

6194

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

AN ACT to amend the general business law, in relation to abolishing the hearing aid dispensing advisory board; 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 environmental conservation law, in relation to abolishing the falconry advisory board and the petroleum bulk storage advisory council; 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 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, the appearance enhancement advisory committee and the hearing aid dispensing advisory board; 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

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

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requirements for registered farm vehicles, relating to the agricultural 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 environmental conservation law, relating to the falconry advisory board and the petroleum bulk storage advisory council; and to repeal certain provisions of the public health law, relating to the state camp safety advisory council and the funeral directing advisory board

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

1 Section 1. Subdivision 3 of section 789 of the general business law
2 is REPEALED.
3 S 2. Subdivisions 4, 5, 6, 7, 8, 9, 10, 11 and 12 of section 789 of
4 the general business law are renumbered subdivisions 3, 4, 5, 6, 7, 8,
5 9, 10 and 11.
6 S 3. Subparagraph (ix) of paragraph (a) of subdivision 1 of section
7 790 of the general business law, as added by chapter 599 of the laws of
8 1998, is amended to read as follows:
9 (ix) on or after January first, two thousand three, the applicant
10 shall demonstrate the successful completion of post-secondary coursework
11 approved by the secretary [in conjunction with the advisory board]; or
12 S 4. Section 791 of the general business law, as added by chapter 599
13 of the laws of 1998 and subdivision 1 as amended by section 42 of part A
14 of chapter 62 of the laws of 2011, is amended to read as follows:
15 S 791. Hearing aid [dispensing advisory board] RULES AND REGULATIONS.
16 [1. There is created within the department a hearing aid dispensing
17 advisory board which shall consist of thirteen members to be appointed
18 by the secretary: four of whom shall be non-audiologist hearing aid
19 dispensers who shall have been engaged in the business of dispensing
20 hearing aids primarily in this state for at least five years immediately
21 preceding their appointment, two to be appointed upon the recommendation
22 of the governor, one to be appointed upon the recommendation of the
23 temporary president of the senate and one to be appointed upon the
24 recommendation of the speaker of the assembly; four members shall be
25 audiologists who are engaged in the dispensing of hearing aids for at
26 least five years immediately preceding their appointment, two to be
27 appointed upon the recommendation of the governor, one to be appointed
28 upon the recommendation of the temporary president of the senate and one
29 to be appointed upon the recommendation of the speaker of the assembly;
30 two shall be otolaryngologists; and the remaining three members, none of
31 whom shall derive nor have derived in the past economic benefit from the
32 business of dispensing hearing aids, shall be from the resident lay
33 public of this state who are knowledgeable about issues related to hear-
34 ing loss. At least one lay member shall be an individual representing
35 adults over the age of fifty. At least one of the lay members shall be
36 a hearing aid user. Of the otolaryngologists and lay members, one shall
37 be appointed by the secretary on the recommendation of the minority
38 leader of the senate and one shall be appointed by the secretary on the
39 recommendation of the minority leader of the assembly and three shall be
40 appointed by the secretary on the recommendation of the governor. Each
41 member of the board shall be appointed for a term of two years. Any

1 member may be appointed for additional terms. In the event that any
2 member shall die or resign during his or her term, a successor shall be
3 appointed in the same manner and with the same qualifications as set
4 forth in this section. A member may be reappointed for successive terms
5 but no member shall serve more than a total of ten years. The secretary
6 or the designee of the secretary shall serve in an ex officio non-voting
7 position. The secretary shall serve as chairperson. The commissioner of
8 education, the commissioner of health, and the attorney general or their
9 designees shall serve as non-voting ex officio members.

10 2. The board shall advise and make recommendations regarding, and the
11 secretary, upon consideration of such advice, shall promulgate rules and
12 regulations, governing the implementation of the provisions of this
13 article and the development of such rules and regulations as are
14 required. In addition to other advice, the board shall advise the secre-
15 tary with respect to the promulgation of rules and regulations govern-
16 ing:

17 (a) the rights of consumers of hearing aids including but not limited
18 to (i) procedures whereby a consumer may file a complaint against those
19 in violation of this article; and (ii) requirements for hearing aid
20 dispensers to provide consumers with printed educational information on
21 the general use of hearing aids and assistive listening devices and on
22 the advantages and disadvantages of binaural hearing aid use and (iii)
23 the training of individuals in the use and maintenance of such instru-
24 ments;

25 (b) continuing education including but not limited to (i) the content
26 of such course of study, (ii) the procedures for approval of such course
27 of study and (iii) those individuals and organizations who may permissi-
28 bly offer such continuing education course or courses provided for in
29 section seven hundred ninety-four of this article;

