

S T A T E O F N E W Y O R K

6194--D

Cal. No. 613

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report, and to be reprinted as amended, retaining its place in the order of second report -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the arts and cultural affairs law, in relation to works of art in the empire state plaza; 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 general business law, in relation to abolishing the armored cars advisory board; 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 section 74-a of the state law, relating to the New York state collectable series panel; 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 appearance enhancement advisory committee; to repeal certain provisions of the executive law, relating to the manufactured housing advisory council; to repeal section 169-c of the agriculture and markets law, relating to the plant industry advisory committee; to repeal certain provisions of the transportation law, relating to the interagency coordinating committee on rural public transportation; to repeal certain provisions of the public health law, relating to the funeral directing advisory board; and to repeal section 154 of the labor law, relating to the child performer advisory board to prevent eating disorders

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

LBD11286-09-2

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

Section 1. Section 74-a of the state law is REPEALED.

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

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

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

S 3. Article 4 of the arts and cultural affairs law is REPEALED.

S 4. Section 16 of the agriculture and markets law is amended by adding a new subdivision 45 to read as follows:

45. WHEN CONSIDERING PLANS, POLICIES AND PROGRAMS PURSUANT TO ARTICLE FOURTEEN OF THIS CHAPTER, THE COMMISSIONER SHALL CONSULT WITH THE PLANT INDUSTRY, INCLUDING, BUT NOT LIMITED TO HORTICULTURE OR VEGETABLE GROWERS AND THE CORNELL COOPERATIVE EXTENSION.

S 5. Section 169-c of the agriculture and markets law is REPEALED.

S 6. Subdivision 3 of section 73-c of the transportation law is REPEALED.

S 7. Section 73-d of the transportation law is REPEALED.

S 8. Subdivision 2 and the opening paragraph of subdivision 5 of section 73-e of the transportation law, as amended by chapter 562 of the

1 laws of 1987, are amended and a new subdivision 6 is added to read as
2 follows:

3 2. Eligible expenses and services. The department shall[, in consul-
4 tation with the interagency coordinating committee on rural public
5 transportation,] define and determine the categories or types of
6 expenses or services that will be eligible for financial assistance.
7 Public transportation services funded under this article should be
8 designed to maximize usage by the public, including transportation
9 disadvantaged persons. Rail, air, water, freight, emergency medical,
10 charter or tour transportation services shall not be eligible for
11 assistance provided by this article. No payment of financial assistance
12 under this section shall be made for any expenses incurred by a rural
13 county or its subcontractors prior to the date it receives written
14 notice from the commissioner that it shall be awarded a grant under this
15 article.

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

29 6. THE COMMISSIONER SHALL, IN IMPLEMENTING THIS ARTICLE, CONSULT WITH
30 THE OFFICE FOR THE AGING, THE OFFICE OF MENTAL HEALTH, AND THE OFFICE
31 FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES; AND THE DEPARTMENTS OF
32 LABOR, HEALTH, SOCIAL SERVICES, STATE, AND AGRICULTURE AND MARKETS; THE
33 STATE ADVOCATE FOR THE DISABLED; THE DIVISION FOR YOUTH AND REPRESENTA-
34 TION OF CONSUMERS AND PROVIDERS OF TRANSPORTATION SERVICES IN RURAL
35 COUNTIES.

36 S 9. Subdivision 1 of section 73-h of the transportation law, as
37 amended by chapter 562 of the laws of 1987, is amended to read as
38 follows:

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

51 S 10. Subdivisions 6, 14 and 15 of section 73-j of the transportation
52 law, subdivision 6 as amended by chapter 562 of the laws of 1987 and
53 subdivisions 14 and 15 as amended by chapter 659 of the laws of 1989,
54 are amended to read as follows:

55 6. Except as provided for in section seventy-three-g of this article,
56 a rural county's apportionment of funds made available in accordance

1 with this article may be used for capital, operating and or administra-
2 tive assistance to provide rural public transportation. The commission-
3 er[, in consultation with the interagency coordinating committee on
4 rural public transportation,] may award other grants for operating and
5 capital expenses.

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

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

31 S 11. Section 73-p of the transportation law, as added by chapter 895
32 of the laws of 1986, is amended to read as follows:

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

49 S 12. Subdivision 13 of section 89-ppp of the general business law, as
50 added by chapter 557 of the laws of 1997, is amended to read as follows:

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

1 S 13. Subdivision 4 of section 89-sss of the general business law, as
2 added by chapter 557 of the laws of 1997, is amended to read as follows:

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

10 S 14. Section 89-yyy of the general business law, as added by chapter
11 557 of the laws of 1997, is amended to read as follows:

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

17 S 15. Subdivision 1 of section 3401 of the public health law is
18 amended to read as follows:

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

28 S 16. Section 3402 of the public health law is REPEALED.

29 S 17. Subdivision 5 of section 402 of the general business law, as
30 added by chapter 509 of the laws of 1992, is amended to read as follows:

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

43 S 18. Section 403 of the general business law is REPEALED.

44 S 19. Section 404 of the general business law, as amended by chapter
45 341 of the laws of 1998, is amended to read as follows:

46 S 404. Rules and regulations. The secretary shall promulgate rules and
47 regulations which establish standards for practice and operation by
48 licensees under this article in order to ensure the health, safety and
49 welfare of the public. Such rules and regulations shall include, but not
50 be limited to, the sanitary conditions and procedures required to be
51 maintained, a minimum standard of training appropriate to the duties of
52 nail specialists, waxers, natural hair stylists, estheticians, and
53 cosmetologists and the provision of service by nail specialists, waxers,
54 natural hair stylists, estheticians or cosmetologists at remote
55 locations other than the licensee's home provided that such practitioner
56 holds an appearance enhancement business license to operate at a fixed

1 location or is employed by the holder of an appearance enhancement busi-
2 ness license. Regulations setting forth the educational requirements for
3 nail specialists shall include education in the area of causes of
4 infection and bacteriology. In promulgating such rules and regulations
5 the secretary shall consult with the state education department, [the
6 advisory committee established pursuant to this article,] any other
7 state agencies and private industry representatives as may be appropri-
8 ate in determining minimum training requirements.

9 S 20. Subdivision 14 of section 601 of the executive law is REPEALED.

10 S 21. Subdivision 12 of section 604 of the executive law, as added by
11 chapter 729 of the laws of 2005, is amended and a new subdivision 13 is
12 added to read as follows:

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

19 13. THE SECRETARY SHALL, IN IMPLEMENTING THIS ARTICLE AND REVISING
20 REGULATIONS, CONSULT WITH INSTALLERS, PARK RESIDENCE ADVOCACY ASSOCI-
21 ATIONS, RETAILERS, AND MANUFACTURED HOME INDUSTRY TRADE ASSOCIATIONS,
22 MANUFACTURERS, THE ENGINEERING INDUSTRY INVOLVED IN MANUFACTURED HOUSING
23 ISSUES, CONSUMER ADVOCACY ASSOCIATIONS INVOLVED IN MANUFACTURED HOUSING
24 ISSUES, AND MANUFACTURED HOUSING RESIDENT OWNERS.

25 S 22. Sections 611 and 612 of the executive law are REPEALED.

26 S 23. Section 154 of the labor law is REPEALED.

27 S 24. This act shall take effect immediately.