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I N S E N A T E

January 12, 2012

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Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to abolishing the hearing aid dispensing advisory board; to amend the arts and cultural affairs law, in relation to works of art in the empire state plaza; to amend the general business law, in relation to the rules and regulations for nail specialty, natural hair styling, aesthetics and cosmetology; to amend the agriculture and markets law, in relation to plans, policies and programs for the prevention and control of disease in trees and plants; to amend the transportation law, in relation to abolishing the interagency coordinating committee on rural public transportation; to amend the vehicle and traffic law, in relation to rules and regulations for the tow truck and agricultural industries; to amend the general business law, in relation to abolishing the armored cars advisory board; to amend the environmental conservation law, in relation to abolishing the falconry advisory board and the petroleum bulk storage advisory council; to amend the public health law, in relation to abolishing the funeral directing advisory board; to amend the general business law, in relation to abolishing the appearance enhancement advisory committee; to amend the executive law, in relation to abolishing the manufactured housing advisory council; to repeal article 4 of the arts and cultural affairs law, relating to the empire state plaza art commission; to repeal certain provisions of the general business law, relating to the barbers board, the armored car carrier advisory board, the appearance enhancement advisory committee and the hearing aid dispensing advisory board; to repeal certain provisions of the executive law, relating to the New York statewide law enforcement telecommunications committee, the Long Island sound coastal advisory commission and the manufactured housing advisory council; to repeal sections 169-c and 169-d of the agriculture and markets law, relating to the plant and apiary industry advisory committees; to repeal certain provisions of the transportation law, relating to the interagency coordinating committee on rural public transportation; to repeal section 216-b of the vehicle and traffic law, relating to the tow truck advisory board; to repeal section 7 of chapter 654 of the laws of 1994, amending the transportation law and the vehicle and traffic law, relating to equipment

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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requirements for registered farm vehicles, relating to the agricultural transportation review panel; to repeal article 4 of the state technology law, relating to the statewide wireless network advisory council; to repeal chapter 868 of the laws of 1976, establishing the organic food advisory committee, relating thereto; to repeal certain provisions of the environmental conservation law, relating to the falconry advisory board and the petroleum bulk storage advisory council; and to repeal certain provisions of the public health law, relating to the state camp safety advisory council and the funeral directing advisory board

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 3 of section 789 of the general business law  
2 is REPEALED.

3 S 2. Subdivisions 4, 5, 6, 7, 8, 9, 10, 11 and 12 of section 789 of  
4 the general business law are renumbered subdivisions 3, 4, 5, 6, 7, 8,  
5 9, 10 and 11.

6 S 3. Subparagraph (ix) of paragraph (a) of subdivision 1 of section  
7 790 of the general business law, as added by chapter 599 of the laws of  
8 1998, is amended to read as follows:

9 (ix) on or after January first, two thousand three, the applicant  
10 shall demonstrate the successful completion of post-secondary coursework  
11 approved by the secretary [in conjunction with the advisory board]; or

12 S 4. Section 791 of the general business law, as added by chapter 599  
13 of the laws of 1998 and subdivision 1 as amended by section 42 of part A  
14 of chapter 62 of the laws of 2011, is amended to read as follows:

15 S 791. Hearing aid [dispensing advisory board] RULES AND REGULATIONS.  
16 [1. There is created within the department a hearing aid dispensing  
17 advisory board which shall consist of thirteen members to be appointed  
18 by the secretary: four of whom shall be non-audiologist hearing aid  
19 dispensers who shall have been engaged in the business of dispensing  
20 hearing aids primarily in this state for at least five years immediately  
21 preceding their appointment, two to be appointed upon the recommendation  
22 of the governor, one to be appointed upon the recommendation of the  
23 temporary president of the senate and one to be appointed upon the  
24 recommendation of the speaker of the assembly; four members shall be  
25 audiologists who are engaged in the dispensing of hearing aids for at  
26 least five years immediately preceding their appointment, two to be  
27 appointed upon the recommendation of the governor, one to be appointed  
28 upon the recommendation of the temporary president of the senate and one  
29 to be appointed upon the recommendation of the speaker of the assembly;  
30 two shall be otolaryngologists; and the remaining three members, none of  
31 whom shall derive nor have derived in the past economic benefit from the  
32 business of dispensing hearing aids, shall be from the resident lay  
33 public of this state who are knowledgeable about issues related to hear-  
34 ing loss. At least one lay member shall be an individual representing  
35 adults over the age of fifty. At least one of the lay members shall be  
36 a hearing aid user. Of the otolaryngologists and lay members, one shall  
37 be appointed by the secretary on the recommendation of the minority  
38 leader of the senate and one shall be appointed by the secretary on the  
39 recommendation of the minority leader of the assembly and three shall be  
40 appointed by the secretary on the recommendation of the governor. Each  
41 member of the board shall be appointed for a term of two years. Any

1 member may be appointed for additional terms. In the event that any  
2 member shall die or resign during his or her term, a successor shall be  
3 appointed in the same manner and with the same qualifications as set  
4 forth in this section. A member may be reappointed for successive terms  
5 but no member shall serve more than a total of ten years. The secretary  
6 or the designee of the secretary shall serve in an ex officio non-voting  
7 position. The secretary shall serve as chairperson. The commissioner of  
8 education, the commissioner of health, and the attorney general or their  
9 designees shall serve as non-voting ex officio members.