30 (c) the content, delivery and evaluation of any examination required
31 as a condition of registration;

32 (d) the standards for advertisements, including but not limited to,
33 proscriptions against misleading advertising relating to the scope of
34 hearing aid dispensing practices, credentials of individual hearing aid
35 dispensers, and the function, use and reliability of a particular hear-
36 ing instrument;

37 (e) requirements for the secretary to regularly examine compliance
38 with this article;

39 (f) requirements pertaining to the non-diagnostic testing of hearing
40 and sale of hearing aids at office, residential and other out of office
41 settings and the development of environmental standards for testing at
42 office, residential and other out of office settings; requirements
43 pertaining to telemarketing; and

44 (g) procedures that the secretary could use to increase public aware-
45 ness of how to properly purchase, fit, adjust and use a hearing aid, as
46 well as the rights of hearing aid purchasers under state law. In addi-
47 tion to such duties and other duties which may be assigned by the secre-
48 tary, the board shall consult with the secretary, the commissioner of
49 education and such other persons as may be appropriate to determine the
50 proper level and degree of education for a hearing aid dispenser, the
51 type of degree and the proper educational institution to offer such
52 education and all other related issues.

53 3. Meetings of the board shall be set at such times as determined by
54 the secretary but in no event fewer than four times annually.

1 4. The members of the board shall serve without compensation, however,
2 they shall receive reimbursement for their actual and necessary expenses
3 incurred in the performance of their duties.

4 5. The secretary shall keep a record of all proceedings of the board
5 and such record shall be open to public examination] THE SECRETARY SHALL
6 SEEK THE ADVICE AND RECOMMENDATIONS FROM NON-AUDIOLOGIST HEARING AID
7 DISPENSERS, AUDIOLOGISTS WHO ARE ENGAGED IN THE DISPENSING OF HEARING
8 AIDS, OTOLARYNGOLOGISTS, AND HEARING AID USERS, WHEN CONSIDERING CHANGES
9 TO THE RULES AND REGULATIONS GOVERNING THE IMPLEMENTATION OF THIS ARTI-
10 CLE.

11 S 5. Subdivision 1 and paragraph (a) of subdivision 3 of section 794
12 of the general business law, subdivision 1 as amended by chapter 301 of
13 the laws of 2000 and paragraph (a) of subdivision 3 as added by chapter
14 599 of the laws of 1998, are amended to read as follows:

15 1. Prior to the expiration of a certificate of registration and as a
16 condition of renewal, each hearing aid dispenser registered pursuant to
17 subdivision one of section seven hundred ninety of this article shall
18 submit documentation showing successful completion of twenty continuing
19 education credits through a course or courses approved by the secretary
20 [in consultation with the advisory board], or, in relation to audiolo-
21 gists licensed pursuant to article one hundred fifty-nine of the educa-
22 tion law, the office of the professions in the education department.
23 Such formal courses of learning shall include, but not be limited to,
24 collegiate level of credit in non-credit courses, professional develop-
25 ment programs and technical sessions offered by national, state and
26 local professional associations and other organizations acceptable to
27 the secretary and any other organized educational and technical programs
28 acceptable to the secretary. The secretary may, in his or her
29 discretion, and as needed to contribute to the health and welfare of the
30 public, require the completion of continuing education courses in
31 specific subjects to fulfill this mandatory continuing education
32 requirement. Courses shall be taken from a sponsor approved by the
33 secretary pursuant to regulations promulgated pursuant to this section.

34 (a) Within one year of the effective date of this article, the secre-
35 tary shall promulgate rules and regulations establishing the method,
36 content and supervision requirements for the continuing education course
37 or courses provided for in this section. Properly prepared written mate-
38 rials of the subject matter of each course shall be distributed and each
39 course shall be taught by an instructor who meets requirements estab-
40 lished by the secretary [upon the recommendation of the board]. Any
41 person or organization offering a course shall apply to the secretary
42 for authorization to offer such course or courses pursuant to said rules
43 and regulations.

