

CHAPTER 184A

ENTERTAINMENT AGENCIES

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184A.01 DEFINITIONS.

Subdivision 1. **Terms defined.** For the purposes of sections 184A.02 to 184A.20 and unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases have the meanings given them in this section.

Subd. 2. **Artist.** "Artist" refers to musical artists, musical organizations, musical directors, composers, lyricists, and arrangers.

Subd. 3. **Department.** "Department" means the department of labor and industry.

Subd. 4. **Engagement.** "Engagement" means an engagement or employment of a person as a musician or musical artist.

Subd. 5. **Entertainment agency.** "Entertainment agency" means a person or persons who engage in the occupation of procuring, offering, promising, or attempting to procure employment or engagements under written contract for three or more artists or groups of artists at any one time, or who have a written contract or continuing verbal agreement with an establishment or an individual to provide artists or groups of artists for one or more engagements. Entertainment agencies may, in addition, counsel or direct artists in the development of their professional careers.

Subd. 6. **Fee.** "Fee" means money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by a person conducting the business of an entertainment agency under sections 184A.01 to 184A.20.

Subd. 7. **License.** "License" means a license issued by the department of labor and industry to carry on the business of an entertainment agency under sections 184A.01 to 184A.20.

Subd. 8. **Licensee.** "Licensee" means an entertainment agency which holds a valid, unrevoked, and unforfeited license under sections 184A.01 to 184A.20.

Subd. 9. **Person.** "Person" includes an individual, firm, corporation, partnership, or association.

History: 1984 c 587 s 1

184A.02 LICENSE REQUIREMENT.

No person shall engage in or carry on the occupation of an entertainment agency without procuring a license from the department of labor and industry for each agency location. This license shall be posted in a conspicuous place in the office of the licensee.

History: 1984 c 587 s 2

184A.03 EXISTING AGENCIES.

Entertainment agents who are actually engaged in or acting as entertainment agents or counselors and members, shareholders, officers, and directors of a firm, partnership, association, or corporation actively engaged in the business of an enter-

tainment agency on August 1, 1984 shall be deemed to comply with its provisions provided they shall obtain a license as provided by sections 184A.04 to 184A.10 within a period of six months from August 1, 1984.

History: 1984 c 587 s 3

184A.04 LICENSE APPLICATIONS.

Subdivision 1. **Contents.** Applicants for an entertainment agent's license or renewal shall file with the department a written application in a form prescribed by the department stating:

- (a) the name and address of the applicant;
- (b) the street and number of the building or place where the business of the entertainment agency is to be conducted;
- (c) the name of the person who is to have the general management of the office;
- (d) the name under which the business of the office is to be carried on;
- (e) whether or not the applicant has a financial interest in another business of a similar nature and, if so, where;
- (f) the business or occupation of the applicant for at least two years immediately preceding the date of application;
- (g) if the applicant is other than a corporation, the names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the operation of the entertainment agency in question, together with the amount of their respective interests; and
- (h) if the applicant is a corporation, the corporate name, the names, residential addresses, and telephone numbers of officers of the corporation, and the names and addresses of persons having a financial interest of ten percent or more in the business, and the percentage of financial interest owned by these persons.

Subd. 2. **Signatures.** The application shall be signed and sworn to before a notary public by the applicant or, if a partnership, by all of the partners or, if a corporation, by the president and secretary.

Subd. 3. **Affidavits.** The application must be accompanied by affidavits of at least two reputable persons, neither of whom is related to the applicant.

History: 1984 c 587 s 4

184A.05 FEE SCHEDULES.

Applicants for a license to engage in the business of an entertainment agent shall, at the time of making application, file with the department a schedule of fees to be charged and collected in the conduct of this occupation, together with rules and regulations that may affect the fees charged or to be charged for service. Changes in the schedule may be made from time to time, but no change shall become effective until seven days after the date of its filing with the department. It shall be unlawful for an entertainment agency to charge, demand, collect, or receive a greater compensation for service performed than is specified in the schedule filed with the department.

History: 1984 c 587 s 5

184A.06 CONTRACT FORM.

Subdivision 1. **Department approval.** Entertainment agencies shall submit to the department a form or forms of contract to be utilized in entering into written contracts with artists for the employment of the services of the entertainment agency by the artists and the contract to be utilized for employment engagements secured by the agency for the artist. Approval by the department of the proposed contract form shall not be withheld unless the contract is unfair, unjust, or oppressive to the artist.

Subd. 2. **Arbitration.** Contract forms shall contain a provision setting forth a procedure for resolution of disputes before an arbitrator mutually agreed upon by the parties. The arbitrator's decision shall be final and binding upon the parties.

Subd. 3. **Notification of license.** There shall be printed on the face of the contract in prominent type the following: "This entertainment agency is licensed by the department of labor and industry of the state of Minnesota."