10 2. The board shall advise and make recommendations regarding, and the  
11 secretary, upon consideration of such advice, shall promulgate rules and  
12 regulations, governing the implementation of the provisions of this  
13 article and the development of such rules and regulations as are  
14 required. In addition to other advice, the board shall advise the secre-  
15 tary with respect to the promulgation of rules and regulations govern-  
16 ing:

17 (a) the rights of consumers of hearing aids including but not limited  
18 to (i) procedures whereby a consumer may file a complaint against those  
19 in violation of this article; and (ii) requirements for hearing aid  
20 dispensers to provide consumers with printed educational information on  
21 the general use of hearing aids and assistive listening devices and on  
22 the advantages and disadvantages of binaural hearing aid use and (iii)  
23 the training of individuals in the use and maintenance of such instru-  
24 ments;

25 (b) continuing education including but not limited to (i) the content  
26 of such course of study, (ii) the procedures for approval of such course  
27 of study and (iii) those individuals and organizations who may permissi-  
28 bly offer such continuing education course or courses provided for in  
29 section seven hundred ninety-four of this article;

30 (c) the content, delivery and evaluation of any examination required  
31 as a condition of registration;

32 (d) the standards for advertisements, including but not limited to,  
33 proscriptions against misleading advertising relating to the scope of  
34 hearing aid dispensing practices, credentials of individual hearing aid  
35 dispensers, and the function, use and reliability of a particular hear-  
36 ing instrument;

37 (e) requirements for the secretary to regularly examine compliance  
38 with this article;

39 (f) requirements pertaining to the non-diagnostic testing of hearing  
40 and sale of hearing aids at office, residential and other out of office  
41 settings and the development of environmental standards for testing at  
42 office, residential and other out of office settings; requirements  
43 pertaining to telemarketing; and

44 (g) procedures that the secretary could use to increase public aware-  
45 ness of how to properly purchase, fit, adjust and use a hearing aid, as  
46 well as the rights of hearing aid purchasers under state law. In addi-  
47 tion to such duties and other duties which may be assigned by the secre-  
48 tary, the board shall consult with the secretary, the commissioner of  
49 education and such other persons as may be appropriate to determine the  
50 proper level and degree of education for a hearing aid dispenser, the  
51 type of degree and the proper educational institution to offer such  
52 education and all other related issues.

53 3. Meetings of the board shall be set at such times as determined by  
54 the secretary but in no event fewer than four times annually.

1 4. The members of the board shall serve without compensation, however,  
2 they shall receive reimbursement for their actual and necessary expenses  
3 incurred in the performance of their duties.

4 5. The secretary shall keep a record of all proceedings of the board  
5 and such record shall be open to public examination] THE SECRETARY SHALL  
6 SEEK THE ADVICE AND RECOMMENDATIONS FROM NON-AUDIOLOGIST HEARING AID  
7 DISPENSERS, AUDIOLOGISTS WHO ARE ENGAGED IN THE DISPENSING OF HEARING  
8 AIDS, OTOLARYNGOLOGISTS, AND HEARING AID USERS, WHEN CONSIDERING CHANGES  
9 TO THE RULES AND REGULATIONS GOVERNING THE IMPLEMENTATION OF THIS ARTI-  
10 CLE.

11 S 5. Subdivision 1 and paragraph (a) of subdivision 3 of section 794  
12 of the general business law, subdivision 1 as amended by chapter 301 of  
13 the laws of 2000 and paragraph (a) of subdivision 3 as added by chapter  
14 599 of the laws of 1998, are amended to read as follows:

15 1. Prior to the expiration of a certificate of registration and as a  
16 condition of renewal, each hearing aid dispenser registered pursuant to  
17 subdivision one of section seven hundred ninety of this article shall  
18 submit documentation showing successful completion of twenty continuing  
19 education credits through a course or courses approved by the secretary  
20 [in consultation with the advisory board], or, in relation to audiolo-  
21 gists licensed pursuant to article one hundred fifty-nine of the educa-  
22 tion law, the office of the professions in the education department.  
23 Such formal courses of learning shall include, but not be limited to,  
24 collegiate level of credit in non-credit courses, professional develop-  
25 ment programs and technical sessions offered by national, state and  
26 local professional associations and other organizations acceptable to  
27 the secretary and any other organized educational and technical programs  
28 acceptable to the secretary. The secretary may, in his or her  
29 discretion, and as needed to contribute to the health and welfare of the  
30 public, require the completion of continuing education courses in  
31 specific subjects to fulfill this mandatory continuing education  
32 requirement. Courses shall be taken from a sponsor approved by the  
33 secretary pursuant to regulations promulgated pursuant to this section.

34 (a) Within one year of the effective date of this article, the secre-  
35 tary shall promulgate rules and regulations establishing the method,  
36 content and supervision requirements for the continuing education course  
37 or courses provided for in this section. Properly prepared written mate-  
38 rials of the subject matter of each course shall be distributed and each  
39 course shall be taught by an instructor who meets requirements estab-  
40 lished by the secretary [upon the recommendation of the board]. Any  
41 person or organization offering a course shall apply to the secretary  
42 for authorization to offer such course or courses pursuant to said rules  
43 and regulations.

44 S 6. The opening paragraph of subdivision 1 of section 796 of the  
45 general business law, as added by chapter 599 of the laws of 1998, is  
46 amended to read as follows:

47 The secretary[, in consultation with the board,] shall establish a  
48 full-time, twelve month training program for those persons wishing to  
49 apply for registration as a hearing aid dispenser, except those hearing  
50 aid dispensers otherwise licensed pursuant to article one hundred  
51 fifty-nine of the education law. For the purposes of this section,  
52 "full-time" shall mean seven hours per day for five days a week. Such  
53 program shall be conducted by a registered hearing aid dispenser or  
54 taught by appropriate faculty with credentials to verify substantial  
55 educational knowledge in the topics outlined below. Any trainee entering  
56 such a program shall operate under the direct supervision of a regis-

1 tered hearing aid dispenser for the first three months of such program.  
2 In addition, during such period, the trainee shall satisfactorily  
3 complete a course of instruction, which includes, but is not limited to,  
4 the following topics:

5 S 7. The opening paragraph of subdivision 4 of section 798 of the  
6 general business law, as added by chapter 599 of the laws of 1998, is  
7 amended to read as follows:

8 The secretary shall [in consultation with the hearing aid advisory  
9 board] prescribe the minimum criteria, procedures and equipment which  
10 shall be used in the dispensing of hearing aids, including but not  
11 limited to:

12 S 8. Paragraph (a) of subdivision 12 of section 798 of the general  
13 business law, as amended by chapter 301 of the laws of 2000, is amended  
14 to read as follows:

