

# STATE OF NEW YORK

378

2023-2024 Regular Sessions

## IN ASSEMBLY

January 9, 2023

Introduced by M. of A. BRONSON, CLARK, DICKENS, DINOWITZ, GALLAGHER, HEVESI, L. ROSENTHAL, STECK, GONZALEZ-ROJAS, REYES, MAMDANI, SEAWRIGHT, SIMON, COLTON -- read once and referred to the Committee on Labor

AN ACT to amend the labor law and the state administrative procedure act, in relation to enacting the nail salon minimum standards council act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "nail salon minimum standards council act".

§ 2. The labor law is amended by adding a new article 19-E to read as follows:

### ARTICLE 19-E

#### NAIL SALON MINIMUM STANDARDS COUNCIL ACT

##### Section 697. Statement of public policy.

697-a. Definitions.

697-b. Nail salon minimum standards council.

697-c. Minimum pricing committee.

697-d. Powers and duties of the council.

697-e. Powers and duties of the commissioner with respect to the council.

697-f. Labor protections.

697-g. Future meetings.

697-h. Severability.

697-i. Preemption.

§ 697. Statement of public policy. The legislature hereby finds and declares that there are persons employed in the nail salon industry in the state of New York at wages and standards insufficient to provide adequate maintenance and adequate health protections for themselves and their families. Such employment: impairs the health, efficiency, and

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

LBD01761-01-3

1 well-being of such workers; constitutes unfair competition against other  
2 employers and their workers; threatens the stability of the industry;  
3 reduces the purchasing power of workers; and requires, in many  
4 instances, that wages be supplemented by the payment of public moneys  
5 for relief or other public and private assistance. Documented inappro-  
6 priate working conditions include the following: exposure to known  
7 carcinogens that have been found to cause cancer, asthma, and reproduc-  
8 tive health issues for nail salon workers; long hours in poorly venti-  
9 lated areas; unpredictable work schedules that adversely affect nail  
10 salon workers' ability to act as caregivers to their dependents;  
11 nonstandard procedures for obtaining certifications; inconsistent stand-  
12 ards and criteria for work performed by trainees; and high rates of wage  
13 theft. The current system of relying exclusively on individual  
14 complaints to the department has not been effective at creating indus-  
15 try-wide compliance with regulations now in effect. Intense competition  
16 on price has driven down standards to the detriment of workers, consum-  
17 ers, and employers themselves. Data has shown that there is a strong  
18 correlation between prices and wage violations: the lower the prices,  
19 the higher the rates of wage violations that occur in nail salons. Due  
20 to slim profit margins and intense industry competition, even small  
21 businesses wishing to increase pay and improve working conditions are  
22 unable to do so. It is imperative that such market conditions be  
23 corrected and regulated by the state of New York.

24 The purpose of this article is to install a mechanism to raise indus-  
25 try standards for nail salon workers, owners, and customers through a  
26 participatory and accessible process and to set the foundation for a  
27 thriving, stable, and sustainable nail salon industry in New York.

28 Accordingly, it is the declared policy of the state of New York that  
29 inappropriate conditions be eliminated as rapidly as practicable without  
30 substantially curtailing opportunities for employment or earning power.  
31 To this end, the commissioner shall establish a nail salon minimum stan-  
32 dards council pursuant to section six hundred ninety-seven-b of this  
33 article, to investigate and recommend minimum wages and standards in the  
34 nail salon industry, and the commissioner shall establish and implement  
35 and maintain such wages and standards. Furthermore, the commissioner  
36 shall convene an independent minimum pricing committee pursuant to  
37 section six hundred ninety-seven-c of this article to determine a fair  
38 minimum pricing model that will provide adequate maintenance for nail  
39 salon workers and protect consumer and worker health and safety stand-  
40 ards while maintaining business enterprise autonomy and a competitive  
41 marketplace.

