

PROGRAM BILL # 3R

Legislative Bill Drafting Commission
12013-12-5

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship of this proposal

S. _____
Senate

s15 Addabbo	s49 Farley	s63 Kennedy	s40 Murphy	s10 Sanders
s46 Amedore	s17 Felder	s34 Klein	s54 Nozzolio	s23 Savino
s11 Avella	s02 Flanagan	s28 Krueger	s58 O'Mara	s41 Serino
s42 Bonacic	s55 Funke	s24 Lanza	s62 Ortt	s29 Serrano
s04 Boyle	s59 Gallivan	s39 Larkin	s60 Panepinto	s51 Seward
s44 Breslin	s12 Gianaris	s37 Latimer	s21 Parker	s09 Skelos
s38 Carlucci	s22 Golden	s01 LaValle	s13 Peralta	s26 Squadron
s14 Comrie	s47 Griffo	s52 Libous	s30 Perkins	s16 Stavisky
s03 Croci	s20 Hamilton	s45 Little	s61 Ranzenhofer	s35 Stewart-
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s48 Ritchie	Cousins
s32 Diaz	s36 Hassell-	s43 Marchione	s33 Rivera	s53 Valesky
s18 Dilan	Thompson	s07 Martins	s56 Robach	s08 Venditto
s31 Espaillat	s27 Hoylman	s25 Montgomery	s19 Sampson	s57 Young

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the multi-sponsorship of this proposal:

IN ASSEMBLY--Introduced by M. of A.

a049 Abbate	a053 Davila	a077 Joyner	a133 Nojay	a140 Schimminger
a092 Abinanti	a034 DenDekker	a020 Kaminsky	a037 Nolan	a076 Seawright
a084 Arroyo	a054 Dilan	a094 Katz	a130 Oaks	a087 Sepulveda
a035 Aubry	a081 Dinowitz	a074 Kavanagh	a069 O'Donnell	a065 Silver
a120 Barclay	a147 DiPietro	a142 Kearns	a051 Ortiz	a027 Simanowitz
a106 Barrett	a115 Duprey	a040 Kim	a091 Otis	a052 Simon
a060 Barron	a004 Englebright	a131 Kolb	a132 Palmesano	a036 Simotas
a082 Benedetto	a109 Fahy	a105 Lalor	a002 Palumbo	a104 Skartados
a042 Bichotte	a071 Farrell	a013 Lavine	a088 Paulin	a099 Skoufis
a079 Blake	a126 Finch	a134 Lawrence	a141 Peoples-	a022 Solages
a117 Blankenbush	a008 Fitzpatrick	a050 Lentol	Stokes	a114 Stec
a062 Borelli	a124 Friend	a125 Lifton	a058 Perry	a110 Steck
a098 Brabenec	a095 Galef	a072 Linares	a059 Persaud	a127 Stirpe
a026 Braunstein	a137 Gantt	a102 Lopez	a086 Pichardo	a112 Tedisco
a044 Brennan	a007 Garbarino	a123 Lupardo	a089 Pretlow	a101 Tenney
a119 Brindisi	a148 Giglio	a010 Lupinacci	a073 Quart	a001 Thiele
a138 Bronson	a080 Gjonaj	a121 Magee	a019 Ra	a061 Titone
a046 Brook-Krasny	a066 Glick	a129 Magnarelli	a012 Raia	a031 Titus
a093 Suchwald	a023 Goldfeder	a064 Malliotakis	a006 Ramos	a055 Walker
a118 Butler	a150 Goodell	a030 Markey	a043 Richardson	a146 Walter
a103 Cahill	a075 Gottfried	a090 Mayer	a078 Rivera	a141 Weinstein
a145 Ceretto	a005 Graf	a108 McDonald	a128 Roberts	a024 Weprin
a033 Clark	a100 Gunther	a014 McDonough	a056 Robinson	a113 Woerner
a047 Colton	a139 Hawley	a017 McKeVitt	a068 Rodriguez	a143 Wozniak
a032 Cook	a083 Heastie	a107 McLaughlin	a067 Rosenthal	a070 Wright
a144 Corwin	a028 Hevesi	a038 Miller	a025 Rozic	a096 Zebrowski
a085 Crespo	a048 Hiking	a015 Montesano	a116 Russell	a029
a122 Crouch	a018 Hooper	a136 Morelle	a149 Ryan	
a021 Curran	a097 Jaffee	a057 Mosley	a009 Saladino	
a063 Cusick	a011 Jean-Pierre	a039 Moya	a111 Santabarbara	
a045 Cymbrowitz	a135 Johns	a003 Murray	a016 Schimei	

with M. of A. as co-sponsors

--read once and referred to the
Committee on

GENEBULA *Governor 3 R-1*
(Relates to authorizing the secretary of state to order the cessation of unlicensed appearance enhancement activity and to register trainees in the practice of nail specialty)

