

2043

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sen. YOUNG -- 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 and the public health law, in relation to requiring the department of health to review the safety of ultraviolet nail dryers and authorizing the department of health to promulgate any regulations deemed appropriate for governing the use of such devices by any appearance enhancement business

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

1     Section 1. The general business law is amended by adding a new section  
2     404-c to read as follows:  
3     S 404-C. ULTRAVIOLET NAIL DRYING DEVICES. 1. "ULTRAVIOLET NAIL DRYING  
4     DEVICE" SHALL MEAN ANY EQUIPMENT WHICH IS DESIGNED TO EMIT ELECTROMAG-  
5     NETIC RADIATION IN THE WAVELENGTH INTERVAL OF TWO HUNDRED TO FOUR  
6     HUNDRED NANOMETERS IN AIR, AND WHICH IS INTENDED TO INDUCE NAIL CURING  
7     OR HARDENING THROUGH IRRADIATION.  
8     2. IF THE COMMISSIONER OF HEALTH MAKES A DETERMINATION PURSUANT TO  
9     SECTION THIRTY-FIVE HUNDRED FIFTY-SIX OF THE PUBLIC HEALTH LAW THAT  
10    ULTRAVIOLET NAIL DRYING DEVICES POSE A HEALTH HAZARD TO USERS, ANY  
11    APPEARANCE ENHANCEMENT BUSINESS SHALL PROMINENTLY POST THE NOTICE DEVEL-  
12    OPED BY THE COMMISSIONER OF HEALTH REGARDING SUCH HEALTH HAZARD IN AN  
13    AREA CLEARLY VISIBLE TO PATRONS IN THE LICENSED PREMISES OR IN THE PLACE  
14    WHERE THE PRACTICE OF AN OCCUPATION LICENSED PURSUANT TO THIS ARTICLE IS  
15    CONDUCTED. THE DEPARTMENT OF HEALTH SHALL PREPARE AND MAKE SUCH SIGN  
16    AVAILABLE TO EACH LICENSEE.  
17    3. IF THE COMMISSIONER OF HEALTH MAKES A DETERMINATION PURSUANT TO  
18    SECTION THIRTY-FIVE HUNDRED FIFTY-SIX OF THE PUBLIC HEALTH LAW THAT  
19    ULTRAVIOLET NAIL DRYING DEVICES POSE A HEALTH HAZARD TO USERS, ANY  
20    APPEARANCE ENHANCEMENT BUSINESS THAT UTILIZES SUCH DEVICES SHALL COMPLY

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

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1 WITH ANY AND ALL REGULATIONS ADOPTED BY THE DEPARTMENT OF HEALTH PURSU-  
2 ANT TO SUCH SECTION.

3 S 2. Section 3550 of the public health law, as added by chapter 378 of  
4 the laws of 1990, is amended to read as follows:

5 S 3550. Definitions. When used in this article, the following words  
6 and phrases shall have the meanings ascribed to them in this section:

7 1. "Tanning facility" shall mean any establishment where one or more  
8 ultraviolet radiation device is used, offered, or made available for use  
9 by any human being, for which a fee is charged, directly or indirectly,  
10 but shall not include any facility where any such device is used by a  
11 qualified health care professional for treatment of medical conditions.

12 2. "Ultraviolet radiation device" shall mean any equipment which is  
13 designed to emit electromagnetic radiation in the wavelength interval of  
14 two hundred to four hundred nanometers in air, and which is intended to  
15 induce tanning of the human skin through irradiation, including, but not  
16 limited to, a sunlamp, tanning booth, or tanning bed.

17 3. "ULTRAVIOLET NAIL DRYING DEVICE" SHALL MEAN ANY EQUIPMENT WHICH IS  
18 DESIGNED TO EMIT ELECTROMAGNETIC RADIATION IN THE WAVELENGTH INTERVAL OF  
19 TWO HUNDRED TO FOUR HUNDRED NANOMETERS IN AIR, AND WHICH IS INTENDED TO  
20 INDUCE NAIL CURING OR HARDENING THROUGH IRRADIATION.

21 4. "Person" shall mean an individual, corporation, partnership, joint  
22 venture, or any business entity.

23 S 3. The public health law is amended by adding a new section 3556 to  
24 read as follows:

25 S 3556. ULTRAVIOLET NAIL DRYING DEVICES. THE DEPARTMENT SHALL REVIEW  
26 THE EXISTING MEDICAL AND SCIENTIFIC LITERATURE, PUBLISHED REPORTS, AND  
27 ARTICLES REGARDING THE POTENTIAL HEALTH HAZARDS ASSOCIATED WITH THE USE  
28 OF ULTRAVIOLET NAIL DRYING DEVICES AND IDENTIFY ANY HEALTH HAZARDS. AS  
29 PART OF SUCH REVIEW, THE DEPARTMENT SHALL CONSULT WITH EXPERTS IN THE  
30 FIELDS OF SKIN CANCER RESEARCH AND HUMAN EXPOSURE TO ARTIFICIAL ULTRAVI-  
31 OLET RADIATION. THE DEPARTMENT SHALL ALSO REVIEW THE FEASIBILITY AND  
32 EFFECTIVENESS OF REQUIRING APPEARANCE ENHANCEMENT BUSINESSES TO ADVISE  
33 USERS OF ULTRAVIOLET NAIL DRYING DEVICES TO APPLY A SUNSCREEN OR A SIMI-  
34 LAR SUBSTANCE DESIGNED TO BLOCK ULTRAVIOLET RADIATION TO THE HANDS AND  
35 WRISTS PRIOR TO USING SUCH DEVICE. UPON COMPLETION OF SUCH REVIEW,  
36 BASED ON THE FINDINGS OF THE DEPARTMENT, THE COMMISSIONER MAY PROMULGATE  
37 ANY REGULATIONS DEEMED APPROPRIATE FOR GOVERNING THE USE OF ULTRAVIOLET  
38 NAIL DRYING DEVICES BY ANY APPEARANCE ENHANCEMENT BUSINESS, REQUIRED TO  
39 BE LICENSED BY THE DEPARTMENT OF STATE PURSUANT TO ARTICLE TWENTY-SEVEN  
40 OF THE GENERAL BUSINESS LAW. IF PROMULGATED, SUCH REGULATIONS SHALL  
41 INCLUDE A REQUIREMENT THAT ANY APPEARANCE ENHANCEMENT BUSINESS POST A  
42 NOTICE REGARDING ANY HEALTH HAZARDS ASSOCIATED WITH THE USE OF ULTRAVI-  
43 OLET NAIL DRYERS AND ANY STEPS USERS MAY TAKE TO MITIGATE SUCH HAZARDS  
44 IN AN AREA CLEARLY VISIBLE TO PATRONS IN THE LICENSED PREMISES OR IN THE  
45 PLACE WHERE THE PRACTICE OF AN OCCUPATION LICENSED PURSUANT TO ARTICLE  
46 TWENTY-SEVEN OF THE GENERAL BUSINESS LAW IS CONDUCTED.

47 S 4. This act shall take effect on the one hundred twentieth day after  
48 it shall have become a law; provided that the commissioner of health is  
49 authorized to, on or before such date, promulgate any and all rules and  
50 regulations and take any other measures necessary to implement this act  
51 on its effective date.