

6194--A

I N S E N A T E

January 12, 2012

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT 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 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 section 74-a of the state law, relating to the New York state collectable series panel; 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 and the appearance enhancement advisory committee; 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 requirements for registered farm vehicles, relating to the agricul-

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

LBD11286-06-2

tural 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 public health law, relating to the state camp safety advisory council and the funeral directing advisory board; and to repeal section 154 of the labor law, relating to the child performer advisory board to prevent eating disorders

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

Section 1. Section 74-a of the state law is REPEALED.

S 2. Section 57.03 of the arts and cultural affairs law is amended by adding a new subdivision 7 to read as follows:

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

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

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

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

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

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

(G) TO RENDER SUCH ASSISTANCE AS THE LEGISLATURE OR EITHER HOUSE THEREOF MAY REQUEST WITH RESPECT TO THE LEGISLATIVE OFFICE BUILDING AND OTHER OFFICES AND FACILITIES OF THE LEGISLATURE IN THE EMPIRE STATE PLAZA;

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

(I) TO SOLICIT AND ACCEPT GIFTS, CONTRIBUTIONS AND BEQUEST OF FUNDS FROM INDIVIDUALS, FOUNDATIONS, CORPORATIONS AND OTHER ORGANIZATIONS OR INSTITUTIONS FOR PURPOSES OF THE COMMISSION. ALL FUNDS FROM SUCH GIFTS, CONTRIBUTIONS AND BEQUESTS SHALL BE DEPOSITED IN A STATE FIDUCIARY FUND, EXPENDITURES FROM WHICH SHALL BE LIMITED TO THE PURPOSES SET FORTH IN THIS ARTICLE;

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

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

S 3. Article 4 of the arts and cultural affairs law is REPEALED.

S 4. Section 404 of the general business law, as amended by chapter 341 of the laws of 1998, is amended to read as follows:

1 S 404. Rules and regulations. The secretary shall promulgate rules and
2 regulations which establish standards for practice and operation by
3 licensees under this article in order to ensure the health, safety and
4 welfare of the public. Such rules and regulations shall include, but not
5 be limited to, the sanitary conditions and procedures required to be
6 maintained, a minimum standard of training appropriate to the duties of
7 nail specialists, waxers, natural hair stylists, estheticians, and
8 cosmetologists and the provision of service by nail specialists, waxers,
9 natural hair stylists, estheticians or cosmetologists at remote
10 locations other than the licensee's home provided that such practitioner
11 holds an appearance enhancement business license to operate at a fixed
12 location or is employed by the holder of an appearance enhancement busi-
13 ness license. Regulations setting forth the educational requirements for
14 nail specialists shall include education in the area of causes of
15 infection and bacteriology. In promulgating such rules and regulations
16 the secretary shall consult with the state education department[, the
17 advisory committee established pursuant to this article,] AND any other
18 state agencies and private industry representatives as may be appropri-
19 ate in determining minimum training requirements.

20 S 5. Section 433-a of the general business law is REPEALED.

21 S 6. Section 844-a of the executive law is REPEALED.

22 S 7. Section 16 of the agriculture and markets law is amended by
23 adding a new subdivision 45 to read as follows:

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

29 S 8. Sections 169-c and 169-d of the agriculture and markets law are
30 REPEALED.

31 S 9. Subdivision 3 of section 73-c of the transportation law is
32 REPEALED.

33 S 10. Section 73-d of the transportation law is REPEALED.

34 S 11. Subdivision 2 and the opening paragraph of subdivision 5 of
35 section 73-e of the transportation law, as amended by chapter 562 of the
36 laws of 1987, are amended and a new subdivision 6 is added to read as
37 follows:

38 2. Eligible expenses and services. The department shall[, in consul-
39 tation with the interagency coordinating committee on rural public
40 transportation,] define and determine the categories or types of
41 expenses or services that will be eligible for financial assistance.
42 Public transportation services funded under this article should be
43 designed to maximize usage by the public, including transportation
44 disadvantaged persons. Rail, air, water, freight, emergency medical,
45 charter or tour transportation services shall not be eligible for
46 assistance provided by this article. No payment of financial assistance
47 under this section shall be made for any expenses incurred by a rural
48 county or its subcontractors prior to the date it receives written
49 notice from the commissioner that it shall be awarded a grant under this
50 article.