Gen Bus L. unlicensed nail person

AN ACT

to amend the general business law, in relation to authorizing the secretary of state to order the cessation of unlicensed appearance enhancement activity and to register trainees in the practice of nail specialty

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

1) Single House Bill (introduced and printed separately in either or both houses). Uni-Bill (introduced simultaneously in both houses and printed as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed copies of bill and 4 copies of memorandum in support (single house); or 4 signed copies of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. Section 400 of the general business law is amended by
2 adding a new subdivision 11 to read as follows:

3 11. "Trainee" means a person pursuing in good faith a course of study
4 in the practice of nail specialty under the tutelage, supervision and
5 direction of a licensed nail practitioner. Such trainee shall be
6 employed by a licensed appearance enhancement business.

7 § 2. Subdivision 1 of section 401 of the general business law, as
8 amended by chapter 341 of the laws of 1998, is amended to read as
9 follows:

10 1. No person shall engage in the practice of nail specialty, waxing,
11 natural hair styling, esthetics or cosmetology, as defined in section
12 four hundred of this article, without having received a license to
13 engage in such practice in the manner prescribed in this article. No
14 person shall act as a trainee or perform any service as such unless he
15 or she has obtained a certificate of registration pursuant to this arti-
16 cle.

17 § 3. Section 404 of the general business law, as amended by chapter
18 341 of the laws of 1998, is amended to read as follows:

19 § 404. Rules and regulations. The secretary shall promulgate rules and
20 regulations which establish standards for practice and operation by
21 licensees and trainees under this article in order to ensure the health,
22 safety and welfare of the public including licensees and trainees when
23 they are working within such establishments. Such rules and regulations
24 shall include, but not be limited to, the sanitary conditions and proce-
25 dures required to be maintained, a minimum standard of training appro-
26 priate to the duties of nail specialists, trainees, waxers, natural hair
27 stylists, estheticians, and cosmetologists and the provision of service
28 by nail specialists, trainees, waxers, natural hair stylists, estheti-

1 cians or cosmetologists at remote locations other than the licensee's
2 home provided that such practitioner holds an appearance enhancement
3 business license to operate at a fixed location or is employed by the
4 holder of an appearance enhancement business license. Regulations
5 setting forth the educational requirements for nail specialists and
6 trainees shall include education in the area of causes of infection and
7 bacteriology. In promulgating such rules and regulations the secretary
8 shall consult with the state education department, the advisory commit-
9 tee established pursuant to this article, any other state agencies and
10 private industry representatives as may be appropriate in determining
11 minimum training requirements.

12 § 4. Section 404-b of the general business law, as added by chapter
13 489 of the laws of 2010, is amended to read as follows:

14 § 404-b. Nail specialty; owner responsibilities. In addition to any
15 rules and regulations establishing standards for practices and oper-
16 ations by licensees under this article, in order to ensure the health,
17 safety and welfare within appearance enhancement businesses, all owners
18 and operators of appearance enhancement businesses which practice nail
19 specialty shall make available[, upon request] for use, gloves and face-
20 masks for nail speciality licensees and trainees who work in such busi-
21 nesses. [No owner or operator of any appearance enhancement business
22 that engages in the practice of nail speciality shall prohibit any
23 licensee practicing nail specialty from wearing a mask or gloves while
24 engaged in the practice of nail specialty at such business.]

25 § 5. Subdivision 1 of section 406 of the general business law is
26 amended by adding a new paragraph f to read as follows:

27 f. Notwithstanding the educational requirements of this section, a
28 trainee may obtain a license to practice nail specialty if such trainee

1 provides satisfactory evidence to the secretary that such trainee has
2 been actively engaged in a traineeship for a period of one year and has
3 completed a course of study set forth by the secretary. Such course of
4 study may be delivered by electronic means.