15 (a) If an individual returns a hearing aid in the same condition,  
16 ordinary wear and tear excluded, within the guarantee period, the  
17 customer shall be entitled to the return of the cost of the hearing aid  
18 and accessories as itemized on the receipt provided pursuant to subdivi-  
19 sion eleven of this section; provided however that any hearing aid that  
20 has been used for a forty-five calendar day period as described in this  
21 subdivision, when refinished and totally reconditioned by the manufac-  
22 turer or by the manufacturer's agent and such manufacturer or manufac-  
23 turer's agent certifies that such hearing aid meets all the acoustical  
24 standards of a new hearing aid and is in all other respects the equiv-  
25 alent of a new hearing aid and with all warranties and guarantees that  
26 accompany a new hearing aid, shall be considered a new hearing aid and  
27 so designated; and further provided, however, that a hearing aid dispen-  
28 ser shall retain as a cancellation fee for return of the hearing aid,  
29 including batteries and cords or accessories thereto, a charge not in  
30 excess of ten per centum of the total purchase price of the cancelled  
31 hearing aid, including batteries and cords or accessories thereto,  
32 inclusive of all fees related to dispensing of hearing aids, as defined  
33 in subdivision [six] FIVE of section seven hundred eighty-nine of this  
34 article. Provided, however, if the hearing aid dispenser is a not-for-  
35 profit hospital or facility licensed or certified pursuant to article  
36 twenty-eight of the public health law, such dispenser is allowed to  
37 retain an amount up to five per centum of the total purchase price of  
38 the cancelled hearing aid, including batteries and cords or accessories  
39 thereto, inclusive of all fees related to the dispensing of the hearing  
40 aid, plus a service fee of not more than two hundred dollars, unless a  
41 second hearing aid was fitted and dispensed at the same time as the  
42 first, then such fee shall not exceed three hundred dollars for both  
43 hearing aids. Such money-back guarantee as provided in this subdivision  
44 shall not be in lieu of or in any way affect the right of the purchaser  
45 to recover the full amount paid and for any damages sustained for a  
46 breach of guarantee of fitness for use.

47 S 9. Subdivisions 1, 2, 4, 5 and 7 of section 803 of the general busi-  
48 ness law, as added by chapter 599 of the laws of 1998, are amended to  
49 read as follows:

50 1. The secretary shall promulgate such rules and regulations as are  
51 deemed necessary to effectuate the purposes of this article, [and]  
52 INCLUDING:

53 (A) THE RIGHTS OF CONSUMERS OF HEARING AIDS INCLUDING BUT NOT LIMITED  
54 TO (I) PROCEDURES WHEREBY A CONSUMER MAY FILE A COMPLAINT AGAINST THOSE  
55 IN VIOLATION OF THIS ARTICLE; AND (II) REQUIREMENTS FOR HEARING AID  
56 DISPENSERS TO PROVIDE CONSUMERS WITH PRINTED EDUCATIONAL INFORMATION ON

1 THE GENERAL USE OF HEARING AIDS AND ASSISTIVE LISTENING DEVICES AND ON  
2 THE ADVANTAGES AND DISADVANTAGES OF BINAURAL HEARING AID USE; AND (III)  
3 THE TRAINING OF INDIVIDUALS IN THE USE AND MAINTENANCE OF SUCH INSTRU-  
4 MENTS;

5 (B) CONTINUING EDUCATION INCLUDING BUT NOT LIMITED TO (I) THE CONTENT  
6 OF SUCH COURSE OF STUDY; (II) THE PROCEDURES FOR APPROVAL OF SUCH COURSE  
7 OF STUDY; AND (III) THOSE INDIVIDUALS AND ORGANIZATIONS WHO MAY PERMIS-  
8 SIBLY OFFER SUCH CONTINUING EDUCATION COURSE OR COURSES PROVIDED FOR IN  
9 SECTION SEVEN HUNDRED NINETY-FOUR OF THIS ARTICLE;

10 (C) THE CONTENT, DELIVERY AND EVALUATION OF ANY EXAMINATION REQUIRED  
11 AS A CONDITION OF REGISTRATION;

12 (D) THE STANDARDS FOR ADVERTISEMENTS, INCLUDING BUT NOT LIMITED TO,  
13 PROSCRIPTIONS AGAINST MISLEADING ADVERTISING RELATING TO THE SCOPE OF  
14 HEARING AID DISPENSING PRACTICES, CREDENTIALS OF INDIVIDUAL HEARING AID  
15 DISPENSERS, AND THE FUNCTION, USE AND RELIABILITY OF A PARTICULAR HEAR-  
16 ING INSTRUMENT;

17 (E) REQUIREMENTS FOR THE SECRETARY TO REGULARLY EXAMINE COMPLIANCE  
18 WITH THIS ARTICLE;

19 (F) REQUIREMENTS PERTAINING TO THE NON-DIAGNOSTIC TESTING OF HEARING  
20 AND SALE OF HEARING AIDS AT OFFICE, RESIDENTIAL AND OTHER OUT OF OFFICE  
21 SETTINGS AND THE DEVELOPMENT OF ENVIRONMENTAL STANDARDS FOR TESTING AT  
22 OFFICE, RESIDENTIAL AND OTHER OUT OF OFFICE SETTINGS; REQUIREMENTS  
23 PERTAINING TO TELEMARKETING; AND

24 (G) PROCEDURES THAT THE SECRETARY COULD USE TO INCREASE PUBLIC AWARE-  
25 NESS OF HOW TO PROPERLY PURCHASE, FIT, ADJUST AND USE A HEARING AID, AS  
26 WELL AS THE RIGHTS OF HEARING AID PURCHASERS UNDER STATE LAW. IN ADDI-  
27 TION TO SUCH DUTIES AND OTHER DUTIES, THE SECRETARY SHALL CONSULT WITH  
28 THE COMMISSIONER OF EDUCATION AND SUCH OTHER PERSONS AS MAY BE APPROPRI-  
29 ATE TO DETERMINE THE PROPER LEVEL AND DEGREE OF EDUCATION FOR A HEARING  
30 AID DISPENSER, THE TYPE OF DEGREE AND THE PROPER EDUCATIONAL INSTITUTION  
31 TO OFFER SUCH EDUCATION AND ALL OTHER RELATED ISSUES.

