

STATE OF NEW YORK

4420

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Introduced by M. of A. BRONSON, CLARK, DINOWITZ, GALLAGHER, HEVESI, ROSENTHAL, STECK, GONZALEZ-ROJAS, REYES, MAMDANI, SEAWRIGHT, SIMON, COLTON, RAGA, SHRESTHA, TAPIA, CRUZ, DE LOS SANTOS, EPSTEIN, KELLES, PAULIN, LUNSFORD, DAVILA, STIRPE, BURDICK, FORREST, SHIMSKY, LEE -- 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:

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

3 § 2. The labor law is amended by adding a new article 19-E to read as
4 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.

18 § 697. Statement of public policy. The legislature hereby finds and
19 declares that there are persons employed in the nail salon industry in
20 the state of New York at wages and standards insufficient to provide
21 adequate maintenance and adequate health protections for themselves and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Within sixty days of being appointed, the nominating representative for nail salon workers shall submit to the commissioner the names of the nail salon workers and non-voting worker delegates to be considered for appointment to the council. Within fifteen days of receipt of these nominations, the commissioner shall consider the nominations and appoint six nail salon worker members and three nail salon worker delegates.

(d) Of the six nail salon worker members:

(i) Four nail salon worker members shall be employed at the time of appointment at nail salons located in the city of New York, one nail salon worker member shall be employed at the time of appointment at a nail salon located in Westchester county, Nassau county or Suffolk county, and one nail salon worker member shall be employed at the time of appointment at a nail salon in any county of the state except for the city of New York, Westchester county, Nassau county or Suffolk county.

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

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

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

(i) labor relations;

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

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

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

(g) Of the six nail salon employer members:

(i) Four nail salon employer members shall at the time of the appointment be nail salon employers at nail salons located in the city of New York, one nail salon employer member shall at the time of the appointment be a nail salon employer at a nail salon located in Westchester county, Nassau county or Suffolk county, and one nail salon employer member shall at the time of appointment be a nail salon employer at a nail salon in any county of the state except for the city of New York, Westchester county, Nassau county or Suffolk county.

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

(iii) Preference shall be given to nail salon employers that have a higher than average minimum wage for their nail salon workers and that do not have any judgments, injunctions, liens, or administrative orders against them; no nail salon employer shall be appointed a member or a

1 delegate who has an unsatisfied judgment, lien, or administrative order
2 pending against them or an injunction in effect against them that arises
3 out of a violation of state labor laws or federal wage and hour laws.

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

7 (i) labor and government relations;

8 (ii) compliance and advocacy related to occupational health and safety
9 standards; or

10 (iii) general business practices and operations.

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

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

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

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

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

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

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

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

1 consideration, and shall take account of such comments in making a final
2 decision. The commissioner shall approve the committee members within
3 ninety days of the effective date of this article.

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

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

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

32 4. The committee shall submit the report required pursuant to subdivi-
33 sion three of this section to the commissioner within one year of the
34 first meeting of the committee; provided however, that the committee has
35 duly and sufficiently considered all recommendations of the council
36 accepted by the commissioner pursuant to section six hundred ninety-sev-
37 en-e of this article prior to submitting the report. If the committee
38 requires more time to consider the recommendations of the council
39 accepted by the commissioner, the committee may submit a request for an
40 extension of the report for no more than ninety days.

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

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

55 (b) If a recommendation is rejected by the commissioner, the memoran-
56 dum shall state: (i) why the proposed recommendation by the committee is

1 insufficient to meet the health, safety, and well-being of the industry
2 and its workers; and (ii) why modification of such recommendation was
3 not reasonably feasible.

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

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

18 § 697-d. Powers and duties of the council. 1. In addition to the func-
19 tions, powers and duties otherwise provided by this article, the council
20 shall have the following powers and duties:

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

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

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

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

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

45 (ii) gratuities;

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

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

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

52 (vi) policies regarding disciplinary actions and termination;

53 (vii) health and safety protections for consumers;

54 (viii) enforcement of anti-discrimination laws;

55 (ix) trainings, trainees, and certifications;

56 (x) job descriptions and duties; and

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

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

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

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

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

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

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

1 and the department shall provide such interpretation services for all
2 members making such requests.

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

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

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

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

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

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

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

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

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

1 § 697-f. Labor protections. 1. No nail salon owner or manager shall
2 discharge or in any manner discriminate or retaliate against any nail
3 salon worker because: (a) the worker has made any complaint or disclosed
4 any information to the council regarding working conditions, health
5 measures, or rates of pay; (b) the worker has testified or submitted
6 testimony at a hearing sponsored by the council; (c) the worker has
7 participated as a worker representative on the council or applied to be
8 a worker representative; or (d) the employer believes that the worker
9 has made a complaint to such worker's employer, the commissioner or the
10 commissioner's authorized representative, or the attorney general.

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

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

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

34 § 697-i. Preemption. This law shall not preempt any state or local
35 enactment which provides greater benefits or protections to a covered
36 worker.

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

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

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

47 § 4. This act shall take effect immediately.