44 S 6. The opening paragraph of subdivision 1 of section 796 of the
45 general business law, as added by chapter 599 of the laws of 1998, is
46 amended to read as follows:

47 The secretary[, in consultation with the board,] shall establish a
48 full-time, twelve month training program for those persons wishing to
49 apply for registration as a hearing aid dispenser, except those hearing
50 aid dispensers otherwise licensed pursuant to article one hundred
51 fifty-nine of the education law. For the purposes of this section,
52 "full-time" shall mean seven hours per day for five days a week. Such
53 program shall be conducted by a registered hearing aid dispenser or
54 taught by appropriate faculty with credentials to verify substantial
55 educational knowledge in the topics outlined below. Any trainee entering
56 such a program shall operate under the direct supervision of a regis-

1 tered hearing aid dispenser for the first three months of such program.
2 In addition, during such period, the trainee shall satisfactorily
3 complete a course of instruction, which includes, but is not limited to,
4 the following topics:

5 S 7. The opening paragraph of subdivision 4 of section 798 of the
6 general business law, as added by chapter 599 of the laws of 1998, is
7 amended to read as follows:

8 The secretary shall [in consultation with the hearing aid advisory
9 board] prescribe the minimum criteria, procedures and equipment which
10 shall be used in the dispensing of hearing aids, including but not
11 limited to:

12 S 8. Paragraph (a) of subdivision 12 of section 798 of the general
13 business law, as amended by chapter 301 of the laws of 2000, is amended
14 to read as follows:

15 (a) If an individual returns a hearing aid in the same condition,
16 ordinary wear and tear excluded, within the guarantee period, the
17 customer shall be entitled to the return of the cost of the hearing aid
18 and accessories as itemized on the receipt provided pursuant to subdivi-
19 sion eleven of this section; provided however that any hearing aid that
20 has been used for a forty-five calendar day period as described in this
21 subdivision, when refinished and totally reconditioned by the manufac-
22 turer or by the manufacturer's agent and such manufacturer or manufac-
23 turer's agent certifies that such hearing aid meets all the acoustical
24 standards of a new hearing aid and is in all other respects the equiv-
25 alent of a new hearing aid and with all warranties and guarantees that
26 accompany a new hearing aid, shall be considered a new hearing aid and
27 so designated; and further provided, however, that a hearing aid dispen-
28 ser shall retain as a cancellation fee for return of the hearing aid,
29 including batteries and cords or accessories thereto, a charge not in
30 excess of ten per centum of the total purchase price of the cancelled
31 hearing aid, including batteries and cords or accessories thereto,
32 inclusive of all fees related to dispensing of hearing aids, as defined
33 in subdivision [six] FIVE of section seven hundred eighty-nine of this
34 article. Provided, however, if the hearing aid dispenser is a not-for-
35 profit hospital or facility licensed or certified pursuant to article
36 twenty-eight of the public health law, such dispenser is allowed to
37 retain an amount up to five per centum of the total purchase price of
38 the cancelled hearing aid, including batteries and cords or accessories
39 thereto, inclusive of all fees related to the dispensing of the hearing
40 aid, plus a service fee of not more than two hundred dollars, unless a
41 second hearing aid was fitted and dispensed at the same time as the
42 first, then such fee shall not exceed three hundred dollars for both
43 hearing aids. Such money-back guarantee as provided in this subdivision
44 shall not be in lieu of or in any way affect the right of the purchaser
45 to recover the full amount paid and for any damages sustained for a
46 breach of guarantee of fitness for use.

47 S 9. Subdivisions 1, 2, 4, 5 and 7 of section 803 of the general busi-
48 ness law, as added by chapter 599 of the laws of 1998, are amended to
49 read as follows:

50 1. The secretary shall promulgate such rules and regulations as are
51 deemed necessary to effectuate the purposes of this article, [and]
52 INCLUDING:

53 (A) THE RIGHTS OF CONSUMERS OF HEARING AIDS INCLUDING BUT NOT LIMITED
54 TO (I) PROCEDURES WHEREBY A CONSUMER MAY FILE A COMPLAINT AGAINST THOSE
55 IN VIOLATION OF THIS ARTICLE; AND (II) REQUIREMENTS FOR HEARING AID
56 DISPENSERS TO PROVIDE CONSUMERS WITH PRINTED EDUCATIONAL INFORMATION ON

1 THE GENERAL USE OF HEARING AIDS AND ASSISTIVE LISTENING DEVICES AND ON
2 THE ADVANTAGES AND DISADVANTAGES OF BINAURAL HEARING AID USE; AND (III)
3 THE TRAINING OF INDIVIDUALS IN THE USE AND MAINTENANCE OF SUCH INSTRU-
4 MENTS;

5 (B) CONTINUING EDUCATION INCLUDING BUT NOT LIMITED TO (I) THE CONTENT
6 OF SUCH COURSE OF STUDY; (II) THE PROCEDURES FOR APPROVAL OF SUCH COURSE
7 OF STUDY; AND (III) THOSE INDIVIDUALS AND ORGANIZATIONS WHO MAY PERMIS-
8 SIBLY OFFER SUCH CONTINUING EDUCATION COURSE OR COURSES PROVIDED FOR IN
9 SECTION SEVEN HUNDRED NINETY-FOUR OF THIS ARTICLE;