32 THE SECRETARY shall provide written notification of the provisions of  
33 this article and a copy of the registration application within ninety  
34 days of the effective date of this article to all dealers as were regis-  
35 tered under former article thirty-seven-a of this chapter prior to such  
36 effective date and to audiologists licensed pursuant to article one  
37 hundred fifty-nine of the education law. Such notification shall inform  
38 all such dealers, their dispensing employees and audiologists of the  
39 obligation to register pursuant to subdivision nine of section seven  
40 hundred ninety of this article.

41 2. The secretary shall review implementation of the provisions of this  
42 article in consultation with [the board] NON-AUDIOLOGIST HEARING AID  
43 DISPENSERS, AUDIOLOGISTS WHO ARE ENGAGED IN THE DISPENSING OF HEARING  
44 AIDS, OTOLARYNGOLOGISTS, AND HEARING AID USERS, and shall vigorously and  
45 proactively ensure the enforcement of its provisions through site  
46 visits, regular examination of compliance with this article, public  
47 outreach and education, promulgation of regulations, delivery of techni-  
48 cal assistance, and such other forms as would increase awareness of and  
49 adherence to the protections and process prescribed in this article. The  
50 secretary shall examine compliance with this article for each business  
51 registered pursuant to subdivision one of section seven hundred ninety  
52 of this article at least once every four years.

53 4. [In conjunction with the board, the] THE secretary shall:

54 (a) develop procedures for promptly investigating all complaints  
55 regarding violations of this article;

1 (b) develop procedures for assisting consumers in resolving a dispute  
2 with those persons registered pursuant to this article and mediating on  
3 behalf of consumers when needed;

4 (c) establish a toll-free number at which consumers, including persons  
5 who are hard of hearing or deaf, can register a complaint; and

6 (d) develop other procedures as necessary to increase public awareness  
7 of how to properly purchase, fit, adjust and use a hearing aid, as well  
8 as the rights of hearing aid consumers pursuant to this article, which  
9 shall include the distribution of written information concerning this  
10 subject matter and the toll-free number to those subject to this arti-  
11 cle, the media, and the general public.

12 5. The secretary[, in conjunction with the board] shall cause to be  
13 prepared and distributed printed educational information to registered  
14 hearing aid dispensers and others about the general use of hearing aids  
15 and assistive listening devices and on the advantages and disadvantages  
16 of hearing aids as well as rights and remedies available to the consumer  
17 pursuant to this article.

18 7. On or before January thirty-first of each year, the secretary shall  
19 develop and distribute a report to the governor, the speaker of the  
20 assembly, the temporary president of the senate, the minority leader of  
21 the assembly, the minority leader of the senate, the chair of the assem-  
22 bly ways and means committee, and the chair of the senate finance  
23 committee, and make it available for public examination. Such report  
24 shall entail specific efforts made by the secretary[, the board] and  
25 hearing aid dispensers to comply with the provisions of this article, [a  
26 compilation of actions taken in response to recommendations submitted to  
27 the secretary from the board,] a summary of the results of compliance  
28 efforts and anticipated efforts to improve public education, compliance  
29 and enforcement during the subsequent year, as well as recommendations,  
30 if any, to amend this article.

31 S 10. Section 57.03 of the arts and cultural affairs law is amended  
32 by adding a new subdivision 7 to read as follows:

33 7. (A) TO MAKE RECOMMENDATIONS TO STATE AGENCIES REGARDING THE CUSTO-  
34 DY, DISPLAY, CONSERVATION, PRESERVATION AND MAINTENANCE OF WORKS OF ART  
35 IN THE EMPIRE STATE PLAZA UNDER THE JURISDICTION OF SUCH AGENCIES;

36 (B) TO APPRAISE AND CATALOGUE WORKS OF ART IN THE EMPIRE STATE PLAZA;

37 (C) TO ADVISE AND ASSIST STATE AGENCIES IN THE PREPARATION AND  
38 DISTRIBUTION OF PUBLICATIONS BY SUCH AGENCIES;

39 (D) TO MAKE RECOMMENDATIONS TO THE GOVERNOR, THE LEGISLATURE AND THE  
40 COMMISSIONER OF GENERAL SERVICES REGARDING THE PURCHASE OF WORKS OF ART  
41 FOR DISPLAY AT THE EMPIRE STATE PLAZA;

42 (E) TO SOLICIT AND ACQUIRE BY GIFT, GRANT OR LOAN SUCH WORKS OF ART  
43 FOR DISPLAY AT THE EMPIRE STATE PLAZA AS IT DEEMS TO BE IN THE BEST  
44 INTERESTS OF THE PEOPLE OF THE STATE;

45 (F) TO ENTER INTO SUCH CONTRACTS AS MAY BE NECESSARY OR APPROPRIATE  
46 FOR THE PERFORMANCE OF THE FUNCTIONS VESTED IN IT BY THIS ARTICLE;

47 (G) TO RENDER SUCH ASSISTANCE AS THE LEGISLATURE OR EITHER HOUSE THER-  
48 EOF MAY REQUEST WITH RESPECT TO THE LEGISLATIVE OFFICE BUILDING AND  
49 OTHER OFFICES AND FACILITIES OF THE LEGISLATURE IN THE EMPIRE STATE  
50 PLAZA;

51 (H) TO RENDER SUCH ASSISTANCE AS THE COMMISSIONER OF EDUCATION MAY  
52 REQUEST WITH RESPECT TO THE CULTURAL EDUCATION CENTER;

53 (I) TO SOLICIT AND ACCEPT GIFTS, CONTRIBUTIONS AND BEQUEST OF FUNDS  
54 FROM INDIVIDUALS, FOUNDATIONS, CORPORATIONS AND OTHER ORGANIZATIONS OR  
55 INSTITUTIONS FOR PURPOSES OF THE COMMISSION. ALL FUNDS FROM SUCH GIFTS,  
56 CONTRIBUTIONS AND BEQUESTS SHALL BE DEPOSITED IN A STATE FIDUCIARY FUND,

