

US: TRADE MARKS



**Katten Muchin Rosenman
LLP**
New York

Karen Artz Ash



*and
Bret J Danow*

New rules on use of child models

Historically, the laws in New York State regulating the employment and education of “child performers” did not include child models. However, the New York State Senate and Assembly has recently voted to pass legislation to ensure that child models will now be afforded the same protections as “child actors, dancers and musicians” working in New York. Such legislation, once signed into law, is expected to have a significant impact on the fashion industry.

Specifically, the new legislation will provide that companies employing models under the age of 18 will be required to obtain certificates of eligibility, to provide chaperones and tutors and to limit their work hours. In addition, the new legislation sets forth several new protections for child models, including: (1) if the model is under the age of 16, a “responsible person” must be designated to monitor the activity and safety for each model at the work place; (2) an employer must provide a nurse with paediatric experience (only applicable to infants); (3) employers must provide teachers and a dedicated space for instruction (generally, provided that the employment takes place on a school day and the child performer is not otherwise receiving educational instruction due to his or her employment schedule); (4) employers must provide safety-based instruction and information to performers, parents/guardians and responsible person(s); and (5) a trust must be established by a child performer’s parent or guardian and an employer must transfer at least 15% of the child’s gross earnings into the trust.

Further, child models will now also need to obtain work permits which would require not only the written consent of a parent or guardian, but also evidence that the model is maintaining the standards of academic performance

from their enrolled school. The new requirements will be in addition to work hour regulations for child performers (which differ based on age, whether school is in session, and whether the performance is live or recorded) and limitations on the times along with the total number of hours a day that a child model can work. Additionally, the employer must provide for meal and certain rest periods.

Although the legislation does not specifically mention “fit models”, the spirit of the legislation is to ensure that child models have the same protections as other child performers. Therefore, it would be prudent for fashion companies to treat fit models in the same manner as runway and print models.

Once implemented, these regulations will be overseen by the Department of Labor which possesses far greater resources to enforce regulations than the Department of Education (which was the agency previously overseeing the regulations pertaining to the employment and education of child models in New York). Accordingly, companies employing young fashion models should be aware of, and anticipate planning for, the implementation of new legislation in New York (and any similar legislation in the jurisdictions in which they are based).