

7578

I N S E N A T E

June 5, 2012

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 health 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 SHALL PROMINENTLY POST THE NOTICE DEVEL-
12 OPED BY THE COMMISSIONER OF HEALTH REGARDING SUCH HEALTH HAZARD IN AN
13 AREA CLEARLY VISIBLE TO PATRONS IN THE LICENSED PREMISES OR IN THE PLACE
14 WHERE THE PRACTICE OF AN OCCUPATION LICENSED PURSUANT TO THIS ARTICLE IS
15 CONDUCTED. THE DEPARTMENT OF HEALTH SHALL PREPARE AND MAKE SUCH SIGN
16 AVAILABLE TO EACH LICENSEE.
17 3. IF THE COMMISSIONER OF HEALTH MAKES A DETERMINATION PURSUANT TO
18 SECTION THIRTY-FIVE HUNDRED FIFTY-SIX OF THE PUBLIC HEALTH LAW THAT
19 ULTRAVIOLET NAIL DRYING DEVICES POSE A HEALTH HAZARD TO USERS, ANY
20 APPEARANCE ENHANCEMENT BUSINESS THAT UTILIZES SUCH DEVICES SHALL COMPLY
21 WITH ANY AND ALL REGULATIONS ADOPTED BY THE DEPARTMENT OF HEALTH PURSU-
22 ANT TO SUCH SECTION.
23 S 2. Section 3550 of the public health law, as added by chapter 378 of
24 the laws of 1990, is amended to read as follows:

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

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1 S 3550. Definitions. When used in this article, the following words
2 and phrases shall have the meanings ascribed to them in this section:

3 1. "Tanning facility" shall mean any establishment where one or more
4 ultraviolet radiation device is used, offered, or made available for use
5 by any human being, for which a fee is charged, directly or indirectly,
6 but shall not include any facility where any such device is used by a
7 qualified health care professional for treatment of medical conditions.

8 2. "Ultraviolet radiation device" shall mean any equipment which is
9 designed to emit electromagnetic radiation in the wavelength interval of
10 two hundred to four hundred nanometers in air, and which is intended to
11 induce tanning of the human skin through irradiation, including, but not
12 limited to, a sunlamp, tanning booth, or tanning bed.

13 3. "ULTRAVIOLET NAIL DRYING DEVICE" SHALL MEAN ANY EQUIPMENT WHICH IS
14 DESIGNED TO EMIT ELECTROMAGNETIC RADIATION IN THE WAVELENGTH INTERVAL OF
15 TWO HUNDRED TO FOUR HUNDRED NANOMETERS IN AIR, AND WHICH IS INTENDED TO
16 INDUCE NAIL CURING OR HARDENING THROUGH IRRADIATION.

17 4. "Person" shall mean an individual, corporation, partnership, joint
18 venture, or any business entity.

19 S 3. The public health law is amended by adding a new section 3556 to
20 read as follows:

21 S 3556. ULTRAVIOLET NAIL DRYING DEVICES. THE DEPARTMENT SHALL REVIEW
22 THE EXISTING MEDICAL AND SCIENTIFIC LITERATURE, PUBLISHED REPORTS, AND
23 ARTICLES REGARDING THE POTENTIAL HEALTH HAZARDS ASSOCIATED WITH THE USE
24 OF ULTRAVIOLET NAIL DRYING DEVICES AND IDENTIFY ANY HEALTH HAZARDS. AS
25 PART OF SUCH REVIEW, THE DEPARTMENT SHALL CONSULT WITH EXPERTS IN THE
26 FIELDS OF SKIN CANCER RESEARCH AND HUMAN EXPOSURE TO ARTIFICIAL ULTRAVI-
27 OLET RADIATION. THE DEPARTMENT SHALL ALSO REVIEW THE FEASIBILITY AND
28 EFFECTIVENESS OF REQUIRING APPEARANCE ENHANCEMENT BUSINESSES TO ADVISE
29 USERS OF ULTRAVIOLET NAIL DRYING DEVICES TO APPLY A SUNSCREEN OR A SIMI-
30 LAR SUBSTANCE DESIGNED TO BLOCK ULTRAVIOLET RADIATION TO THE HANDS AND
31 WRISTS PRIOR TO USING SUCH DEVICE. UPON COMPLETION OF SUCH REVIEW,
32 BASED ON THE FINDINGS OF THE DEPARTMENT, THE COMMISSIONER MAY PROMULGATE
33 ANY REGULATIONS DEEMED APPROPRIATE FOR GOVERNING THE USE OF ULTRAVIOLET
34 NAIL DRYING DEVICES BY ANY APPEARANCE ENHANCEMENT BUSINESS, REQUIRED TO
35 BE LICENSED BY THE DEPARTMENT OF STATE PURSUANT TO ARTICLE TWENTY-SEVEN
36 OF THE GENERAL BUSINESS LAW. IF PROMULGATED, SUCH REGULATIONS SHALL
37 INCLUDE A REQUIREMENT THAT ANY APPEARANCE ENHANCEMENT BUSINESS POST A
38 NOTICE REGARDING ANY HEALTH HAZARDS ASSOCIATED WITH THE USE OF ULTRAVI-
39 OLET NAIL DRYERS AND ANY STEPS USERS MAY TAKE TO MITIGATE SUCH HAZARDS
40 IN AN AREA CLEARLY VISIBLE TO PATRONS IN THE LICENSED PREMISES OR IN THE
41 PLACE WHERE THE PRACTICE OF AN OCCUPATION LICENSED PURSUANT TO ARTICLE
42 TWENTY-SEVEN OF THE GENERAL BUSINESS LAW IS CONDUCTED.

43 S 4. This act shall take effect on the one hundred twentieth day after
44 it shall have become a law; provided that the commissioner of health is
45 authorized to, on or before such date, promulgate any and all rules and
46 regulations and take any other measures necessary to implement this act
47 on its effective date.