

2/7/2011

Commissioner Colleen C. Gardner  
NYS Department of Labor  
W. Averell Harriman State office Campus  
Building 12  
Albany, NY 12240

Dear Commissioner Gardner:

I am writing you concerning the proposed addition of Part 186 to Title 12 of the New York Codes, Rules and Regulations (NYCRR) relating to Child Performers (State Register I.D. #LAB-45-10-00020-P). I support the Department of Labor's (DOL) mission to establish regulations concerning the safety and employment of child performers. However, I share the concerns of parents of child performers, production companies and Broadway theatrical groups that the proposed rules are too onerous and too dangerous to the future of a healthy film, television and theatrical industry in New York.

The film, production and theater industries are responsible for thousands of jobs in New York State. If we were to impede these businesses with undue or overly burdensome regulations they may seek to do business in another state or country. This would cause serious negative economic consequences for New York and damage its reputation for being a premiere film and television production mecca.

The safety and well-being of childhood performers should be given notable consideration by all who are involved in the film, television, production and theater business. The Department of Labor should involve all of these parties in drafting rules that will affect the industry. The Department's outreach to affected parties appears to be questionable. At this time I would recommend the DOL engage in negotiated rule making (**Negotiated rulemaking** is a process in American administrative law, used by state and federal agencies, in which representatives from a government agency and affected interest groups negotiate the terms of a proposed administrative rule) with industry representatives to make sure the regulation adopted into law will best serve all parties involved.

After a review of the proposed child performer regulation, it appears the costs of implementing the rule will be overly burdensome to the parents, production companies and theaters without producing the benefits that DOL wishes to achieve. For example, costs associated with providing two physical and mental health evaluations by a physician per year

seem too demanding. Many in the industry believe one physical per year or every other year would suffice. The rule imposes significant amounts of paperwork and red tape that will result in added costs for child performers and employers. Specifically, the educational requirements to retain and manage a tutor and management of educational hours and paperwork will result in substantial added costs. The regulation makes no mention concerning childhood actors who would like to continue home schooling. In addition, the proposal places limits on actors under the age of 18 to stop work at 10 pm which could be devastating to Broadway shows. Additional costs to retain a nurse and management of health requirements and associated paperwork will only make matters worse.

During this recessionary period in American history where everyone is being asked to do more with less, how can the DOL justify this burdensome and costly regulation at this time? State government is being asked to live within its means and to reduce costly mandates. It is imperative the DOL meet with industry representatives and advocates to devise a rule that will benefit both child safety and this very important industry that we all enjoy.

Sincerely,

David Carlucci  
Member of Senate  
38<sup>th</sup> Senate District