

S.2477 (Hoylman)/A.5631 (Reyes)

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BILL S.2477 (Hoylman)/A.5631 (Reyes)
SUBJECT The New York Fashion Workers Act
DATE March 21, 2023
OPPOSE

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The Business Council opposes S.2477 (Hoylman)/A.5631 (Reyes). Currently, this legislation assumes that agencies have a direct contractual relationship with creative talent and models, however, for the purposes of timely payment, and other labor liability concerns, typical agency contracting practices often rely on **sequential liability** for production expenses. While agencies sometimes directly contract with models and creatives, more often agencies will contract with a model or creative management agency who acts on the model's or creative's behalf. The current draft of this bill seems to lack clarity that such a relationship exists, thereby making an agency a party contracting directly with the model or creative talent.

Agencies are purchasers but not the end user of the services of models, hair and makeup artists, stylists, influencers, photographers, casting directors, and other behind-the-scenes creative talent and related expenses; however S.2477/A.5631 oversimplifies the typical multi-level production employer structure, and leaves agencies potentially financially liable for the unpaid talent costs of their clients.

The current version of the legislation should be amended to make the important distinction that if agencies themselves have not been paid for their contracted client production work and incurred talent expenses, then agencies should not be held liable for violations of delayed payment to models and creatives in S.2477/A.5631. This is especially important because many agencies themselves are small businesses that cannot afford to accrue thousands of dollars of financial liability for their clients' unpaid talent costs.

According to a 2020 analysis from Digital Information World, 77% of the 6,000 marketing agencies surveyed employ between 10-40 employees, 18% of marketing agencies employ between 50-249 employees, 4% of marketing agencies employ between 250-999 workers, and only 1% of marketing agencies employ over 1,000+ workers

For these reasons, The Business Council opposes the adoption of S.2477 (Hoylman)/A.5631 (Reyes).