

2017-2018 Regular Sessions

I N S E N A T E

(PREFILED)

January 4, 2017

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 state 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 WHERE THE PRACTICE OF NAIL SPECIALTY IS
12 CONDUCTED SHALL PROMINENTLY POST THE NOTICE DEVELOPED BY THE DEPARTMENT
13 REGARDING SUCH HEALTH HAZARD IN AN AREA CLEARLY VISIBLE TO PATRONS IN
14 THE LICENSED APPEARANCE ENHANCEMENT BUSINESS WHERE THE PRACTICE OF NAIL
15 SPECIALTY IS CONDUCTED OR IN THE PLACE WHERE THE PRACTICE OF NAIL
16 SPECIALTY LICENSED PURSUANT TO THIS ARTICLE IS CONDUCTED. THE DEPARTMENT
17 SHALL DEVELOP AND MAKE SUCH SIGN AVAILABLE TO EACH LICENSEE.

18 3. IF THE COMMISSIONER OF HEALTH MAKES A DETERMINATION PURSUANT TO
19 SECTION THIRTY-FIVE HUNDRED FIFTY-SIX OF THE PUBLIC HEALTH LAW THAT
20 ULTRAVIOLET NAIL DRYING DEVICES POSE A HEALTH HAZARD TO USERS, ANY
21 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.

1 WITH ANY AND ALL REGULATIONS ADOPTED BY THE DEPARTMENT PURSUANT TO THIS
2 ARTICLE.

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. 1. THE DEPARTMENT SHALL
26 REVIEW THE EXISTING MEDICAL AND SCIENTIFIC LITERATURE, PUBLISHED
27 REPORTS, AND ARTICLES REGARDING THE POTENTIAL HEALTH HAZARDS ASSOCIATED
28 WITH THE USE OF ULTRAVIOLET NAIL DRYING DEVICES AND IDENTIFY ANY HEALTH
29 HAZARDS. AS PART OF SUCH REVIEW, THE DEPARTMENT SHALL CONSULT WITH
30 EXPERTS IN THE FIELDS OF SKIN CANCER RESEARCH AND HUMAN EXPOSURE TO
31 ARTIFICIAL ULTRAVIOLET RADIATION. THE DEPARTMENT SHALL ALSO REVIEW THE
32 FEASIBILITY AND EFFECTIVENESS OF REQUIRING APPEARANCE ENHANCEMENT BUSI-
33 NESSES CONDUCTING THE PRACTICE OF NAIL SPECIALTY, AS DEFINED IN SUBDIVI-
34 SION FOUR OF SECTION FOUR HUNDRED OF THE GENERAL BUSINESS LAW, TO ADVISE
35 USERS OF ULTRAVIOLET NAIL DRYING DEVICES TO APPLY A SUNSCREEN OR A SIMI-
36 LAR SUBSTANCE DESIGNED TO BLOCK ULTRAVIOLET RADIATION TO THE HANDS AND
37 WRISTS PRIOR TO USING SUCH DEVICE.

38 2. UPON COMPLETION OF SUCH REVIEW, BASED ON THE FINDINGS OF THE
39 DEPARTMENT, THE DEPARTMENT OF STATE MAY PROMULGATE ANY REGULATIONS
40 DEEMED APPROPRIATE FOR GOVERNING THE USE OF ULTRAVIOLET NAIL DRYING
41 DEVICES BY ANY APPEARANCE ENHANCEMENT BUSINESS, REQUIRED TO BE LICENSED
42 BY THE DEPARTMENT OF STATE PURSUANT TO ARTICLE TWENTY-SEVEN OF THE
43 GENERAL BUSINESS LAW. IF PROMULGATED, SUCH REGULATIONS SHALL INCLUDE A
44 REQUIREMENT THAT ANY APPEARANCE ENHANCEMENT BUSINESS CONDUCTING THE
45 PRACTICE OF NAIL SPECIALTY POST A NOTICE REGARDING ANY HEALTH HAZARDS
46 ASSOCIATED WITH THE USE OF ULTRAVIOLET NAIL DRYERS AND ANY STEPS USERS
47 MAY TAKE TO MITIGATE SUCH HAZARDS IN AN AREA CLEARLY VISIBLE TO PATRONS
48 IN THE LICENSED PREMISES OR IN THE PLACE WHERE THE PRACTICE OF AN OCCU-
49 PATION LICENSED PURSUANT TO ARTICLE TWENTY-SEVEN OF THE GENERAL BUSINESS
50 LAW IS CONDUCTED.

51 S 4. This act shall take effect immediately, except that sections one
52 and two of this act, and subdivision 2 of section 3556 of the public
53 health law, as added by section three of this act shall take effect on
54 the one hundred twentieth day after this act shall have become a law.