51 Coordination of federal, state, local and private aid; report. The
52 department may compile and maintain current information on available and
53 pending federal, state, local and private aid affecting coordinated
54 public transportation services in rural counties. The department may
55 request and shall be entitled to receive information from state or local
56 agencies regarding the amount of federal, state and local aid received

1 by public and private nonprofit organizations providing or contracting
2 for transportation services and the purpose for which the aid is
3 received. The commissioner may[, in consultation with the interagency
4 coordinating committee on rural public transportation,] use the follow-
5 ing criteria to recommend policies to the governor and the legislature
6 that would or could promote compliance with the purposes of this subdivi-
7 sion:

8 6. THE COMMISSIONER SHALL, IN IMPLEMENTING THIS ARTICLE, CONSULT WITH
9 THE OFFICE FOR THE AGING, THE OFFICE OF MENTAL HEALTH, AND THE OFFICE
10 FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES; AND THE DEPARTMENTS OF
11 LABOR, HEALTH, SOCIAL SERVICES, STATE, AND AGRICULTURE AND MARKETS; THE
12 STATE ADVOCATE FOR THE DISABLED; THE DIVISION FOR YOUTH AND REPRESENTATION
13 OF CONSUMERS AND PROVIDERS OF TRANSPORTATION SERVICES IN RURAL
14 COUNTIES.

15 S 12. Subdivision 1 of section 73-h of the transportation law, as
16 amended by chapter 562 of the laws of 1987, is amended to read as
17 follows:

18 1. For those rural counties having an approved and implemented coordi-
19 nated public transportation service plan which has maintained existing
20 levels of funding used for transportation by the coordinated service and
21 has documented the need for additional operating aid, the commissioner
22 may[, in consultation with the interagency coordinating committee on
23 rural public transportation,] grant up to twenty-five thousand dollars
24 per year for operating aid for up to five successive years, subject to
25 annual appropriations to be included in the state budget. Such aid may
26 be extended annually when the county or operator of the coordinated
27 public transportation service has adequately demonstrated the need for
28 such continued aid and that criteria for continuing aid established by
29 rules issued by the commissioner have been met.

30 S 13. Subdivisions 6, 14 and 15 of section 73-j of the transportation
31 law, subdivision 6 as amended by chapter 562 of the laws of 1987 and
32 subdivisions 14 and 15 as amended by chapter 659 of the laws of 1989,
33 are amended to read as follows:

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

41 14. Notwithstanding any other provisions of this article to the
42 contrary, no application for financial assistance made pursuant to
43 section seventy-three-g of this article shall be awarded by the commis-
44 sioner for less than fifty-five thousand dollars or for less than the
45 amount requested unless the commissioner shall, in writing, prior to
46 making the award, each year certify the reasons why such applicant was
47 awarded less than fifty-five thousand dollars or an amount less than
48 requested. Such certification, including the reasons for such action,
49 shall be sent to the applicant, [the interagency coordinating committee
50 on rural public transportation,] the secretary of the senate finance
51 committee, the secretary of the assembly ways and means committee, the
52 director of the office of rural affairs and the director of the legisla-
53 tive commission on the development of rural resources.

54 15. Notwithstanding any other provisions of this article to the
55 contrary, no grant for operating aid, as authorized by section seventy-
56 three-h of this article, shall be made by the commissioner to any county

1 for less than thirty-five thousand dollars in any one year unless the
2 commissioner shall, in writing, prior to making the grant, each year
3 certify the reasons why such county was awarded less than thirty-five
4 thousand dollars. Such certification including the reasons for such
5 action shall be sent to such county, [the interagency coordinating
6 committee on rural public transportation,] the secretary of the senate
7 finance committee, the secretary of the assembly ways and means commit-
8 tee, the director of the office of rural affairs and the director of the
9 legislative commission on the development of rural resources.

