



## From Catwalk to Contract: Navigating the New York Fashion Workers Act

On December 24, 2024, Governor Hochul signed the New York State Fashion Workers Act (“FWA” or the “Act”) into law. The FWA seeks to provide models with labor protections that were previously unavailable to them due to their characterization as independent contractors. The Act regulates the actions of those hiring models directly or through intermediaries such as model management companies (“MMCs”) and model management groups (“MMGs”). The duties and prohibitions for regulated parties listed in the FWA went into effect on June 16, 2025, and the registration requirements that regulated parties must satisfy will begin on December 21, 2025.

### Important Definitions

The FWA protects individuals within the statute’s definition of model. The Act defines “model” as “an individual, regardless of the individual’s status as an independent contractor or employee, who performs modeling services for a client and/or model management company or who provides showroom, parts, or fit modeling services.” For the Act’s purposes, a “client” may include “a retail store, a manufacturer, a clothing designer, an advertising agency, a photographer, a publishing company or any other such person or entity that receives modeling services from a model, directly or through intermediaries.”

MMCs and MMGs are closely regulated by the FWA. The Act defines “model management companies” as a person or entity that: “(i) is in the business of managing models participating in entertainments, exhibitions, or performances; (ii) procures or attempts to procure, for a fee, employment or engagements for persons seeking employment or engagements as models; and (iii) renders vocational guidance or counseling services to models for a fee.” MMGs consist of two or more MMCs that are majority owned by the same parent or entity and may satisfy statutory duties of their respective MMCs on a consolidated basis.

Importantly, the Act defines “modeling services” in broad terms. Modeling services includes “the appearance by a model in photographic sessions or the engagement of a model in a live runway, live, filmed, or taped performances, including on social media platforms, requiring the model to pose, provide an example or standard of artistic expression or to be a representation to show the construction or appearance of some thing or place for purposes of display or advertising, including the provisions of castings, fittings, photoshoots, showroom, parts, or fit modeling services.”

Digital replicas of a model’s image are considered “modeling services” under the FWA, thus demonstrating New York’s innovative approach towards new issues implicating artificial intelligence and the State’s workforce. The Act defines “digital replica” as “a significant, computer-generated or artificial intelligence-enhanced representation of a model’s likeness, including but not limited to, their face, body, or voice, which substantially replicates or replaces the model’s appearance or performance.” The Act excludes routine photographic edits like color correction, minor retouching, or standard post-production modifications from the definition of “digital replica.”

## **Registration Requirement**

Beginning on December 21, 2025, MMCs and MMGs must register with the State. If such organizations fail to do so, they will be unable to legally conduct business within New York. To register properly under the FWA, MMCs or MMGs with five or less employees must pay a \$500 registration fee, whereas those with more than five employees must pay a \$700 registration fee. Moreover, regulated MMCs and MMGs with more than five employees must also pay a \$50,000 surety bond to the State. Properly registered entities will receive a certificate of registration. Registrations issued by New York State will be valid for a period of two years, at which point the entity must renew its license within ninety days of the expiration of the previous registration if they wish to continue to operate in New York.

The FWA also includes exemptions for MMCs and MMGs that meet specific requirements. An entity may be exempt from the registration requirements if the regulated entity: (i) submits a properly executed exemption request; (ii) is domiciled in another state or is a registered MMC or MMG in another state with requirements analogous to or greater than the FWA; and (iii) neither has an office in New York nor solicits clients located or domiciled in the New York.

The Department of Labor ("DOL") reports that additional details regarding registration and the registration process will soon be available.

## **Duties of MMCs**

MMCs must comply with several duties and abide by prohibitions set forth in the FWA. Specifically, MMCs owe a fiduciary obligation to the models they represent. Accordingly, MMCs must, "act in good faith, with the utmost honesty and integrity, in the best interest of the models." The duty is extensive, covering all aspects of the model's representation, including, negotiations, contracts, finances, and protection of the model's legal and financial rights.

In addition to the significant fiduciary duties, the Act also includes several other duties for MMCs. For instance, MMCs must provide models they represent with physical or digital copies of their final agreements at least twenty-four hours before a model's work commences. Additionally, in a recent "Frequently Asked Questions" published by DOL, DOL indicated that MMCs must provide models with final booking agreements and deal memos in the language requested by the model before work begins. The MMC must also get the model's written approval on any costs they plan to charge to the model (e.g., a hotel stay or travel expenses) before any charges are made.

Further, MMCs must also engage in due diligence to ensure that the model's engagement does not create unreasonable risks of danger. MMCs must also receive written authorization to utilize a model's digital replica.

## **Prohibitions**

The FWA also contains several prohibitions. Pursuant to the Act, MMCs may not: (i) enter into contracts with models for longer than three years; (ii) enter into contracts that automatically renew without the model's written consent; (iii) retaliate against a model challenging an action taken by a MMC under the FWA; and (iv) impose commission fees exceeding 20% of a model's payment.

## **Client Requirements**

The FWA also articulates certain duties that clients must follow and practice. A client must pay a model an hourly rate that is 50% higher than their contracted hourly rate once a performance or engagement exceeds eight hours in a twenty-four hour period. Moreover, clients must provide models with a thirty minute meal break if the model's work for that day exceeds eight hours in a twenty-four hour period. Clients must also ensure that the work is free from unreasonable risks of danger, that they possess adequate levels of liability insurance, and that they obtain written authorization to use a model's digital replica. Models must be allowed to be accompanied by a representative, such as an agent or manager, when working for a client.

## **Penalties**

The Act provides several penalties and remedies for a violation of the FWA. Regarding the registration process, if a MMC fails to properly or timely register, the DOL Commissioner may impose civil penalties against the MMC. Models may also file complaints with the Commissioner if a MMC violates the FWA. Models have six years following the violation to file a complaint with the Commissioner.

For a MMC's first statutory violation, the Commissioner may impose a civil penalty that may not exceed \$3,000. For any subsequent violations, the Commissioner's civil penalty may not exceed \$5,000. While models may initiate such Commissioner oversight, the New York State Attorney General has the authority to file an action against the violating party if there is reasonable cause to believe that a FWA violation has occurred.

In addition to oversight by the DOL and the Attorney General, the FWA also creates a private right of action for aggrieved models. When models sue for FWA violations - *i.e.* when an MMC fails to fulfill statutory duties or fails to abide by statutory prohibitions - a model may recover actual damages, reasonable attorney's fees, and potentially liquidated damages. If an MMC does not demonstrate a good faith basis for its actions, a MMC may be liable for liquidated damages amounting to 100% of the total amount of actual damages. If the MMC's actions were willful, then the liquidated damages may reach 300% of the actual damages awarded to the model.

If you have any questions regarding the FWA or any other employment related questions, please contact:

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