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2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. ROSENTHAL, MILLMAN, ARROYO, CYMBROWITZ, McDONOUGH
-- read once and referred to the Committee on Consumer Affairs and
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 ASSEM-
BLY, 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

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

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1 WITH ANY AND ALL REGULATIONS ADOPTED BY THE DEPARTMENT OF HEALTH PURSU-
2 ANT TO SUCH SECTION.

3 S 2. Section 3550 of the public health law, as added by chapter 378 of
4 the laws of 1990, is amended to read as follows:

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

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

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

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

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

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

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

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