42 The commissioner and the nail salon minimum standards council estab-  
43 lished pursuant to section six hundred ninety-seven-b of this article  
44 shall have the power to investigate the wages and standards for workers  
45 in the nail salon industry to ascertain whether the minimum wages and  
46 standards established in accordance with the provisions of this article  
47 are sufficient to provide adequate maintenance and adequate health  
48 protections for nail salon workers, consumers, and the general public.  
49 The legislature understands that provisions of this article may have  
50 anti-competitive effects, and enacts this article with full knowledge of  
51 its possible anti-competitive effects and with the specific intention  
52 that all conduct authorized by this article receive immunity from feder-  
53 al antitrust laws to the fullest extent possible.

54 § 697-a. Definitions. As used in this article: 1. "Council" means the  
55 nail salon minimum standards council established pursuant to section six  
56 hundred ninety-seven-b of this article.

1     2. "Member" means a member of the nail salon minimum standards council  
2 established pursuant to section six hundred ninety-seven-b of this arti-  
3 cle.

4     3. "Standards" means any requirements applicable to nail salon work-  
5 places for which the council may provide recommendations as per section  
6 six hundred ninety-seven-d of this article.

7     4. "Nail salon" and "nail firm" mean an appearance enhancement busi-  
8 ness which practices nail specialty, as that term is defined in section  
9 four hundred of the general business law.

10    5. "Nail salon worker" means any person engaged in whole or in part in  
11 the practice of nail specialty as defined in section four hundred of the  
12 general business law.

13    6. "Nail salon employer" means an owner or operator of an appearance  
14 enhancement business that specializes in the practice of nail specialty  
15 as defined in section four hundred of the general business law.

16    7. "Trainee" means a person who works as a trainee as defined in  
17 section four hundred of the general business law.

18    8. "Delegate" means a non-voting member on the nail salon minimum  
19 standards council established pursuant to section six hundred ninety-  
20 seven-b of this article.

21    9. "Nominating representative" means a person or entity appointed by  
22 the commissioner to nominate members of the council.

23    § 697-b. Nail salon minimum standards council. 1. (a) There is hereby  
24 established the nail salon minimum standards council, which shall  
25 consist of fifteen voting members plus six non-voting delegate members.  
26 The voting members shall consist of six nail salon workers, six nail  
27 salon employers, and three public representative members. Three of the  
28 non-voting delegate members shall be nail salon worker delegates and the  
29 other three non-voting delegate members shall be nail salon employer  
30 delegates. The commissioner shall appoint the public representatives.  
31 In addition, the commissioner shall appoint one nominating represen-  
32 tative with a demonstrated history of representing the interests of  
33 workers in New York state who shall nominate at least six worker members  
34 and at least three non-voting delegate members to the council. The  
35 commissioner shall also appoint one nominating representative with a  
36 demonstrated history of representing the interests of nail salon employ-  
37 ers who shall nominate at least six employer members and at least three  
38 non-voting delegate members to the council. The public representatives  
39 shall consist of the following: one member from the department; one  
40 member from the department of health, with expertise in occupational  
41 safety and health; and one member at the discretion of the commissioner.  
42 The public representative members shall have no financial ties to the  
43 nail salon industry, including campaign contributions within five years  
44 of such representatives' appointment to the council, and shall not have  
45 had complete or partial ownership of a nail salon at present or within  
46 five years of such representatives' appointment to the council. No  
47 public representative member shall have lobbied on behalf of nail salon  
48 workers or nail salon employers within five years of such represen-  
49 tative's appointment to the council.

50    (b) The commissioner shall appoint the nominating representative for  
51 nail salon workers, the nominating representative for nail salon employ-  
52 ers, and the three public representatives within sixty days of the  
53 effective date of this article.

54    (c) Within sixty days of being appointed, the nominating represen-  
55 tative for nail salon workers shall submit to the commissioner the names  
56 of the nail salon workers and non-voting worker delegates to be consid-

1 ered for appointment to the council. Within fifteen days of receipt of  
2 these nominations, the commissioner shall consider the nominations and  
3 appoint six nail salon worker members and three nail salon worker deleg-  
4 ates.

