

2176

2011-2012 Regular Sessions

I N A S S E M B L Y

January 14, 2011

Introduced by M. of A. RABBITT -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the general business law, in relation to establishing licensure for makeup artists

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

1 Section 1. Subdivision 3 of section 400 of the general business law,
2 as added by chapter 509 of the laws of 1992, is amended and a new subdivision 11 is added to read as follows:

3 3. "Licensee" means a person licensed pursuant to this article to
4 engage in the practice of natural hair styling, esthetics, nail specialty or cosmetology, TO WORK AS A MAKEUP ARTIST or to operate an appearance enhancement business in which such practice, as herein defined, is
5 provided to the public.

6 11. A "MAKEUP ARTIST" MEANS A PERSON WHO PROVIDES FOR A FEE, OR ANY
7 CONSIDERATION OR EXCHANGE, WHETHER DIRECT OR INDIRECT, SERVICES TO
8 ENHANCE, DISTORT OR CONCEAL HUMAN FEATURES WITH THE USE OF VARIOUS TECHNIQUES, SUCH AS FASHION MAKEUP, THEATRICAL MAKEUP, PROSTHETIC MAKEUP, SPECIAL EFFECTS MAKEUP, AIRBRUSHING AND HIGH DEFINITION.

9 S 2. Subdivisions 1 and 3 of section 401 of the general business law,
10 as amended by chapter 341 of the laws of 1998, are amended to read as follows:

11 1. No person shall engage in the practice of nail specialty, waxing,
12 natural hair styling, esthetics or cosmetology OR WORK AS A MAKEUP
13 ARTIST, as defined in section four hundred of this article, without
14 having received a license to engage in such practice in the manner
15 prescribed in this article.

16 3. A person licensed by any other state or country to practice nail
17 specialty, waxing, natural hair styling, esthetics or cosmetology OR TO
18 WORK AS A MAKEUP ARTIST shall be allowed to practice in New York state
19 for three months or less within any calendar year for the purpose of

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

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1 giving to, or receiving from, persons who are licensed under this arti-
2 cle training in current styles, techniques or materials, provided howev-
3 er, that no such unlicensed person may provide services to the public
4 for any fee, or other compensation, whether direct or indirect.

5 S 3. Section 404 of the general business law, as amended by chapter
6 341 of the laws of 1998, is amended to read as follows:

7 S 404. Rules and regulations. The secretary shall promulgate rules and
8 regulations which establish standards for practice and operation by
9 licensees under this article in order to ensure the health, safety and
10 welfare of the public. Such rules and regulations shall include, but not
11 be limited to, the sanitary conditions and procedures required to be
12 maintained, a minimum standard of training appropriate to the duties of
13 nail specialists, waxers, natural hair stylists, estheticians, [and]
14 cosmetologists and MAKEUP ARTISTS AND the provision of service by nail
15 specialists, waxers, natural hair stylists, estheticians [or], cosmetol-
16 ogists OR MAKEUP ARTISTS at remote locations other than the licensee's
17 home provided that such practitioner holds an appearance enhancement
18 business license to operate at a fixed location or is employed by the
19 holder of an appearance enhancement business license. Regulations
20 setting forth the educational requirements for nail specialists shall
21 include education in the area of causes of infection and bacteriology.
22 THE SECRETARY SHALL, IN CONSULTATION WITH THE ADVISORY COMMITTEE,
23 PROMULGATE RULES AND REGULATIONS WHICH ESTABLISH CURRICULUM REQUIREMENTS
24 FOR MAKEUP ARTISTS THAT SHALL NOT EXCEED THREE HUNDRED CREDIT HOURS. In
25 promulgating such rules and regulations the secretary shall consult with
26 the state education department, the advisory committee established
27 pursuant to this article, any other state agencies and private industry
28 representatives as may be appropriate in determining minimum training
29 requirements.

30 S 4. Paragraph a of subdivision 1 of section 406 of the general busi-
31 ness law, as amended by chapter 341 of the laws of 1998, is amended to
32 read as follows:

33 a. Any person intending to practice nail specialty, waxing, natural
34 hair styling, esthetics or cosmetology OR TO WORK AS A MAKEUP ARTIST as
35 defined in this article, or to own or operate an appearance enhancement
36 business, shall first make application to the secretary for a license
37 therefor.

38 S 5. Subdivision 1 of section 407 of the general business law, as
39 amended by chapter 255 of the laws of 1999, is amended to read as
40 follows:

41 1. The examinations for the license to practice natural hair styling,
42 esthetics, nail specialty and cosmetology OR TO WORK AS A MAKEUP ARTIST
43 shall be practical and written. The examinations for the license to
44 practice waxing shall be limited to a written examination only. The
45 secretary shall determine reasonable standards of performance for each
46 license and shall evaluate the prospective applicants and applicants on
47 the basis of such standards. The objectives of the examinations shall be
48 to insure that prospective applicants and applicants have sufficient
49 basic skills to safeguard the health and safety of the public and to
50 insure that prospective applicants and applicants have attained adequate
51 levels of skill to competently engage in the activities authorized by
52 the license.

53 S 6. Subdivision 1 of section 409 of the general business law, as
54 amended by chapter 341 of the laws of 1998, is amended to read as
55 follows:

1 1. The non-refundable fee for an application for a license to engage
2 in the practice of nail specialty, waxing, natural hair styling, esthet-
3 ics or cosmetology OR TO WORK AS A MAKEUP ARTIST, shall be twenty
4 dollars initially and for each renewal thereof the fee shall be twenty
5 dollars; the fee for a temporary license and each renewal shall be ten
6 dollars.

7 S 7. Section 412 of the general business law, as amended by chapter
8 341 of the laws of 1998, is amended to read as follows:

9 S 412. Civil penalties. The practice of nail specialty, waxing,
10 natural hair styling, esthetics or cosmetology, EMPLOYMENT AS A MAKEUP
11 ARTIST or the operation of an appearance enhancement business without a
12 license or while under suspension or revocation, or in violation of an
13 order directing the cessation of unlicensed activity issued by the
14 secretary pursuant to section four hundred eleven of this article, is a
15 violation and is subject to a civil penalty of up to five hundred
16 dollars for the first violation; one thousand dollars for a second such
17 violation; and two thousand five hundred dollars for a third violation
18 and any subsequent violation.

19 S 8. This act shall take effect immediately.