1 EXPENDITURES FROM WHICH SHALL BE LIMITED TO THE PURPOSES SET FORTH IN  
2 THIS ARTICLE;

3 (J) TO ESTABLISH A PROGRAM, IN CONSULTATION WITH THE COMMISSIONER OF  
4 GENERAL SERVICES, FOR THE PROMOTION OF THE EMPIRE STATE PLAZA ART  
5 COLLECTION TO THE PUBLIC THROUGH SUCH MEANS AS DETERMINED TO BE APPRO-  
6 PRIATE, INCLUDING, BUT NOT LIMITED TO, EDUCATIONAL SEMINARS, REMOTE  
7 EXHIBITIONS, SPECIAL EVENTS AND THE SALE OF SOUVENIRS OR MEMENTOS  
8 RELATED TO THE COLLECTION. ALL RECEIPTS FROM PROMOTIONAL EFFORTS SHALL  
9 BE DEPOSITED IN A STATE FIDUCIARY FUND, EXPENDITURES FROM WHICH SHALL BE  
10 LIMITED TO THE PURPOSES SET FORTH IN THIS ARTICLE; AND

11 (K) TO APPOINT A CURATOR AND ASSOCIATED EMPLOYEES, PRESCRIBE POWERS  
12 AND DUTIES OF THE CURATOR, AND SHALL FIX HIS OR HER COMPENSATION WITHIN  
13 THE AMOUNTS APPROPRIATED THEREFOR.

14 S 11. Article 4 of the arts and cultural affairs law is REPEALED.

15 S 12. Section 404 of the general business law, as amended by chapter  
16 341 of the laws of 1998, is amended to read as follows:

17 S 404. Rules and regulations. The secretary shall promulgate rules and  
18 regulations which establish standards for practice and operation by  
19 licensees under this article in order to ensure the health, safety and  
20 welfare of the public. Such rules and regulations shall include, but not  
21 be limited to, the sanitary conditions and procedures required to be  
22 maintained, a minimum standard of training appropriate to the duties of  
23 nail specialists, waxers, natural hair stylists, estheticians, and  
24 cosmetologists and the provision of service by nail specialists, waxers,  
25 natural hair stylists, estheticians or cosmetologists at remote  
26 locations other than the licensee's home provided that such practitioner  
27 holds an appearance enhancement business license to operate at a fixed  
28 location or is employed by the holder of an appearance enhancement busi-  
29 ness license. Regulations setting forth the educational requirements for  
30 nail specialists shall include education in the area of causes of  
31 infection and bacteriology. In promulgating such rules and regulations  
32 the secretary shall consult with the state education department[, the  
33 advisory committee established pursuant to this article,] AND any other  
34 state agencies and private industry representatives as may be appropri-  
35 ate in determining minimum training requirements.

36 S 13. Section 433-a of the general business law is REPEALED.

37 S 14. Section 844-a of the executive law is REPEALED.

38 S 15. Section 16 of the agriculture and markets law is amended by  
39 adding a new subdivision 45 to read as follows:

40 45. WHEN CONSIDERING PLANS, POLICIES AND PROGRAMS PURSUANT TO ARTICLE  
41 FOURTEEN OF THIS CHAPTER, THE COMMISSIONER SHALL CONSULT WITH THE APIARY  
42 INDUSTRY, INCLUDING, BUT NOT LIMITED TO COMMERCIAL AND PART-TIME  
43 BEE-KEEPERS, HORTICULTURE OR VEGETABLE GROWERS, THE CORNELL COOPERATIVE  
44 EXTENSION AND THE PLANT INDUSTRY.

45 S 16. Sections 169-c and 169-d of the agriculture and markets law are  
46 REPEALED.

47 S 17. Subdivision 3 of section 73-c of the transportation law is  
48 REPEALED.

49 S 18. Section 73-d of the transportation law is REPEALED.

50 S 19. Subdivision 2 and the opening paragraph of subdivision 5 of  
51 section 73-e of the transportation law, as amended by chapter 562 of the  
52 laws of 1987, are amended and a new subdivision 6 is added to read as  
53 follows;

54 2. Eligible expenses and services. The department shall[, in consul-  
55 tation with the interagency coordinating committee on rural public  
56 transportation,] define and determine the categories or types of

1 expenses or services that will be eligible for financial assistance.  
2 Public transportation services funded under this article should be  
3 designed to maximize usage by the public, including transportation  
4 disadvantaged persons. Rail, air, water, freight, emergency medical,  
5 charter or tour transportation services shall not be eligible for  
6 assistance provided by this article. No payment of financial assistance  
7 under this section shall be made for any expenses incurred by a rural  
8 county or its subcontractors prior to the date it receives written  
9 notice from the commissioner that it shall be awarded a grant under this  
10 article.

11 Coordination of federal, state, local and private aid; report. The  
12 department may compile and maintain current information on available and  
13 pending federal, state, local and private aid affecting coordinated  
14 public transportation services in rural counties. The department may  
15 request and shall be entitled to receive information from state or local  
16 agencies regarding the amount of federal, state and local aid received  
17 by public and private nonprofit organizations providing or contracting  
18 for transportation services and the purpose for which the aid is  
19 received. The commissioner may[, in consultation with the interagency  
20 coordinating committee on rural public transportation,] use the follow-  
21 ing criteria to recommend policies to the governor and the legislature  
22 that would or could promote compliance with the purposes of this subdi-  
23 vision:

24 6. THE COMMISSIONER SHALL, IN IMPLEMENTING THIS ARTICLE, CONSULT WITH  
25 THE OFFICE FOR THE AGING, THE OFFICE OF MENTAL HEALTH, AND THE OFFICE  
26 FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES; AND THE DEPARTMENTS OF  
27 LABOR, HEALTH, SOCIAL SERVICES, STATE, AND AGRICULTURE AND MARKETS; THE  
28 STATE ADVOCATE FOR THE DISABLED; THE DIVISION FOR YOUTH AND REPRESENTATION  
29 OF CONSUMERS AND PROVIDERS OF TRANSPORTATION SERVICES IN RURAL  
30 COUNTIES.