History: 1984 c 587 s 6

184A.07 INVESTIGATION.

Upon receipt of an application for a license, the department may cause an investigation to be made as to the character and responsibility of the applicant, and of the premises designated in the application as the place in which it is proposed to conduct the business of the entertainment agency.

History: 1984 c 587 s 7

184A.08 TERM OF LICENSE; EXPIRATION.

The license when first issued shall run to the next birthday of the applicant. The license shall then be renewed within the 30 days preceding the licensee's birthday and shall run from birthday to birthday. In case the applicant is a partnership, the license shall be renewed within the 30 days preceding the birthday of the oldest partner. If the applicant is a corporation, the license shall be renewed within the 30 days preceding the anniversary of the date the corporation was lawfully formed. Renewal shall require the filing of an application for renewal, a renewal bond, and the payment of the annual license fee, but the department may require that a new application or a new bond be submitted.

History: 1984 c 587 s 8

184A.09 LICENSE FEES.

Before a license shall be granted to an applicant, the applicant shall pay a filing fee of \$25 and a license fee of \$250.

An application for consent to transfer or assign a license shall be accompanied by a \$25 filing fee.

History: 1984 c 587 s 9; 1991 c 233 s 86

184A.10 BONDS.

Applications for an entertainment agency license shall be accompanied by a bond in the penal sum of \$10,000 with one or more sureties or a duly authorized surety company to be approved by the department and filed in the office of the secretary of state, conditioned that the entertainment agency and each member, shareholder, director, or officer of a firm, partnership, corporation, or association operating as an entertainment agency will conform to and not violate sections 184A.02 to 184A.19 or violate the covenants of a contract made by an entertainment agent in the conduct of business. Action on this bond may be brought by, and prosecuted in the name of, a person damaged by a breach of a condition of the bond. Successive actions may be maintained.

The secretary of state shall be paid a filing fee of \$5 per bond in addition to the fees outlined in section 184A.09.

History: 1984 c 587 s 10

184A.11 TRANSFER.

No licensee shall sell, transfer, or give away an interest in, or the right to participate in the profits of, the entertainment agency without the written consent of the department. Consent may be withheld for any reason for which an original

application for a license might have been rejected if the person in question had been mentioned in it.

History: 1984 c 587 s 11

184A.12 ISSUANCE; REFUSAL; REVOCATION; SUSPENSION.

The department shall issue a license as an entertainment agent, to a person who qualifies for the license under the terms of sections 184A.04 to 184A.10. The department may refuse to issue an entertainment agency license when, after due investigation, the department finds that the applicant is of unfit character to be an entertainment agent, or when the premises for conducting the business of an entertainment agent is found upon investigation to be unfit for this use. No agency license shall be issued to a person, firm, corporation, or association that has, within the past three years, been convicted of fraud or felony. No license shall be issued to an attorney whose license to practice law has been suspended or revoked, for a period of three years after the date of the suspension or revocation. The department may refuse to issue a license to a person or may suspend or revoke the license of a entertainment agent when it finds that any of the following conditions exist:

(a) the entertainment agent has violated a condition of the bond required by section 184A.10;

(b) the person or entertainment agent has personally engaged in a fraudulent, deceptive, or dishonest practice;

(c) the person or entertainment agent has violated any provisions of sections 184A.02 to 184A.19; or

(d) the person or entertainment agent has been legally adjudicated incompetent and has not been restored to capacity.

This section shall not be construed to relieve a person from civil liability or from criminal prosecution under the laws of this state. A violation of this section shall be treated as a violation of section 325F.69.

History: 1984 c 587 s 12; 1986 c 444

184A.13 PROCEDURE FOR SUSPENSION OR REVOCATION.

Subdivision 1. **Incompetency.** Upon an adjudication of incompetency, revocation shall be automatic and shall be permanent except that in the event of restoration to capacity a license may be reissued to such person on payment of all fees.

Subd. 2. **Other cases.** In all other cases the department may not refuse to issue a license or suspend or revoke a license unless it furnishes the person or entertainment agent with a written statement of the charges and affords an opportunity to be heard on the charges. At least ten days' written notice of the date and time of the hearing shall be given. The notice shall be sent by certified mail to the address of the person as shown on the application for license or it may be served in the manner in which a summons is served in civil cases commenced in the district court.

Subd. 3. **Hearing.** At the hearing, the person or entertainment agent whose license application or continuance is in question shall have the right to appear personally and be represented by counsel and to cross-examine witnesses and to produce evidence and witnesses in defense of the charges, and shall have the right to have witnesses subpoenaed, which subpoena shall be issued by the commissioner.

History: 1984 c 587 s 13; 1986 c 444

184A.14 APPEAL TO DISTRICT COURT.