5 (d) Of the six nail salon worker members:

6 (i) Four nail salon worker members shall be employed at the time of  
7 appointment at nail salons located in the city of New York, one nail  
8 salon worker member shall be employed at the time of appointment at a  
9 nail salon located in Westchester county, Nassau county or Suffolk coun-  
10 ty, and one nail salon worker member shall be employed at the time of  
11 appointment at a nail salon in any county of the state except for the  
12 city of New York, Westchester county, Nassau county or Suffolk county.

13 (ii) The nominating representative for nail salon workers shall  
14 endeavor to nominate members who reflect the demographic and cultural  
15 background of the population of nail salon workers in the counties in  
16 which they work and have language facility in one or more of the  
17 languages specified in paragraph (b) of subdivision two of this section.

18 (iii) Preference shall be given to nail salon workers with significant  
19 experience in the nail salon industry, as measured by time spent in the  
20 industry.

21 (e) The three non-voting worker delegate members shall have demon-  
22 strated experience in working directly with nail salon workers in areas  
23 pertaining to or are organizations related to:

24 (i) labor relations;

25 (ii) occupational health and safety standards and compliance with  
26 those standards; or

27 (iii) a community center focused on the nail salon industry and has a  
28 membership that includes both workers and owners in New York.

29 (f) Within sixty days of being appointed, the nominating represen-  
30 tative for nail salon employers shall submit to the commissioner the  
31 names of nail salon employers and non-voting employer delegates. Within  
32 fifteen days of receipt of these nominations, the commissioner shall  
33 consider the nominations and appoint six nail salon employer members and  
34 three nail salon employer delegates.

35 (g) Of the six nail salon employer members:

36 (i) Four nail salon employer members shall at the time of the appoint-  
37 ment be nail salon employers at nail salons located in the city of New  
38 York, one nail salon employer member shall at the time of the appoint-  
39 ment be a nail salon employer at a nail salon located in Westchester  
40 county, Nassau county or Suffolk county, and one nail salon employer  
41 member shall at the time of appointment be a nail salon employer at a  
42 nail salon in any county of the state except for the city of New York,  
43 Westchester county, Nassau county or Suffolk county.

44 (ii) The nominating representative for nail salon employers shall  
45 endeavor to nominate members who reflect the demographic and cultural  
46 background of the population of nail salon employers in the counties in  
47 which their nail salons operate and have language facility in one or  
48 more of the languages specified in paragraph (b) of subdivision two of  
49 this section.

50 (iii) Preference shall be given to nail salon employers that have a  
51 higher than average minimum wage for their nail salon workers and that  
52 do not have any judgments, injunctions, liens, or administrative orders  
53 against them; no nail salon employer shall be appointed a member or a  
54 delegate who has an unsatisfied judgment, lien, or administrative order  
55 pending against them or an injunction in effect against them that arises  
56 out of a violation of state labor laws or federal wage and hour laws.

1 (h) The non-voting employer delegate members shall have demonstrated  
2 experience in working directly with nail salon employers in areas  
3 pertaining to:

4 (i) labor and government relations;

5 (ii) compliance and advocacy related to occupational health and safety  
6 standards; or

7 (iii) general business practices and operations.

8 (i) Council members shall serve the full term for which they have been  
9 appointed. A member who does not serve the full term for which they were  
10 appointed shall be replaced by a new member by appointment of the  
11 commissioner following the commissioner's receipt of nominations from  
12 the nominating representative. Nominations shall be submitted to the  
13 commissioner within thirty days of such vacancy arising.

14 (j) The public representative members shall be the chairpersons of the  
15 council. The chairpersons shall conduct the meetings of the council,  
16 take attendance at council meetings and act as the primary point persons  
17 between the commissioner and the council.

18 (k) The council shall convene its first meeting within sixty days of  
19 the date of appointment of the fifteen members.

20 (l) Members may submit to the department expenses incurred for travel  
21 to and from council meetings and hearings for reimbursement. Members  
22 shall also receive a per diem of one hundred twenty dollars for each day  
23 of council meetings and hearings the member was in attendance.