10 S 14. Section 73-p of the transportation law, as added by chapter 895
11 of the laws of 1986, is amended to read as follows:

12 S 73-p. Department report. Commencing December thirty-first, nineteen
13 hundred eighty-seven, the department[, in cooperation with the state
14 interagency coordinating committee on rural public transportation,]
15 shall prepare and submit to the governor and the legislature a report on
16 or before the first day of January of each year, which shall include
17 information relating to the operation of coordinated public transporta-
18 tion services in rural counties then being funded under this article and
19 any recommendations for overall program improvement; stating the
20 receipts and disbursements made during the preceding fiscal year and
21 adequacy of programs financed by federal, state, local and private aid
22 in rural counties of the state. The department shall analyze the
23 programs financed in accordance with this article and recommend methods
24 of avoiding duplication and increasing the efficacy of programs
25 financed. The department shall receive comments from the officers and
26 agents of affected state and local government units relative to the
27 department's analysis.

28 S 15. Section 215 of the vehicle and traffic law is amended by adding
29 two new subdivisions (d) and (e) to read as follows:

30 (D) THE COMMISSIONER SHALL CONSULT WITH REPRESENTATIVES OF THE TOW
31 TRUCK INDUSTRY, THROUGHOUT THE STATE INCLUDING THE HEAVY DUTY TOW TRUCK
32 INDUSTRY, AUTOMOBILE CLUBS, POLICE AGENCIES AND LOCAL GOVERNMENT CONSUM-
33 ER PROTECTION AGENCIES PRIOR TO DEVELOPING OR AMENDING REGULATIONS OR
34 GUIDANCE ON TOW TRUCK SAFETY AND OPERATIONS, STANDARDS FOR LICENSURE AND
35 INSPECTION OF TOW TRUCKS AND REQUIREMENTS AND QUALIFICATIONS FOR DRIVERS
36 THEREOF.

37 (E) THE COMMISSIONER SHALL CONSULT WITH AGRICULTURAL ORGANIZATIONS
38 INCLUDING NEW YORK STATE FARM BUREAU; AGRI-BUSINESSES AND FARMERS
39 INVOLVED IN THE TRANSPORTATION OF AGRICULTURAL INPUTS, SUPPLIES OR
40 COMMODITIES; CORNELL COOPERATIVE EXTENSION; THE DEPARTMENTS OF AGRICUL-
41 TURE AND MARKETS, TRANSPORTATION, AND THE STATE POLICE, PRIOR TO DEVEL-
42 OPING OR AMENDING REGULATIONS OR GUIDANCE REGARDING THE AGRICULTURAL
43 VEHICLES AND EQUIPMENT. THE COMMISSIONER SHALL PERIODICALLY CONSULT SUCH
44 ENTITIES AS TO WAIVERS NEEDED FROM THE FEDERAL MOTOR CARRIER SAFETY
45 REGULATIONS.

46 S 16. Section 216-b of the vehicle and traffic law is REPEALED.

47 S 17. Section 7 of chapter 654 of the laws of 1994, amending the
48 transportation law and the vehicle and traffic law relating to equipment
49 requirements for registered farm vehicles, is REPEALED.

50 S 18. Article 4 of the state technology law is REPEALED.

51 S 19. Chapter 868 of the laws of 1976, establishing the organic food
52 advisory committee, is REPEALED.

53 S 20. Subdivision 5 of section 89-bbb of the general business law is
54 REPEALED.

55 S 21. Section 89-lll of the general business law, as added by chapter
56 557 of the laws of 1997, is amended to read as follows:

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

8 S 22. Section 89-mmm of the general business law is REPEALED.

9 S 23. Subdivision 5 of section 89-ppp of the general business law is
10 REPEALED.

11 S 24. Subdivision 13 of section 89-ppp of the general business law, as
12 added by chapter 557 of the laws of 1997, is amended to read as follows:

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

18 S 25. Subdivision 4 of section 89-sss of the general business law, as
19 added by chapter 557 of the laws of 1997, is amended to read as follows:

20 4. The commissioner[, upon the recommendation and with the general
21 advice of the board,] shall waive the training requirements specified in
22 subdivision one of this section, with respect to applicants employed by
23 armored car carriers, if the applicant provides appropriate documenta-
24 tion to demonstrate that he or she was or is subject to training
25 requirements which meet or exceed the requirements established pursuant
26 to such subdivision.