31 S 20. Subdivision 1 of section 73-h of the transportation law, as  
32 amended by chapter 562 of the laws of 1987, is amended to read as  
33 follows:

34 1. For those rural counties having an approved and implemented coordi-  
35 nated public transportation service plan which has maintained existing  
36 levels of funding used for transportation by the coordinated service and  
37 has documented the need for additional operating aid, the commissioner  
38 may[, in consultation with the interagency coordinating committee on  
39 rural public transportation,] grant up to twenty-five thousand dollars  
40 per year for operating aid for up to five successive years, subject to  
41 annual appropriations to be included in the state budget. Such aid may  
42 be extended annually when the county or operator of the coordinated  
43 public transportation service has adequately demonstrated the need for  
44 such continued aid and that criteria for continuing aid established by  
45 rules issued by the commissioner have been met.

46 S 21. Subdivisions 6, 14 and 15 of section 73-j of the transportation  
47 law, subdivision 6 as amended by chapter 562 of the laws of 1987 and  
48 subdivisions 14 and 15 as amended by chapter 659 of the laws of 1989,  
49 are amended to read as follows:

50 6. Except as provided for in section seventy-three-g of this article,  
51 a rural county's apportionment of funds made available in accordance  
52 with this article may be used for capital, operating and or administra-  
53 tive assistance to provide rural public transportation. The commission-  
54 er[, in consultation with the interagency coordinating committee on  
55 rural public transportation,] may award other grants for operating and  
56 capital expenses.

1 14. Notwithstanding any other provisions of this article to the  
2 contrary, no application for financial assistance made pursuant to  
3 section seventy-three-g of this article shall be awarded by the commis-  
4 sioner for less than fifty-five thousand dollars or for less than the  
5 amount requested unless the commissioner shall, in writing, prior to  
6 making the award, each year certify the reasons why such applicant was  
7 awarded less than fifty-five thousand dollars or an amount less than  
8 requested. Such certification, including the reasons for such action,  
9 shall be sent to the applicant, [the interagency coordinating committee  
10 on rural public transportation,] the secretary of the senate finance  
11 committee, the secretary of the assembly ways and means committee, the  
12 director of the office of rural affairs and the director of the legisla-  
13 tive commission on the development of rural resources.

14 15. Notwithstanding any other provisions of this article to the  
15 contrary, no grant for operating aid, as authorized by section seventy-  
16 three-h of this article, shall be made by the commissioner to any county  
17 for less than thirty-five thousand dollars in any one year unless the  
18 commissioner shall, in writing, prior to making the grant, each year  
19 certify the reasons why such county was awarded less than thirty-five  
20 thousand dollars. Such certification including the reasons for such  
21 action shall be sent to such county, [the interagency coordinating  
22 committee on rural public transportation,] the secretary of the senate  
23 finance committee, the secretary of the assembly ways and means commit-  
24 tee, the director of the office of rural affairs and the director of the  
25 legislative commission on the development of rural resources.

26 S 22. Section 73-p of the transportation law, as added by chapter 895  
27 of the laws of 1986, is amended to read as follows:

28 S 73-p. Department report. Commencing December thirty-first, nineteen  
29 hundred eighty-seven, the department[, in cooperation with the state  
30 interagency coordinating committee on rural public transportation,]  
31 shall prepare and submit to the governor and the legislature a report on  
32 or before the first day of January of each year, which shall include  
33 information relating to the operation of coordinated public transporta-  
34 tion services in rural counties then being funded under this article and  
35 any recommendations for overall program improvement; stating the  
36 receipts and disbursements made during the preceding fiscal year and  
37 adequacy of programs financed by federal, state, local and private aid  
38 in rural counties of the state. The department shall analyze the  
39 programs financed in accordance with this article and recommend methods  
40 of avoiding duplication and increasing the efficacy of programs  
41 financed. The department shall receive comments from the officers and  
42 agents of affected state and local government units relative to the  
43 department's analysis.

44 S 23. Section 215 of the vehicle and traffic law is amended by adding  
45 two new subdivisions (d) and (e) to read as follows:

46 (D) THE COMMISSIONER SHALL CONSULT WITH REPRESENTATIVES OF THE TOW  
47 TRUCK INDUSTRY, THROUGHOUT THE STATE INCLUDING THE HEAVY DUTY TOW TRUCK  
48 INDUSTRY, AUTOMOBILE CLUBS, POLICE AGENCIES AND LOCAL GOVERNMENT CONSUM-  
49 ER PROTECTION AGENCIES PRIOR TO DEVELOPING OR AMENDING REGULATIONS OR  
50 GUIDANCE ON TOW TRUCK SAFETY AND OPERATIONS, STANDARDS FOR LICENSURE AND  
51 INSPECTION OF TOW TRUCKS AND REQUIREMENTS AND QUALIFICATIONS FOR DRIVERS  
52 THEREOF.

53 (E) THE COMMISSIONER SHALL CONSULT WITH AGRICULTURAL ORGANIZATIONS  
54 INCLUDING NEW YORK STATE FARM BUREAU; AGRI-BUSINESSES AND FARMERS  
55 INVOLVED IN THE TRANSPORTATION OF AGRICULTURAL INPUTS, SUPPLIES OR  
56 COMMODITIES; CORNELL COOPERATIVE EXTENSION; THE DEPARTMENTS OF AGRICUL-

1 TURE AND MARKETS, TRANSPORTATION, AND THE STATE POLICE, PRIOR TO DEVEL-  
2 OPING OR AMENDING REGULATIONS OR GUIDANCE REGARDING THE AGRICULTURAL  
3 VEHICLES AND EQUIPMENT. THE COMMISSIONER SHALL PERIODICALLY CONSULT SUCH  
4 ENTITIES AS TO WAIVERS NEEDED FROM THE FEDERAL MOTOR CARRIER SAFETY  
5 REGULATIONS.

6 S 24. Section 216-b of the vehicle and traffic law is REPEALED.

7 S 25. Section 7 of chapter 654 of the laws of 1994, amending the  
8 transportation law and the vehicle and traffic law relating to equipment  
9 requirements for registered farm vehicles, is REPEALED.

