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

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:

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

3. "Licensee" means a person licensed pursuant to this article to 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 provided to the public.

11. A "MAKEUP ARTIST" MEANS A PERSON WHO PROVIDES FOR A FEE, OR ANY CONSIDERATION OR EXCHANGE, WHETHER DIRECT OR INDIRECT, SERVICES TO 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.

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

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

3. A person licensed by any other state or country to practice nail specialty, waxing, natural hair styling, esthetics or cosmetology OR TO WORK AS A MAKEUP ARTIST shall be allowed to practice in New York state 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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giving to, or receiving from, persons who are licensed under this article training in current styles, techniques or materials, provided however, that no such unlicensed person may provide services to the public for any fee, or other compensation, whether direct or indirect.

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

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

S 4. Paragraph a of subdivision 1 of section 406 of the general business law, as amended by chapter 341 of the laws of 1998, is amended to read as follows:

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

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

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

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

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

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

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

S 8. This act shall take effect immediately.