27 S 26. Section 89-yyy of the general business law, as added by chapter
28 557 of the laws of 1997, is amended to read as follows:

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

34 S 27. Section 923 of the executive law is REPEALED.

35 S 28. Section 1390 of the public health law is REPEALED.

36 S 29. Subdivision 1 of section 3401 of the public health law is
37 amended to read as follows:

38 1. The commissioner may, from time to time, make and adopt such rules
39 and regulations not inconsistent with law as may be necessary (a) in the
40 performance of his duties and in the administration of the provisions of
41 this article; and (b) to govern and regulate the conduct and transaction
42 of the business and practice of funeral directing, undertaking and
43 embalming. THE COMMISSIONER SHALL, IN IMPLEMENTING THIS TITLE AND
44 REVISING REGULATIONS, CONSULT WITH THE REPRESENTATIVES OF CONSUMER
45 INTERESTS, LICENSED FUNERAL DIRECTORS, UNDERTAKERS OR EMBALMERS, AND
46 CEMETERY CORPORATIONS.

47 S 30. Section 3402 of the public health law is REPEALED.

48 S 31. Subdivision 5 of section 402 of the general business law, as
49 added by chapter 509 of the laws of 1992, is amended to read as follows:

50 5. Adopt such rules and regulations not inconsistent with the
51 provisions of this article, as may be necessary with respect to the form
52 and content of applications for licenses, the reception thereof, the
53 investigation and examination of applicants and of prospective appli-
54 cants taking examinations and their qualifications, and the other
55 matters incidental or appropriate to the powers and duties of the secre-
56 tary as prescribed by this article and for the proper administration and

1 enforcement of the provisions of this article. THE SECRETARY SHALL, IN
2 IMPLEMENTING THIS TITLE AND REVISING REGULATIONS, CONSULT WITH PERSONS
3 ENGAGED IN THE PRACTICE OF NAIL SPECIALTY, WAXING, NATURAL HAIR STYLING,
4 AESTHETICS, COSMETOLOGY, IN TRAINING OF PERSONS FOR SUCH PRACTICES, AND
5 LICENSED DERMATOLOGISTS.

6 S 32. Section 403 of the general business law is REPEALED.

7 S 33. Section 404 of the general business law, as amended by chapter
8 341 of the laws of 1998, is amended to read as follows:

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

28 S 34. Subdivision 14 of section 601 of the executive law is REPEALED.

29 S 35. Subdivision 12 of section 604 of the executive law, as added by
30 chapter 729 of the laws of 2005, is amended and a new subdivision 13 is
31 added to read as follows:

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

38 13. THE SECRETARY SHALL, IN IMPLEMENTING THIS ARTICLE AND REVISING
39 REGULATIONS, CONSULT WITH INSTALLERS, PARK RESIDENCE ADVOCACY ASSOCI-
40 ATIONS, RETAILERS, AND MANUFACTURED HOME INDUSTRY TRADE ASSOCIATIONS,
41 MANUFACTURERS, THE ENGINEERING INDUSTRY INVOLVED IN MANUFACTURED HOUSING
42 ISSUES, CONSUMER ADVOCACY ASSOCIATIONS INVOLVED IN MANUFACTURED HOUSING
43 ISSUES, AND MANUFACTURED HOUSING RESIDENT OWNERS.

44 S 36. Sections 611 and 612 of the executive law are REPEALED.

45 S 37. Section 154 of the labor law is REPEALED.

46 S 38. This act shall take effect immediately.