10 S 26. Article 4 of the state technology law is REPEALED.

11 S 27. Chapter 868 of the laws of 1976, establishing the organic food  
12 advisory committee, is REPEALED.

13 S 28. Subdivision 5 of section 89-bbb of the general business law is  
14 REPEALED.

15 S 29. Section 89-lll of the general business law, as added by chapter  
16 557 of the laws of 1997, is amended to read as follows:

17 S 89-lll. Regulations. The secretary[, in consultation with the  
18 board,] is hereby authorized and empowered to promulgate rules and regu-  
19 lations necessary for the proper conduct of the business authorized  
20 under this article, and not inconsistent herewith. THE SECRETARY SHALL,  
21 IN IMPLEMENTING THIS ARTICLE, CONSULT WITH THE ARMORED CAR CARRIER  
22 INDUSTRY, INCLUDING, BUT NOT LIMITED TO DOMESTIC AND FOREIGN CARRIERS  
23 AND THE NEW YORK ARMORED CAR ASSOCIATION, INC.

24 S 30. Section 89-mmm of the general business law is REPEALED.

25 S 31. Subdivision 5 of section 89-ppp of the general business law is  
26 REPEALED.

27 S 32. Subdivision 13 of section 89-ppp of the general business law, as  
28 added by chapter 557 of the laws of 1997, is amended to read as follows:

29 13. "Qualified firearms training course" means a minimum forty-seven  
30 hour firearms training course for armored car guards that is specific  
31 and germane to the armored car carrier industry, recognized by the divi-  
32 sion in consultation with the [board] ARMORED CAR CARRIER INDUSTRY AND  
33 THE NEW YORK ARMORED CAR ASSOCIATION, INC.

34 S 33. Subdivision 4 of section 89-sss of the general business law, as  
35 added by chapter 557 of the laws of 1997, is amended to read as follows:

36 4. The commissioner[, upon the recommendation and with the general  
37 advice of the board,] shall waive the training requirements specified in  
38 subdivision one of this section, with respect to applicants employed by  
39 armored car carriers, if the applicant provides appropriate documenta-  
40 tion to demonstrate that he or she was or is subject to training  
41 requirements which meet or exceed the requirements established pursuant  
42 to such subdivision.

43 S 34. Section 89-yyy of the general business law, as added by chapter  
44 557 of the laws of 1997, is amended to read as follows:

45 S 89-yyy. Regulations. The secretary and commissioner, in consultation  
46 with the [board] ARMORED CAR CARRIER INDUSTRY AND THE NEW YORK ARMORED  
47 CAR ASSOCIATION, INC., are hereby authorized and empowered to promulgate  
48 rules and regulations necessary for the proper conduct of the business  
49 authorized under this article, and not inconsistent herewith.

50 S 35. Section 923 of the executive law is REPEALED.

51 S 36. Section 11-1005 of the environmental conservation law is  
52 REPEALED.

53 S 37. Section 11-1007 of the environmental conservation law, as  
54 amended by chapter 911 of the laws of 1990, is amended to read as  
55 follows:

56 S 11-1007. Department authority.

1 The department shall make such rules and regulations governing the  
2 issuance and use of falconry licenses as it shall deem proper and neces-  
3 sary[, giving due consideration to the recommendations of the falconry  
4 advisory board]. The department may fix by regulation special open  
5 seasons for the taking of small game or upland game birds by falconry.  
6 The department may revoke any falconry license and may seize raptors  
7 held pursuant thereto if the licensee (i) fails to provide proper care  
8 for the raptors in the licensee's possession, (ii) allows raptors in the  
9 licensee's possession to become a public nuisance, (iii) is convicted of  
10 or settles by civil compromise any violation of any provision of this  
11 chapter or regulation of the department, or (iv) fails to comply with  
12 any of the terms or conditions of the falconry license. THE COMMISSION-  
13 ER SHALL SEEK THE ADVICE AND RECOMMENDATIONS FROM PERSONS ASSOCIATED  
14 WITH STATE OR NATIONAL ORGANIZATIONS OR INSTITUTIONS WITH PRIMARY INTER-  
15 ESTS IN ORNITHOLOGY, FALCONRY OR WILDLIFE CONSERVATION WHEN CONSIDERING  
16 FALCONRY LICENSE APPLICATIONS AND THE SPECIES AND NUMBER OF RAPTORS  
17 WHICH MAY BE POSSESSED OR TAKEN FROM THE WILD BY EACH APPLICANT AND THE  
18 MANNER OF SUCH TAKING, AND CHANGES TO THE RULES AND REGULATIONS GOVERN-  
19 ING THE IMPLEMENTATION OF THE PROVISIONS OF THIS TITLE.

20 S 38. Subparagraph (ii) of paragraph d of subdivision 4 of section  
21 17-1007 of the environmental conservation law, as added by chapter 334  
22 of the laws of 2008, is amended to read as follows:

23 (ii) As promptly as possible thereafter, not to exceed fifteen days,  
24 the commissioner shall provide the owner or operator an opportunity to  
25 be heard and to present proof that such condition or activity does not  
26 violate the provisions of this section or of the rules or regulations  
27 adopted pursuant to this title. The commissioner shall adopt rules and  
28 regulations describing the procedure to be followed in the prohibition  
29 of petroleum deliveries. In adopting such rules and regulations the  
30 department shall allow for the owner or operator at any time to submit  
31 information to the department to demonstrate that the owner or operator  
32 is in compliance with the requirements or has corrected the violation  
33 that prompted the department to prohibit deliveries of petroleum and to  
34 allow the tank or tanks to be, as promptly as possible, brought back  
35 into operation, not to exceed two business days from the department's  
36 determination that a tank is in compliance. The department shall use its  
37 best efforts to timely determine compliance. [The commissioner shall  
38 draft such rules and regulations and submit them to the state petroleum  
39 bulk storage advisory council for comments within six months of the  
40 effective date of this subparagraph.]