If the department refuses to grant a license, or suspends or revokes a license that has been granted, the applicant shall have the right of appeal to the district court of the county of the applicant's residence. If the applicant is not a resident of the state, the appeal may be to the district court for Ramsey county. The court shall advance cases on their calendars for early disposition. In counties having continuous sessions of court,

the cases shall be heard within 20 days after appeal is perfected. Appeal shall be perfected by the service of a written notice of appeal upon the commissioner of labor and industry within 60 days after notice to the applicant of the department's action.

History: 1984 c 587 s 14; 1986 c 444

184A.15 RECORDS.

Subdivision 1. **Department records.** The department shall keep a record of its proceedings which shall be open to the public for inspection at reasonable times, and a register of applicants for licenses. Records shall include the name and address of the applicants, the date of application, place of business, place of residence, whether the applicant was rejected or a license granted, and the date the license was granted.

Subd. 2. **Entertainment agency records.** Entertainment agencies shall keep records approved by the department in which shall be entered:

- (a) the name and address of each artist employing the agency;
- (b) the amount of fee received from the artist;
- (c) the employment in which the artist is engaged at the time of employing the agency, and the amount of the artist's compensation in the employment, if any; and
- (d) the employments subsequently secured by the artist during the term of the contract between the artist and the entertainment agency, and the amount of compensation received by the artist.

History: 1984 c 587 s 15

184A.16 POWERS AND DUTIES OF THE DEPARTMENT.

It is the duty of the department to administer the provisions of sections 184A.01 to 184A.20. The department shall have the power to compel the attendance of witnesses by the issuance of subpoenas, to administer oaths, and to take testimony and proofs concerning matters within its jurisdiction. The department shall affix an official seal to certificates or licenses granted and shall make rules not inconsistent with law needed to perform its duties.

History: 1984 c 587 s 16

184A.17 SUPERVISORY AND INVESTIGATIVE AUTHORITY.

The department shall have supervisory and investigative authority over entertainment agents. The department shall have the right to examine only those records required to be kept by sections 184A.01 to 184A.20.

History: 1984 c 587 s 17

184A.18 AGENCY CONDUCT.

Subdivision 1. **Unlawful employment.** No entertainment agent shall place or assist in placing a person in unlawful employment.

Subd. 2. **Strike or lockout.** No entertainment agent shall fail to state in an advertisement, proposal, or contract for employment, that there is a strike or lockout at the place of proposed employment if the agent has knowledge that this condition exists.

Subd. 3. **Repayment.** In the event that an entertainment agency shall collect from an artist a fee or expenses for obtaining employment for the artist, and the artist shall fail to procure the employment, or the artist shall fail to be paid for the employment, the entertainment agency shall, upon demand, repay to the artist the full amount of the fee and expenses actually collected.

Subd. 4. **Actions.** Actions brought in any court against a licensee may be brought in the name of the person damaged upon the bond deposited with the state by the licensee, and may be transferred and assigned as other claims for damages. The amount of damages claimed by plaintiff, and not the penalty named in the bond, determines the jurisdiction of the court in which the action is brought.

Subd. 5. **Service on departed licensee.** When a licensee has departed from the state with intent to defraud creditors or to avoid service of summons in an action brought under sections 184A.01 to 184A.20, service shall be made upon the surety as prescribed in the rules of civil procedure. A copy of the summons shall be mailed to the licensee at the last known post office address of the licensee's residence and also at the place where the business of the entertainment agency was conducted as shown by the records of the department. Service is complete as to the licensee, after mailing, at the expiration of the time prescribed by the rules of civil procedure for service of summons in the particular court in which suit is brought.

History: 1984 c 587 s 18; 1986 c 444

184A.19 ARBITRATION PURSUANT TO CONTRACT CLAUSE.

A provision in a contract providing for the decision by arbitration of a controversy under the contract or as to its existence, validity, construction, performance, nonperformance, breach, operation, continuance, or termination, shall be valid if the provision is contained in a contract between an entertainment agency and a person for whom the agency under the contract undertakes to endeavor to secure employment.

History: 1984 c 587 s 19

184A.20 PENALTY.

A person, agent, or officer of an agent, who violates any provision of sections 184A.01 to 184A.20 is guilty of a misdemeanor, punishable by a fine of not less than \$25 nor more than \$250 or imprisonment for a period of not more than 60 days, or both.

A person, firm, or corporation who shall split, divide, or share, directly or indirectly, a fee, charge, or compensation received from an employee with an employer, or person in any way connected with the business, shall be punished by a fine of not less than \$500, and not more than \$3,000, or, on failure to pay the fine, by imprisonment for a period not to exceed one year, or both, at the discretion of the court.

History: 1984 c 587 s 20; 1984 c 628 art 3 s 11