10 (C) THE CONTENT, DELIVERY AND EVALUATION OF ANY EXAMINATION REQUIRED
11 AS A CONDITION OF REGISTRATION;

12 (D) THE STANDARDS FOR ADVERTISEMENTS, INCLUDING BUT NOT LIMITED TO,
13 PROSCRIPTIONS AGAINST MISLEADING ADVERTISING RELATING TO THE SCOPE OF
14 HEARING AID DISPENSING PRACTICES, CREDENTIALS OF INDIVIDUAL HEARING AID
15 DISPENSERS, AND THE FUNCTION, USE AND RELIABILITY OF A PARTICULAR HEAR-
16 ING INSTRUMENT;

17 (E) REQUIREMENTS FOR THE SECRETARY TO REGULARLY EXAMINE COMPLIANCE
18 WITH THIS ARTICLE;

19 (F) REQUIREMENTS PERTAINING TO THE NON-DIAGNOSTIC TESTING OF HEARING
20 AND SALE OF HEARING AIDS AT OFFICE, RESIDENTIAL AND OTHER OUT OF OFFICE
21 SETTINGS AND THE DEVELOPMENT OF ENVIRONMENTAL STANDARDS FOR TESTING AT
22 OFFICE, RESIDENTIAL AND OTHER OUT OF OFFICE SETTINGS; REQUIREMENTS
23 PERTAINING TO TELEMARKETING; AND

24 (G) PROCEDURES THAT THE SECRETARY COULD USE TO INCREASE PUBLIC AWARE-
25 NESS OF HOW TO PROPERLY PURCHASE, FIT, ADJUST AND USE A HEARING AID, AS
26 WELL AS THE RIGHTS OF HEARING AID PURCHASERS UNDER STATE LAW. IN ADDI-
27 TION TO SUCH DUTIES AND OTHER DUTIES, THE SECRETARY SHALL CONSULT WITH
28 THE COMMISSIONER OF EDUCATION AND SUCH OTHER PERSONS AS MAY BE APPROPRI-
29 ATE TO DETERMINE THE PROPER LEVEL AND DEGREE OF EDUCATION FOR A HEARING
30 AID DISPENSER, THE TYPE OF DEGREE AND THE PROPER EDUCATIONAL INSTITUTION
31 TO OFFER SUCH EDUCATION AND ALL OTHER RELATED ISSUES.

32 THE SECRETARY shall provide written notification of the provisions of
33 this article and a copy of the registration application within ninety
34 days of the effective date of this article to all dealers as were regis-
35 tered under former article thirty-seven-a of this chapter prior to such
36 effective date and to audiologists licensed pursuant to article one
37 hundred fifty-nine of the education law. Such notification shall inform
38 all such dealers, their dispensing employees and audiologists of the
39 obligation to register pursuant to subdivision nine of section seven
40 hundred ninety of this article.

41 2. The secretary shall review implementation of the provisions of this
42 article in consultation with [the board] NON-AUDIOLOGIST HEARING AID
43 DISPENSERS, AUDIOLOGISTS WHO ARE ENGAGED IN THE DISPENSING OF HEARING
44 AIDS, OTOLARYNGOLOGISTS, AND HEARING AID USERS, and shall vigorously and
45 proactively ensure the enforcement of its provisions through site
46 visits, regular examination of compliance with this article, public
47 outreach and education, promulgation of regulations, delivery of techni-
48 cal assistance, and such other forms as would increase awareness of and
49 adherence to the protections and process prescribed in this article. The
50 secretary shall examine compliance with this article for each business
51 registered pursuant to subdivision one of section seven hundred ninety
52 of this article at least once every four years.

53 4. [In conjunction with the board, the] THE secretary shall:

54 (a) develop procedures for promptly investigating all complaints
55 regarding violations of this article;

(b) develop procedures for assisting consumers in resolving a dispute with those persons registered pursuant to this article and mediating on behalf of consumers when needed;

(c) establish a toll-free number at which consumers, including persons who are hard of hearing or deaf, can register a complaint; and

(d) develop other procedures as necessary to increase public awareness of how to properly purchase, fit, adjust and use a hearing aid, as well as the rights of hearing aid consumers pursuant to this article, which shall include the distribution of written information concerning this subject matter and the toll-free number to those subject to this article, the media, and the general public.

5. The secretary[, in conjunction with the board] shall cause to be prepared and distributed printed educational information to registered hearing aid dispensers and others about the general use of hearing aids and assistive listening devices and on the advantages and disadvantages of hearing aids as well as rights and remedies available to the consumer pursuant to this article.