41 S 39. Subdivision 1 of section 17-1009 of the environmental conserva-  
42 tion law, as added by chapter 613 of the laws of 1983, is amended to  
43 read as follows:

44 1. The department shall [consult with the state petroleum bulk storage  
45 advisory council to] compile a list of facilities within the state.  
46 Within thirty days of the promulgation of rules and regulations in  
47 accordance with section 17-1005, section 17-1007, and this section of  
48 this title, the department shall make available, upon request, a copy of  
49 such rules and regulations.

50 S 40. Section 17-1013 of the environmental conservation law is  
51 REPEALED.

52 S 41. Subdivision 1 of section 17-1015 of the environmental conserva-  
53 tion law, as amended by chapter 334 of the laws of 2008, is amended to  
54 read as follows:

55 1. The department shall, pursuant to section 17-0303 of this article,  
56 promulgate rules and regulations establishing standards for existing and

1 new petroleum bulk storage facilities which shall include, but not be  
2 limited to, design, equipment requirements, construction, installation  
3 and maintenance. In proposing, preparing [and], compiling, AND REVISING  
4 such rules and regulations, the department shall consult with [the state  
5 petroleum bulk storage code advisory council] OWNERS, OPERATORS OTHER  
6 THAN OWNERS, AND MUNICIPAL CORPORATIONS WITH PETROLEUM BULK STORAGE  
7 FACILITIES. In addition, the department shall consult with the state  
8 fire prevention and building code council to assure that such rules and  
9 regulations are consistent with the uniform fire prevention and building  
10 code.

11 S 42. Section 1390 of the public health law is REPEALED.

12 S 43. Subdivision 1 of section 3401 of the public health law is  
13 amended to read as follows:

14 1. The commissioner may, from time to time, make and adopt such rules  
15 and regulations not inconsistent with law as may be necessary (a) in the  
16 performance of his duties and in the administration of the provisions of  
17 this article; and (b) to govern and regulate the conduct and transaction  
18 of the business and practice of funeral directing, undertaking and  
19 embalming. THE COMMISSIONER SHALL, IN IMPLEMENTING THIS TITLE AND  
20 REVISING REGULATIONS, CONSULT WITH THE REPRESENTATIVES OF CONSUMER  
21 INTERESTS, LICENSED FUNERAL DIRECTORS, UNDERTAKERS OR EMBALMERS, AND  
22 CEMETERY CORPORATIONS.

23 S 44. Section 3402 of the public health law is REPEALED.

24 S 45. Subdivision 5 of section 402 of the general business law, as  
25 added by chapter 509 of the laws of 1992, is amended to read as follows:

26 5. Adopt such rules and regulations not inconsistent with the  
27 provisions of this article, as may be necessary with respect to the form  
28 and content of applications for licenses, the reception thereof, the  
29 investigation and examination of applicants and of prospective appli-  
30 cants taking examinations and their qualifications, and the other  
31 matters incidental or appropriate to the powers and duties of the secre-  
32 tary as prescribed by this article and for the proper administration and  
33 enforcement of the provisions of this article. THE SECRETARY SHALL, IN  
34 IMPLEMENTING THIS TITLE AND REVISING REGULATIONS, CONSULT WITH PERSONS  
35 ENGAGED IN THE PRACTICE OF NAIL SPECIALTY, WAXING, NATURAL HAIR STYLING,  
36 AESTHETICS, COSMETOLOGY, IN TRAINING OF PERSONS FOR SUCH PRACTICES, AND  
37 LICENSED DERMATOLOGISTS.

38 S 46. Section 403 of the general business law is REPEALED.

39 S 47. Section 404 of the general business law, as amended by chapter  
40 341 of the laws of 1998, is amended to read as follows:

41 S 404. Rules and regulations. The secretary shall promulgate rules and  
42 regulations which establish standards for practice and operation by  
43 licensees under this article in order to ensure the health, safety and  
44 welfare of the public. Such rules and regulations shall include, but not  
45 be limited to, the sanitary conditions and procedures required to be  
46 maintained, a minimum standard of training appropriate to the duties of  
47 nail specialists, waxers, natural hair stylists, estheticians, and  
48 cosmetologists and the provision of service by nail specialists, waxers,  
49 natural hair stylists, estheticians or cosmetologists at remote  
50 locations other than the licensee's home provided that such practitioner  
51 holds an appearance enhancement business license to operate at a fixed  
52 location or is employed by the holder of an appearance enhancement busi-  
53 ness license. Regulations setting forth the educational requirements for  
54 nail specialists shall include education in the area of causes of  
55 infection and bacteriology. In promulgating such rules and regulations  
56 the secretary shall consult with the state education department, [the

1 advisory committee established pursuant to this article,] any other  
2 state agencies and private industry representatives as may be appropri-  
3 ate in determining minimum training requirements.

4 S 48. Subdivision 14 of section 601 of the executive law is REPEALED.

5 S 49. Subdivision 12 of section 604 of the executive law, as added by  
6 chapter 729 of the laws of 2005, is amended and a new paragraph 13 is  
7 added to read as follows:

8 12. To create and maintain a consumer awareness pamphlet[, in conjunc-  
9 tion with the advisory council,] to include, but not be limited to,  
10 detailing the certification process, installer selection rights, the  
11 dispute resolution process, the differences between the types of hous-  
12 ing, and other consumer protection issues. Such pamphlet shall be avail-  
13 able to the public, and published on the department's website.

14 13. THE SECRETARY SHALL, IN IMPLEMENTING THIS ARTICLE AND REVISING  
15 REGULATIONS, CONSULT WITH INSTALLERS, PARK RESIDENCE ADVOCACY ASSOCI-  
16 ATIONS, RETAILERS, AND MANUFACTURED HOME INDUSTRY TRADE ASSOCIATIONS,  
17 MANUFACTURERS, THE ENGINEERING INDUSTRY INVOLVED IN MANUFACTURED HOUSING  
18 ISSUES, CONSUMER ADVOCACY ASSOCIATIONS INVOLVED IN MANUFACTURED HOUSING  
19 ISSUES, AND MANUFACTURED HOUSING RESIDENT OWNERS.

20 S 50. Sections 611 and 612 of the executive law are REPEALED.

21 S 51. This act shall take effect immediately.