5 § 6. The general business law is amended by adding a new section 408-a
6 to read as follows:

7 § 408-a. Trainee. 1. Each applicant for a certificate of registration
8 as a trainee shall make an application which shall include the physi-
9 cian's certificate required by paragraph e of subdivision one of section
10 four hundred six of this article, two recent photographs, and such other
11 information required by such section and in such form as the secretary
12 may prescribe.

13 2. A certificate of registration as a trainee shall be for a period of
14 one year, renewable for a second year, and may be renewed for additional
15 terms within the discretion of the secretary.

16 3. Each certificate of registration issued as provided in this section
17 shall be posted in a conspicuous place in the appearance enhancement
18 business in which the trainee is actually engaged in the practice of
19 nail specialty as a trainee.

20 4. The holder of a certificate of registration as a trainee shall not
21 be entitled to an appearance enhancement business license.

22 § 7. Subdivisions 3, 4, 5, 6 and 7 of section 409 of the general busi-
23 ness law are renumbered subdivisions 4, 5, 6, 7 and 8, and a new subdi-
24 vision 3 is added to read as follows:

25 3. Upon a determination that it is in the best public interest to do
26 so, the secretary may promulgate rules imposing fees not to exceed twen-
27 ty dollars for the registration and renewal of the registration of a
28 trainee.

1 § 8. Subdivision 1 of section 410 of the general business law, as
2 added by chapter 509 of the laws of the 1992, is amended to read as
3 follows:

4 1. Suspension and revocation of licenses or registrations; fines;
5 reprimands. A license or registration issued pursuant to this article
6 may be suspended or revoked, or a fine not exceeding five hundred
7 dollars payable to the department may be imposed for any one or more of
8 the following causes:

9 a. Fraud or bribery in securing a license or registration or permis-
10 sion to take an examination therefor.

11 b. The making of any false statement as to a material matter in any
12 application or other statement or certificate required by or pursuant to
13 this article.

14 c. Incompetence or untrustworthiness.

15 d. Failure to display the license or registration as provided in this
16 article.

17 e. Violation of any provision of this article, or of any rule or regu-
18 lation adopted hereunder.

19 f. Conviction of any of the following crimes subsequent to the issu-
20 ance of a license or registration pursuant to this article: fraud
21 pursuant to sections 170.10, 170.15, 176.15, 176.20, 176.25, 176.30 and
22 190.65; falsifying business records pursuant to section 175.10; grand
23 larceny pursuant to article 155; bribery pursuant to sections 180.03,
24 180.08, 180.15, 180.25, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12,
25 200.45, 200.50; perjury pursuant to sections 210.10, 210.15, 210.40;
26 assault pursuant to sections 120.05, 120.10, 120.11, 120.12; robbery
27 pursuant to article 160; homicide pursuant to sections 125.25 and
28 125.27; manslaughter pursuant to sections 125.15 and 125.20; kidnapping

1 and unlawful imprisonment pursuant to sections 135.10, 135.20 and
2 135.25; unlawful weapons possession pursuant to sections 265.02, 265.03
3 and 265.04; criminal use of a weapon pursuant to sections 265.08 and
4 265.09; criminal sale of a weapon pursuant to sections 265.11 and
5 265.12; compelling prostitution pursuant to section 230.33; sex traf-
6 ficking pursuant to section 230.34; and sex offenses pursuant to article
7 130 of the penal law. Provided, however, that for the purposes of this
8 article, none of the following shall be considered criminal convictions
9 or reported as such: (i) a conviction for which an executive pardon has
10 been issued pursuant to the executive law; (ii) a conviction which has
11 been vacated and replaced by a youthful offender finding pursuant to
12 article seven hundred twenty of the criminal procedure law, or the
13 applicable provisions of law of any other jurisdiction; or (iii) a
14 conviction the records of which have been expunged or sealed pursuant to
15 the applicable provisions of the laws of this state or of any other
16 jurisdiction; and (iv) a conviction for which other evidence of success-
17 ful rehabilitation to remove the disability has been issued.