7. On or before January thirty-first of each year, the secretary shall develop and distribute a report to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the assembly, the minority leader of the senate, the chair of the assembly ways and means committee, and the chair of the senate finance committee, and make it available for public examination. Such report shall entail specific efforts made by the secretary[, the board] and hearing aid dispensers to comply with the provisions of this article, [a compilation of actions taken in response to recommendations submitted to the secretary from the board,] a summary of the results of compliance efforts and anticipated efforts to improve public education, compliance and enforcement during the subsequent year, as well as recommendations, if any, to amend this article.

S 10. 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,

1 EXPENDITURES FROM WHICH SHALL BE LIMITED TO THE PURPOSES SET FORTH IN
2 THIS ARTICLE;

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

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

14 S 11. Article 4 of the arts and cultural affairs law is REPEALED.

15 S 12. Section 404 of the general business law, as amended by chapter
16 341 of the laws of 1998, is amended to read as follows:

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

36 S 13. Section 433-a of the general business law is REPEALED.

37 S 14. Section 844-a of the executive law is REPEALED.

38 S 15. Section 16 of the agriculture and markets law is amended by
39 adding a new subdivision 45 to read as follows:

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

45 S 16. Sections 169-c and 169-d of the agriculture and markets law are
46 REPEALED.

47 S 17. Subdivision 3 of section 73-c of the transportation law is
48 REPEALED.

49 S 18. Section 73-d of the transportation law is REPEALED.

50 S 19. Subdivision 2 and the opening paragraph of subdivision 5 of
51 section 73-e of the transportation law, as amended by chapter 562 of the
52 laws of 1987, are amended and a new subdivision 6 is added to read as
53 follows;

54 2. Eligible expenses and services. The department shall[, in consul-
55 tation with the interagency coordinating committee on rural public
56 transportation,] define and determine the categories or types of

1 expenses or services that will be eligible for financial assistance.
2 Public transportation services funded under this article should be
3 designed to maximize usage by the public, including transportation
4 disadvantaged persons. Rail, air, water, freight, emergency medical,
5 charter or tour transportation services shall not be eligible for
6 assistance provided by this article. No payment of financial assistance
7 under this section shall be made for any expenses incurred by a rural
8 county or its subcontractors prior to the date it receives written
9 notice from the commissioner that it shall be awarded a grant under this
10 article.

11 Coordination of federal, state, local and private aid; report. The
12 department may compile and maintain current information on available and
13 pending federal, state, local and private aid affecting coordinated
14 public transportation services in rural counties. The department may
15 request and shall be entitled to receive information from state or local
16 agencies regarding the amount of federal, state and local aid received
17 by public and private nonprofit organizations providing or contracting
18 for transportation services and the purpose for which the aid is
19 received. The commissioner may[, in consultation with the interagency
20 coordinating committee on rural public transportation,] use the follow-
21 ing criteria to recommend policies to the governor and the legislature
22 that would or could promote compliance with the purposes of this subdivi-
23 sion:

24 6. THE COMMISSIONER SHALL, IN IMPLEMENTING THIS ARTICLE, CONSULT WITH
25 THE OFFICE FOR THE AGING, THE OFFICE OF MENTAL HEALTH, AND THE OFFICE
26 FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES; AND THE DEPARTMENTS OF
27 LABOR, HEALTH, SOCIAL SERVICES, STATE, AND AGRICULTURE AND MARKETS; THE
28 STATE ADVOCATE FOR THE DISABLED; THE DIVISION FOR YOUTH AND REPRESENTATION
29 OF CONSUMERS AND PROVIDERS OF TRANSPORTATION SERVICES IN RURAL
30 COUNTIES.

31 S 20. Subdivision 1 of section 73-h of the transportation law, as
32 amended by chapter 562 of the laws of 1987, is amended to read as
33 follows:

34 1. For those rural counties having an approved and implemented coordi-
35 nated public transportation service plan which has maintained existing
36 levels of funding used for transportation by the coordinated service and
37 has documented the need for additional operating aid, the commissioner
38 may[, in consultation with the interagency coordinating committee on
39 rural public transportation,] grant up to twenty-five thousand dollars
40 per year for operating aid for up to five successive years, subject to
41 annual appropriations to be included in the state budget. Such aid may
42 be extended annually when the county or operator of the coordinated
43 public transportation service has adequately demonstrated the need for
44 such continued aid and that criteria for continuing aid established by
45 rules issued by the commissioner have been met.