24 2. (a) The commissioner shall establish and maintain an active website  
25 explaining the role of the council, the members of the council, and  
26 non-retaliation protections of this article within sixty days of the  
27 effective date of this article. The website shall also include a current  
28 list of dates and locations of council meetings and hearings.

29 (b) The website shall be accessible in at least each of the following  
30 languages: Bengali, Burmese, Chinese, English, Haitian-Creole, Italian,  
31 Korean, Nepali, Polish, Russian, Spanish, Tibetan, Khmer, and Viet-  
32 namese.

33 § 697-c. Minimum pricing committee. 1. The commissioner shall estab-  
34 lish an independent committee of the council which shall: examine profit  
35 margins in the nail salon industry; evaluate New York's nail service  
36 prices; and recommend a fair minimum pricing model for all nail industry  
37 services to maintain adequate consumer and worker health and safety  
38 standards while maintaining business enterprise autonomy and a compet-  
39 itive marketplace.

40 2. (a) The committee established pursuant to subdivision one of this  
41 section shall consist of three members: one recommended by the nominat-  
42 ing representative for workers, one recommended by the nominating repre-  
43 sentative for employers, and one selected by the commissioner. Each  
44 member shall be from a different organization and shall have demon-  
45 strated experience and expertise in economic research on the nail salon  
46 industry in the state or on similar low-wage industries in the state.  
47 At least fifteen days before final approval of the three committee  
48 members, the commissioner shall apprise members and delegates of the  
49 council of the individuals the commissioner is considering for appoint-  
50 ment and forward to the members and delegates all of the materials  
51 submitted by each individual under consideration in support of the  
52 application. The commissioner shall provide the members and delegates of  
53 the council an opportunity to submit comments on each individual under  
54 consideration, and shall take account of such comments in making a final  
55 decision. The commissioner shall approve the committee members within  
56 ninety days of the effective date of this article.

(b) The commissioner shall establish a member application which shall ask, at a minimum, the following information of the applicant: (i) the name, phone number, and email address of the applicant; (ii) the occupation and job title of the applicant; (iii) the firm name and address which the applicant works for or is associated with; (iv) a description of the applicant's experience and expertise in economic research on the nail salon industry in the state or on similar low-wage industries in the state; and (v) a list of research reports on topics relevant to the tasks of the committee which were written by the applicant or for which the applicant provided information.

(c) Delegate members of the council shall periodically participate in committee meetings to help provide industry background information. The non-voting members shall not have any role in the actual work and report.

3. The committee shall hold its first meeting within thirty days of appointment. The committee shall have the authority to collect information through research and economic analysis and shall compile a report making recommendations to the commissioner on a fair pricing model sufficient to cover: (a) the remuneration required by law to be paid to a nail specialty practitioner who administers nail services; (b) the ordinary incidents of overhead costs incurred by a licensee at the location in which the nail services are provided, including the cost of rent, utilities, and supplies; (c) the costs associated with ensuring a safe environment for workers and consumers; and (d) a reasonable return on investment. The committee may recommend a pricing model that varies by geographic area to account for variations in overhead costs in such areas, provided that the price applied within such area shall be uniform for all nail salons operating within such area.

4. The committee shall submit the report required pursuant to subdivision two of this section to the commissioner within one year of the first meeting of the committee; provided however, that the committee has duly and sufficiently considered all recommendations of the council accepted by the commissioner pursuant to section six hundred ninety-seven-e of this article prior to submitting the report. If the committee requires more time to consider the recommendations of the council accepted by the commissioner, the committee may submit a request for an extension of the report for no more than ninety days.

5. The commissioner shall review the report submitted by the committee and within thirty days of receipt thereof shall approve, reject, or modify pricing model recommendations. Any modification to a minimum pricing recommendation shall ensure a reasonable and sufficient rate of pay and price for service to prevent wage theft and other violations of federal and state wage laws and applicable regulations.

