

8435

2009-2010 Regular Sessions

I N A S S E M B L Y

May 20, 2009

Introduced by M. of A. ROSENTHAL -- read once and referred to the
Committee on Judiciary

AN ACT to amend the general business law, in relation to providing a
private right of action for nail specialists aggrieved by their
employer in the case of a health and safety violation, retaliatory
action, or general labor issues

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

1 Section 1. The general business law is amended by adding a new section
2 417-a to read as follows:
3 S 417-A. PRIVATE RIGHT OF ACTION. 1. A NAIL SPECIALIST AGGRIEVED BY A
4 VIOLATION OF ARTICLE THREE OR ARTICLE NINE OF THE WORKERS' COMPENSATION
5 LAW RELATED TO OCCUPATIONAL DISEASES AND DISABILITY BENEFITS, SECTION
6 TWO HUNDRED OF THE LABOR LAW RELATED TO THE GENERAL DUTY TO PROTECT THE
7 HEALTH AND SAFETY OF EMPLOYEES, TITLE ONE OF ARTICLE FIVE OF THE LABOR
8 LAW RELATED TO THE GENERAL HOURS OF LABOR, OR ARTICLE TWENTY-C OF THE
9 LABOR LAW RELATING TO RETALIATORY ACTION BY EMPLOYERS OR SECTION FOUR
10 HUNDRED FOUR-A OF THIS ARTICLE OR ANY OTHER PROVISION OF THIS CHAPTER
11 RELATED TO THE HEALTH AND SAFETY OF EMPLOYEES, OR ANY RULE OR REGULATION
12 ADOPTED THERETO MAY FILE SUIT IN A COURT OF COMPETENT JURISDICTION IN
13 THE STATE, IN THE COUNTY WHERE THE ALLEGED OFFENSE OCCURRED OR WHERE ANY
14 NAIL SPECIALIST WHO IS PARTY TO THE ACTION RESIDES, AGAINST AN APPEAR-
15 ANCE ENHANCEMENT BUSINESS EMPLOYER OR A THIRD PARTY CLIENT. ACTIONS MAY
16 BE BROUGHT BY ONE OR MORE NAIL SPECIALISTS FOR AND ON BEHALF OF THEM-
17 SELVES AND OTHER NAIL SPECIALISTS SIMILARLY SITUATED. A NAIL SPECIALIST
18 WHOSE RIGHTS HAVE BEEN VIOLATED BY AN APPEARANCE ENHANCEMENT BUSINESS OR
19 A THIRD PARTY CLIENT IS ENTITLED TO COLLECT:
20 A. IN THE CASE OF A HEALTH AND SAFETY OR NOTICE VIOLATION, COMPENSATO-
21 RY DAMAGES AND AN AMOUNT UP TO FIVE HUNDRED DOLLARS FOR EACH VIOLATION;
22 B. IN THE CASE OF UNLAWFUL RETALIATION, ALL LEGAL OR EQUITABLE RELIEF
23 AS MAY BE APPROPRIATE; AND

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

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1 C. IN ALL CASES, THE NAIL SPECIALISTS MUST BE AWARDED REASONABLE
2 ATTORNEY'S FEES AND COURT COSTS.
3 2. THE RIGHT OF AN AGGRIEVED PERSON TO BRING AN ACTION UNDER THIS
4 SECTION TERMINATES UPON THE PASSING OF SIX YEARS.
5 S 2. This act shall take effect on the one hundred eightieth day after
6 it shall have become a law, provided, however, that effective immediate-
7 ly the addition, amendment, and/or repeal of any rule or regulation
8 necessary for the timely implementation of this act on its effective
9 date is hereby authorized and directed to be made on or before such
10 effective date.