46 S 21. Subdivisions 6, 14 and 15 of section 73-j of the transportation
47 law, subdivision 6 as amended by chapter 562 of the laws of 1987 and
48 subdivisions 14 and 15 as amended by chapter 659 of the laws of 1989,
49 are amended to read as follows:

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

1 14. Notwithstanding any other provisions of this article to the
2 contrary, no application for financial assistance made pursuant to
3 section seventy-three-g of this article shall be awarded by the commis-
4 sioner for less than fifty-five thousand dollars or for less than the
5 amount requested unless the commissioner shall, in writing, prior to
6 making the award, each year certify the reasons why such applicant was
7 awarded less than fifty-five thousand dollars or an amount less than
8 requested. Such certification, including the reasons for such action,
9 shall be sent to the applicant, [the interagency coordinating committee
10 on rural public transportation,] the secretary of the senate finance
11 committee, the secretary of the assembly ways and means committee, the
12 director of the office of rural affairs and the director of the legisla-
13 tive commission on the development of rural resources.

14 15. Notwithstanding any other provisions of this article to the
15 contrary, no grant for operating aid, as authorized by section seventy-
16 three-h of this article, shall be made by the commissioner to any county
17 for less than thirty-five thousand dollars in any one year unless the
18 commissioner shall, in writing, prior to making the grant, each year
19 certify the reasons why such county was awarded less than thirty-five
20 thousand dollars. Such certification including the reasons for such
21 action shall be sent to such county, [the interagency coordinating
22 committee on rural public transportation,] the secretary of the senate
23 finance committee, the secretary of the assembly ways and means commit-
24 tee, the director of the office of rural affairs and the director of the
25 legislative commission on the development of rural resources.

26 S 22. Section 73-p of the transportation law, as added by chapter 895
27 of the laws of 1986, is amended to read as follows:

28 S 73-p. Department report. Commencing December thirty-first, nineteen
29 hundred eighty-seven, the department[, in cooperation with the state
30 interagency coordinating committee on rural public transportation,]
31 shall prepare and submit to the governor and the legislature a report on
32 or before the first day of January of each year, which shall include
33 information relating to the operation of coordinated public transporta-
34 tion services in rural counties then being funded under this article and
35 any recommendations for overall program improvement; stating the
36 receipts and disbursements made during the preceding fiscal year and
37 adequacy of programs financed by federal, state, local and private aid
38 in rural counties of the state. The department shall analyze the
39 programs financed in accordance with this article and recommend methods
40 of avoiding duplication and increasing the efficacy of programs
41 financed. The department shall receive comments from the officers and
42 agents of affected state and local government units relative to the
43 department's analysis.

44 S 23. Section 215 of the vehicle and traffic law is amended by adding
45 two new subdivisions (d) and (e) to read as follows:

46 (D) THE COMMISSIONER SHALL CONSULT WITH REPRESENTATIVES OF THE TOW
47 TRUCK INDUSTRY, THROUGHOUT THE STATE INCLUDING THE HEAVY DUTY TOW TRUCK
48 INDUSTRY, AUTOMOBILE CLUBS, POLICE AGENCIES AND LOCAL GOVERNMENT CONSUM-
49 ER PROTECTION AGENCIES PRIOR TO DEVELOPING OR AMENDING REGULATIONS OR
50 GUIDANCE ON TOW TRUCK SAFETY AND OPERATIONS, STANDARDS FOR LICENSURE AND
51 INSPECTION OF TOW TRUCKS AND REQUIREMENTS AND QUALIFICATIONS FOR DRIVERS
52 THEREOF.

53 (E) THE COMMISSIONER SHALL CONSULT WITH AGRICULTURAL ORGANIZATIONS
54 INCLUDING NEW YORK STATE FARM BUREAU; AGRI-BUSINESSES AND FARMERS
55 INVOLVED IN THE TRANSPORTATION OF AGRICULTURAL INPUTS, SUPPLIES OR
56 COMMODITIES; CORNELL COOPERATIVE EXTENSION; THE DEPARTMENTS OF AGRICUL-

TURE AND MARKETS, TRANSPORTATION, AND THE STATE POLICE, PRIOR TO DEVELOPING OR AMENDING REGULATIONS OR GUIDANCE REGARDING THE AGRICULTURAL VEHICLES AND EQUIPMENT. THE COMMISSIONER SHALL PERIODICALLY CONSULT SUCH ENTITIES AS TO WAIVERS NEEDED FROM THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS.

S 24. Section 216-b of the vehicle and traffic law is REPEALED.

S 25. 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, is REPEALED.

S 26. Article 4 of the state technology law is REPEALED.

S 27. Chapter 868 of the laws of 1976, establishing the organic food advisory committee, is REPEALED.

S 28. Subdivision 5 of section 89-bbb of the general business law is REPEALED.

S 29. Section 89-lll of the general business law, as added by chapter 557 of the laws of 1997, is amended to read as follows:

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

S 30. Section 89-mmm of the general business law is REPEALED.