(a) If a recommendation is modified by the commissioner, the commissioner shall issue an explanation for the modification which shall state: (i) why the proposed recommendation by the committee is insufficient to meet the health, safety, and well-being of the industry and workers; and (ii) why the modified recommendation provides businesses with a reasonable return on investment while ensuring their ability to meet wage requirements and other standards sufficient to provide adequate maintenance for persons employed in the nail salon industry.

(b) If a recommendation is rejected by the commissioner, the memorandum shall state: (i) why the proposed recommendation by the committee is insufficient to meet the health, safety, and well-being of the industry and its workers; and (ii) why modification of such recommendation was not reasonably feasible.

6. Any recommendation or modification thereof accepted by the commissioner shall be published as a proposed regulation in the New York state register for a period of thirty days, and the public shall be permitted to submit comments on the matter to the commissioner during that period. At the conclusion of that thirty-day period, the commissioner shall either adopt the proposal as a final regulation, or publish in the New York state register a revised proposed regulation. In the event the commissioner publishes a revised proposed regulation, the public shall be permitted to submit comments on the matter to the commissioner during that period. Upon the commissioner's adoption of a final regulation, the regulation shall have the force and effect of law.

7. A regulation adopted by the commissioner pursuant to this section shall be effective thirty days following the commissioner's adoption of a final regulation.

§ 697-d. Powers and duties of the council. 1. In addition to the functions, powers and duties otherwise provided by this article, the council shall have the following powers and duties:

(a) to investigate the wages and standards for workers in the nail salon industry to ascertain whether the minimum wages and standards established in accordance with the provisions of this article are sufficient to provide adequate maintenance and to protect the health of nail salon workers, consumers, and the general public;

(b) to make recommendations to the commissioner on minimum wages, regulations and minimum standards governing working conditions for nail salon workers, and to make other recommendations to promote employer compliance with minimum wages, regulations and minimum standards governing working conditions for nail salon workers. Such recommendations shall take into consideration the minimum wage sufficient to provide adequate maintenance and to protect the health and safety of nail salon workers, the value of the work or classification of work performed by nail salon workers, and the wages paid in the state for work of like or comparable character;

(c) to consult with employers and workers in the nail salon industry and with such other persons, including the commissioner and experts in economics, health and labor standards, and other relevant fields;

(d) to collect information through hearings, testimonies, and written submissions on the following subjects as they pertain to the nail salon industry:

(i) the adequacy of minimum hourly wages, minimum weekly wages, and piece rates in the three zones in section six hundred fifty-two of this chapter;

(ii) gratuities;

(iii) minimum weekly hours, differentiated for part-time, full-time, and trainee workers;

(iv) scheduling requirements and advance notice for schedule changes (predictable scheduling);

(v) policies regarding sick days, holidays, and other related leaves of absence;

(vi) policies regarding disciplinary actions and termination;

(vii) health and safety protections for consumers;

(viii) enforcement of anti-discrimination laws;

(ix) trainings, trainees, and certifications;

(x) job descriptions and duties; and

(xi) other employment benefits that may be necessary for the protection of the health and safety of the workers.

1     2. The council shall have the power, subject to the provisions of  
2 section seventy-three of the civil rights law, to hold hearings, subpoe-  
3 na witnesses, administer oaths, take testimony and compel the production  
4 of books, papers, documents and other evidence in furtherance of its  
5 duties; provided, however, that no subpoena shall issue except upon the  
6 affirmative vote of a majority of the whole membership of the council.  
7 The council may request and shall receive from all agencies such assist-  
8 ance and data as will enable it to properly perform its powers and  
9 duties pursuant to this section.

10    3. A quorum of at least three worker members, three employer members,  
11 and three public representative members shall be required at each coun-  
12 cil meeting and hearing. In the event that a member is not in attendance  
13 for three consecutive meetings and/or hearings, such member's seat shall  
14 be considered vacant and shall be replaced pursuant to paragraph (i) of  
15 subdivision one of section six hundred ninety-seven-b of this article.

