment and sexual abuse. For example, models and creatives often wait months, even years to get paid for jobs through management companies, which deduct various unexplained fees from their earnings, in addition to a 20 percent commission both on the model's fee and the client's payment. Model management companies crowd young models in model apartments, where they warehouse anywhere from six to 10 young women in one apartment and charge them each upwards of \$2,000 a month for an apartment worth far less. Models are held to exclusive, multi-year contracts without any promise to book work or be paid in a timely manner, which ensnares them in cycles of debt and makes models highly vulnerable to other forms of abuse, including human trafficking.

The Fashion Workers Act would address these issues by closing the legal loophole by which management companies escape accountability and create basic protections for fashion's creative workforce. The bill would require management companies to do the following:

- Accept responsibility to act in the best interests of their talent
- Pay models and creatives within 45 days of completing a job
- Provide models and creatives with copies of contracts and agreements
- Notify former models and creatives if the management collects royalties from a talent they no longer represent
- Register and deposit a surety bond of \$50,000 with the NYS Department of State
- Conduct reasonable inquiry into health and safety on set
- Discontinue bad practices such as
 - Collecting signing fees or deposits from models
 - Charging more than the daily fair market rate for accommodation
 - Deducting any other fee or expense than the agreed upon commission
 - Renewing the contract without the model or creative's affirmative consent
 - Imposing a commission fee greater than twenty percent of the model or creative's compensation
- Forbid the management company from taking retaliatory action against any model or creative using the bill to file a complaint
- Forbid the management company or client from engaging in discrimination or harassment any kind against talent on the basis of race, ethnicity, and other legally permissible categories under Title VII of the Civil Rights Act, as amended