S 31. Subdivision 5 of section 89-ppp of the general business law is REPEALED.

S 32. Subdivision 13 of section 89-ppp of the general business law, as added by chapter 557 of the laws of 1997, is amended to read as follows:

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

S 33. Subdivision 4 of section 89-sss of the general business law, as added by chapter 557 of the laws of 1997, is amended to read as follows:

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

S 34. Section 89-yyy of the general business law, as added by chapter 557 of the laws of 1997, is amended to read as follows:

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

S 35. Section 923 of the executive law is REPEALED.

S 36. Section 11-1005 of the environmental conservation law is REPEALED.

S 37. Section 11-1007 of the environmental conservation law, as amended by chapter 911 of the laws of 1990, is amended to read as follows:

S 11-1007. Department authority.

1 The department shall make such rules and regulations governing the
2 issuance and use of falconry licenses as it shall deem proper and neces-
3 sary[, giving due consideration to the recommendations of the falconry
4 advisory board]. The department may fix by regulation special open
5 seasons for the taking of small game or upland game birds by falconry.
6 The department may revoke any falconry license and may seize raptors
7 held pursuant thereto if the licensee (i) fails to provide proper care
8 for the raptors in the licensee's possession, (ii) allows raptors in the
9 licensee's possession to become a public nuisance, (iii) is convicted of
10 or settles by civil compromise any violation of any provision of this
11 chapter or regulation of the department, or (iv) fails to comply with
12 any of the terms or conditions of the falconry license. THE COMMISSION-
13 ER SHALL SEEK THE ADVICE AND RECOMMENDATIONS FROM PERSONS ASSOCIATED
14 WITH STATE OR NATIONAL ORGANIZATIONS OR INSTITUTIONS WITH PRIMARY INTER-
15 ESTS IN ORNITHOLOGY, FALCONRY OR WILDLIFE CONSERVATION WHEN CONSIDERING
16 FALCONRY LICENSE APPLICATIONS AND THE SPECIES AND NUMBER OF RAPTORS
17 WHICH MAY BE POSSESSED OR TAKEN FROM THE WILD BY EACH APPLICANT AND THE
18 MANNER OF SUCH TAKING, AND CHANGES TO THE RULES AND REGULATIONS GOVERN-
19 ING THE IMPLEMENTATION OF THE PROVISIONS OF THIS TITLE.

20 S 38. Subparagraph (ii) of paragraph d of subdivision 4 of section
21 17-1007 of the environmental conservation law, as added by chapter 334
22 of the laws of 2008, is amended to read as follows:

23 (ii) As promptly as possible thereafter, not to exceed fifteen days,
24 the commissioner shall provide the owner or operator an opportunity to
25 be heard and to present proof that such condition or activity does not
26 violate the provisions of this section or of the rules or regulations
27 adopted pursuant to this title. The commissioner shall adopt rules and
28 regulations describing the procedure to be followed in the prohibition
29 of petroleum deliveries. In adopting such rules and regulations the
30 department shall allow for the owner or operator at any time to submit
31 information to the department to demonstrate that the owner or operator
32 is in compliance with the requirements or has corrected the violation
33 that prompted the department to prohibit deliveries of petroleum and to
34 allow the tank or tanks to be, as promptly as possible, brought back
35 into operation, not to exceed two business days from the department's
36 determination that a tank is in compliance. The department shall use its
37 best efforts to timely determine compliance. [The commissioner shall
38 draft such rules and regulations and submit them to the state petroleum
39 bulk storage advisory council for comments within six months of the
40 effective date of this subparagraph.]

41 S 39. Subdivision 1 of section 17-1009 of the environmental conserva-
42 tion law, as added by chapter 613 of the laws of 1983, is amended to
43 read as follows:

44 1. The department shall [consult with the state petroleum bulk storage
45 advisory council to] compile a list of facilities within the state.
46 Within thirty days of the promulgation of rules and regulations in
47 accordance with section 17-1005, section 17-1007, and this section of
48 this title, the department shall make available, upon request, a copy of
49 such rules and regulations.

50 S 40. Section 17-1013 of the environmental conservation law is
51 REPEALED.

52 S 41. Subdivision 1 of section 17-1015 of the environmental conserva-
53 tion law, as amended by chapter 334 of the laws of 2008, is amended to
54 read as follows:

55 1. The department shall, pursuant to section 17-0303 of this article,
56 promulgate rules and regulations establishing standards for existing and

1 new petroleum bulk storage facilities which shall include, but not be
2 limited to, design, equipment requirements, construction, installation
3 and maintenance. In proposing, preparing [and], compiling, AND REVISING
4 such rules and regulations, the department shall consult with [the state
5 petroleum bulk storage code advisory council] OWNERS, OPERATORS OTHER
6 THAN OWNERS, AND MUNICIPAL CORPORATIONS WITH PETROLEUM BULK STORAGE
7 FACILITIES. In addition, the department shall consult with the state
8 fire prevention and building code council to assure that such rules and
9 regulations are consistent with the uniform fire prevention and building
10 code.