16    4. The council shall complete its duties and the chairpersons shall  
17 submit the report required pursuant to this article to the commissioner  
18 within one hundred eighty days of the first meeting of the council. The  
19 report shall contain evidence, either from testimony or written  
20 submissions, for the basis of each recommendation contained therein.

21    5. Each recommendation shall be voted and accepted by a majority vote  
22 of the council at the final meeting of the council. Only the votes of  
23 those in attendance shall be counted; provided, however, that all of the  
24 votes of the worker members shall be counted as one vote (the majority  
25 of the votes of the worker members in attendance shall be determinative  
26 of that one vote), all of the votes of the employer members in attend-  
27 ance shall be counted as one vote (the majority of the votes of the  
28 employer members in attendance shall be determinative of that one vote),  
29 and all of the votes of the public representative members in attendance  
30 shall count as one vote (the majority of the votes of the public repre-  
31 sentative members in attendance shall be determinative of that one  
32 vote). However, if quorum cannot be achieved at the final meeting on the  
33 first date scheduled by the council, then the council shall postpone the  
34 meeting and set a second date for the final meeting which shall occur  
35 within the next thirty days and if quorum cannot be achieved by the  
36 second date scheduled by the council, the members in attendance shall  
37 take a vote on each of the recommendations and provide an opportunity  
38 for remaining members to vote via electronic mail to the three public  
39 representatives within forty-eight hours.

40    6. The council shall hold at least four hearings, at least two of  
41 which shall take place in the city of New York, and one in each of the  
42 other two regions as described in section six hundred ninety-seven-b of  
43 this article. The council shall provide notice of each hearing at least  
44 four weeks prior to such hearing. Such notice shall be provided through  
45 a means which shall be determined before each hearing and shall disclose  
46 the time, place, and format of the hearing; provided, however, that each  
47 hearing shall be scheduled, to the best extent practicable, at a time  
48 convenient for workers and owners of nail salons and the council.

49    7. Members of the council may bring individuals serving in the capaci-  
50 ty of interpreter to council meetings, or they may request that the  
51 department provide them with an interpreter for meetings and hearings.  
52 Member requests that an interpreter of a certain language be available  
53 for a hearing shall be made no less than one week prior to the hearing  
54 and the department shall provide such interpretation services for all  
55 members making such requests.

1     § 697-e. Powers and duties of the commissioner with respect to the  
2 council. In addition to the functions, powers and duties otherwise  
3 provided by this article, and notwithstanding any other provisions of  
4 law, the commissioner shall:

5     1. promulgate rules and regulations governing the manner in which the  
6 council shall function and perform its duties under this article,  
7 including procedures to be followed by the committee, to ensure that the  
8 actions of the council are consistent with the goals as described in the  
9 statement of public policy;

10    2. furnish the council and the committee with adequate legal, steno-  
11 graphic, clerical, linguistic, and other assistance as deemed needed,  
12 including, but not limited to, administrative resources and meeting  
13 facilitators;

14    3. submit data which is available to the commissioner to the council  
15 on the matters within the scope of the powers and duties of the council;

16    4. provide translation of all documents and forms used by or issued to  
17 members of the council. Such translation shall be made available in the  
18 languages as requested by worker and employer representatives. The  
19 commissioner shall direct the department to provide interpretation  
20 services to members and hearing attendees at all council meetings and  
21 hearings;

22    5. review the report and recommendations submitted by the council and,  
23 upon review, approve or reject each recommendation. If a recommendation  
24 is rejected by the commissioner, the council shall not be precluded in  
25 considering the same recommendation when the council reconvenes for  
26 future meetings;

27    6. submit a written memorandum to the council and the legislature  
28 within thirty days of receipt of the report submitted by the council.  
29 Such memorandum shall explain the final action regarding each recommen-  
30 dation included in the report, including an explanation and reason for  
31 the rejection of any recommendations;

