

Talent MATTERS

To creative directors, broadcast business affairs contacts, broadcast production contacts, legal counsel, talent payroll services, SFNAs.

NYS CHILD PERFORMER EDUCATION AND TRUST ACT OF 2003 BECOMES LAW

Recent legislation concerning the employment of child performers in New York State was signed into law on September 30, 2003. AAAA Talent Matters (Bulletin # 6275, dated 7/15/03) detailed some of the provisions of the New York State Child Performer Education and Trust Act of 2003, which safeguards child performers' education and earnings. The law takes effect 180 days from September 30, 2003.

Although similar to California's "Coogan's Law", which applies to the employment of child performers in that state, there are several major differences.

The full text of the legislation can be found on the New York State Assembly Web site: <http://www.assembly.state.ny.us> under bill number A7510. Members are advised to review the entire bill with their legal counsel and coordinate with their talent payroll companies regarding implementation.

The following are a few of the law's pertinent provisions, please pay special attention to #9:

- 1) The name of the law is the "Child Performer and Education Trust Act of 2003."
- 2) "Child Performer" means any child under the age of 18 who is a New York State resident or any child under the age of 18 who is employed in the State of New York and agrees to render artistic or creative services. The definition of artistic or creative services includes but is not limited to services as an actor, actress, dancer, musician, comedian, singer, stunt person, voice-over artist, or other performer or entertainer.
- 3) Employer is required to transfer 15 percent of a child's gross earnings to the custodian of the child performer's trust account. The employer must make the transfer within 30 days of commencement of employment, if the employment is of less than 30 days duration. If the employment is for more than 30 days, the transfer should be made every payroll period.
- 4) If the employer is not notified of the existence of the child performer's trust account within 15 days of commencement of employment, then the employer must transfer the money, with the child's name and last known address, to the Child Performers Holding Fund within the office of the New York State Comptroller. The parent or guardian may request that more than 15 percent be set aside. Such a request must be made to the custodian of the account, who is then responsible for directing the employer to transfer the specified amount.

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- 5) Once the employer has made the transfer to either the child performer's trust or the Comptroller, the employer has no further obligations.
- 6) A child performer's parent or legal guardian may serve as custodian of the trust account, however, once the account balance reaches \$ 250,000, a trust company must be appointed custodian of the account. The child performer may terminate the trust account upon reaching age 18.
- 7) Employment permits for child performers will be handled by the New York State Department of Labor. The child's work permit will be valid for six months. The employer must keep the work permit on file and available, subject to inspection by the child's school, the Department of Education and/or the Department of Labor. The work permit will not be renewed unless there is evidence that a child performer's trust account is established.
- 8) An employer intending to employ minors must obtain a Certificate of Eligibility from the Department of Labor. The fee will be set by the Department, not to exceed \$350. The Certificate must be renewed every 3 years at a cost not to exceed \$200.
- 9) A child is required to fulfill N.Y. education requirements. An employer is required to provide a teacher certified by N.Y. or with credentials recognized by N.Y. (includes California teachers). The teacher is required to work with the child's parents and the child's school to fulfill educational requirements. A child who has a work permit may not be out of school and unemployed for more than 10 days while school is in session. Penalties: If the Labor Commissioner finds a violation, the employer will be assessed a civil penalty of not more than \$1,000 for the first violation, \$2,000 for a second violation and \$3,000 for a third or subsequent violation.

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