11 S 42. Section 1390 of the public health law is REPEALED.

12 S 43. Subdivision 1 of section 3401 of the public health law is
13 amended to read as follows:

14 1. The commissioner may, from time to time, make and adopt such rules
15 and regulations not inconsistent with law as may be necessary (a) in the
16 performance of his duties and in the administration of the provisions of
17 this article; and (b) to govern and regulate the conduct and transaction
18 of the business and practice of funeral directing, undertaking and
19 embalming. THE COMMISSIONER SHALL, IN IMPLEMENTING THIS TITLE AND
20 REVISING REGULATIONS, CONSULT WITH THE REPRESENTATIVES OF CONSUMER
21 INTERESTS, LICENSED FUNERAL DIRECTORS, UNDERTAKERS OR EMBALMERS, AND
22 CEMETERY CORPORATIONS.

23 S 44. Section 3402 of the public health law is REPEALED.

24 S 45. Subdivision 5 of section 402 of the general business law, as
25 added by chapter 509 of the laws of 1992, is amended to read as follows:

26 5. Adopt such rules and regulations not inconsistent with the
27 provisions of this article, as may be necessary with respect to the form
28 and content of applications for licenses, the reception thereof, the
29 investigation and examination of applicants and of prospective appli-
30 cants taking examinations and their qualifications, and the other
31 matters incidental or appropriate to the powers and duties of the secre-
32 tary as prescribed by this article and for the proper administration and
33 enforcement of the provisions of this article. THE SECRETARY SHALL, IN
34 IMPLEMENTING THIS TITLE AND REVISING REGULATIONS, CONSULT WITH PERSONS
35 ENGAGED IN THE PRACTICE OF NAIL SPECIALTY, WAXING, NATURAL HAIR STYLING,
36 AESTHETICS, COSMETOLOGY, IN TRAINING OF PERSONS FOR SUCH PRACTICES, AND
37 LICENSED DERMATOLOGISTS.

38 S 46. Section 403 of the general business law is REPEALED.

39 S 47. Section 404 of the general business law, as amended by chapter
40 341 of the laws of 1998, is amended to read as follows:

41 S 404. Rules and regulations. The secretary shall promulgate rules and
42 regulations which establish standards for practice and operation by
43 licensees under this article in order to ensure the health, safety and
44 welfare of the public. Such rules and regulations shall include, but not
45 be limited to, the sanitary conditions and procedures required to be
46 maintained, a minimum standard of training appropriate to the duties of
47 nail specialists, waxers, natural hair stylists, estheticians, and
48 cosmetologists and the provision of service by nail specialists, waxers,
49 natural hair stylists, estheticians or cosmetologists at remote
50 locations other than the licensee's home provided that such practitioner
51 holds an appearance enhancement business license to operate at a fixed
52 location or is employed by the holder of an appearance enhancement busi-
53 ness license. Regulations setting forth the educational requirements for
54 nail specialists shall include education in the area of causes of
55 infection and bacteriology. In promulgating such rules and regulations
56 the secretary shall consult with the state education department, [the

1 advisory committee established pursuant to this article,] any other
2 state agencies and private industry representatives as may be appropri-
3 ate in determining minimum training requirements.

4 S 48. Subdivision 14 of section 601 of the executive law is REPEALED.

5 S 49. Subdivision 12 of section 604 of the executive law, as added by
6 chapter 729 of the laws of 2005, is amended and a new paragraph 13 is
7 added to read as follows:

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

14 13. THE SECRETARY SHALL, IN IMPLEMENTING THIS ARTICLE AND REVISING
15 REGULATIONS, CONSULT WITH INSTALLERS, PARK RESIDENCE ADVOCACY ASSOCI-
16 ATIONS, RETAILERS, AND MANUFACTURED HOME INDUSTRY TRADE ASSOCIATIONS,
17 MANUFACTURERS, THE ENGINEERING INDUSTRY INVOLVED IN MANUFACTURED HOUSING
18 ISSUES, CONSUMER ADVOCACY ASSOCIATIONS INVOLVED IN MANUFACTURED HOUSING
19 ISSUES, AND MANUFACTURED HOUSING RESIDENT OWNERS.

20 S 50. Sections 611 and 612 of the executive law are REPEALED.

21 S 51. This act shall take effect immediately.