32    7. publish any recommendation accepted by the commissioner as a  
33 proposed regulation in the New York state register for a period of thir-  
34 ty days, and the public shall be permitted to submit comments on the  
35 matter to the commissioner during that period. At the conclusion of the  
36 thirty-day period, the commissioner shall either adopt the proposal as a  
37 final regulation or reject it. In the event the commissioner rejects the  
38 proposed regulation, the commissioner shall state the reasons for the  
39 rejection, and such rejection of the proposed regulation shall not  
40 preclude the council from considering the same recommendation when the  
41 council reconvenes for future meetings. Upon the commissioner's adoption  
42 of a final regulation, the regulation shall have the force and effect of  
43 law; and

44    8. promote compliance with the minimum standards as adopted by the  
45 commissioner pursuant to this section by: (a) issuing to the secretary  
46 of state a quarterly report on any nail salon business determined to be  
47 liable in a civil, criminal, or administrative action involving egre-  
48 gious or repeated noncompliance with the minimum standards adopted by  
49 the commissioner which shall include the name of the business and speci-  
50 fy the violation or violations, the dates of occurrence, and any fines,  
51 penalties, and judgments rendered; and (b) publishing such report on the  
52 website described in paragraph (a) of subdivision two of section six  
53 hundred ninety-seven-b of this article.

54    § 697-f. Labor protections. 1. No nail salon owner or manager shall  
55 discharge or in any manner discriminate or retaliate against any nail  
56 salon worker because: (a) the worker has made any complaint or disclosed

1 any information to the council regarding working conditions, health  
2 measures, or rates of pay; (b) the worker has testified or submitted  
3 testimony at a hearing sponsored by the council; (c) the worker has  
4 participated as a worker representative on the council or applied to be  
5 a worker representative; or (d) the employer believes that the worker  
6 has made a complaint to his or her employer, the commissioner or his or  
7 her authorized representative, or the attorney general.

8 2. Any nail salon worker discharged or otherwise discriminated or  
9 retaliated against in the terms and conditions of employment in  
10 violation of subdivision one of this section shall be entitled to rein-  
11 statement, triple any lost wages and work benefits caused by such  
12 violation, and any reasonably incurred attorneys' fees and costs in  
13 accordance with section two hundred fifteen of this chapter.

14 § 697-g. Future meetings. The council shall reconvene no later than  
15 two years after the implementation of the council's last recommenda-  
16 tions. Three months prior to such meeting, the commissioner shall  
17 contact the current members, who shall attest to any changes in their  
18 employment or ownership status at nail salons. If a member of the coun-  
19 cil steps down, the commissioner shall appoint new members to the coun-  
20 cil chosen by the nominating representatives of the nail salon workers  
21 or nail salon employers in accordance with the provisions of section six  
22 hundred ninety-seven-b of this article.

23 § 697-h. Severability. If any section of this article or the applica-  
24 tion thereof to any person or circumstances shall be adjudged invalid by  
25 a court of competent jurisdiction, such order or judgment shall be  
26 confined in its operation to the controversy in which it was rendered,  
27 and shall not affect or invalidate the remainder of any provision of any  
28 section or the application of any part thereof to any other person or  
29 circumstance and to this end the provisions of each section of the arti-  
30 cle are hereby declared to be severable.

31 § 697-i. Preemption. This law shall not preempt any state or local  
32 enactment which provides greater benefits or protections to a covered  
33 worker.

34 § 3. Subparagraph (xiv) of paragraph b of subdivision 2 of section 102  
35 of the state administrative procedure act, as added by chapter 493 of  
36 the laws of 2010, is amended and a new subparagraph (xv) is added to  
37 read as follows:

38 (xiv) any regulation comprised solely of one or more additions to the  
39 list of nonprescription drugs reimbursable under the medicaid program  
40 pursuant to paragraph (a) of subdivision four of section three hundred  
41 sixty-five-a of the social services law[~~+~~]; or

42 (xv) any regulation promulgated by the commissioner of labor in  
43 accordance with article nineteen-E of the labor law.

44 § 4. This act shall take effect immediately.