18 Provided, however, a fine shall not be imposed for the causes speci-
19 fied in paragraph f of this subdivision.

20 In lieu of or in conjunction with the suspension or revocation of a
21 license or registration, or the imposition of a fine pursuant to this
22 section, the secretary may issue a reprimand. When a license or regis-
23 tration issued pursuant to this article is revoked, such license or
24 registration shall not be reinstated or reissued until after the expira-
25 tion of a period of one year from the date of such revocation. No
26 license or registration shall be issued after a second revocation.

1 § 9. Subdivision 2 of section 410 of the general business law, as
2 amended by chapter 324 of the laws of the 1998, is amended to read as
3 follows:

4 2. Unlicensed activities. a. The secretary may issue an order direct-
5 ing the cessation of any activity related to nail specialty, waxing,
6 natural hair styling, esthetics or cosmetology for which a license is
7 required by this article upon a determination that a person, [including
8 a] partnership, [a] limited liability company or business corporation,
9 [has engaged] engaging in [or followed] the business or occupation of,
10 or [held] holding himself, herself or itself out as or acted, temporar-
11 ily or otherwise, as a nail specialist, natural hair stylist, estheti-
12 cian[,] or cosmetologist [or appearance enhancement business] within
13 this state without a valid license being in effect. The [department]
14 secretary shall, before making such determination and order, afford such
15 person, partnership, limited liability company or business corporation
16 an opportunity to be heard in person or by counsel in reference thereto
17 in an adjudicatory proceeding held pursuant to [this article] section
18 four hundred eleven of this article as applicable.

19 b. Notwithstanding any provision to the contrary, if the secretary
20 finds that a person, partnership, limited liability company or business
21 corporation, is holding himself, herself or itself out as or is acting
22 as, temporarily or otherwise, an appearance enhancement business within
23 this state without a valid license, the secretary shall provide the
24 person, partnership, limited liability company or business corporation
25 with a written notice of violation and complaint, and shall afford an
26 opportunity to be heard, either in person or by counsel, before an
27 administrative law judge no sooner than three days from delivery of such
28 notice of violation. If documentary proof that the deficiency has been

1 cured is not provided to the secretary at or before such hearing,
2 following a hearing determination that unlicensed activities have
3 occurred, the secretary may issue an immediate order directing the
4 cessation of any activity for which an appearance enhancement license is
5 required.

6 c. The secretary may issue an order directing the cessation of any
7 activity if the secretary finds that a person, including a partnership,
8 a limited liability company or business corporation, is holding himself,
9 herself or itself out as or is acting as, temporarily or otherwise, an
10 appearance enhancement business within the state without a (i) bond or
11 (ii) liability insurance or liability coverage which is covered through
12 a bond. The secretary shall, before making such determination and order,
13 afford such person, partnership, limited liability company or business
14 corporation an opportunity to be heard in person or by counsel in refer-
15 ence thereto in an adjudicatory proceeding held pursuant to section four
16 hundred eleven of this article. The enforcement of this provision shall
17 require the department of financial services to certify in writing to
18 the secretary that any bonds or liability insurance that is required by
19 the department is readily available to appearance enhancement businesses
20 from the market place.

21 d. The attorney general, acting on behalf of the secretary, may
22 commence an action or proceeding in a court of competent jurisdiction to
23 obtain a judgment against such person, partnership, limited liability
24 company or business corporation in an amount equal to that assessed as a
25 civil penalty. Said judgment shall thereafter be enforceable by any
26 means authorized by the civil practice law and rules.

27 e. Where an appearance enhancement business operator continues to
28 operate without a license following the issuance of an order by the

1 secretary directing cessation, the attorney general, acting on behalf of
2 the secretary, may commence an action or proceeding in a court of compe-
3 tent jurisdiction against such operator to obtain an order enjoining
4 further operation of such business. An appearance enhancement business
5 that has been ordered to cease operation shall not re-open without first
6 obtaining a license as required by this article and paying any assessed
7 finer.

8 § 10. Subdivisions 1 and 2 of section 411 of the general business law,
9 subdivision 1 as added by chapter 509 of the laws of 1992, and subdivi-
10 sion 2 as amended by chapter 134 of the laws of the 2000, are amended to
11 read as follows:

12 1. Denial of license or registration. The department shall, before
13 making a final determination to deny an application for a license or
14 registration, notify the applicant in writing of the reasons for such
15 proposed denial and shall afford the applicant an opportunity to be
16 heard in person or by counsel prior to denial of the application. Such
17 notification shall be served personally or by certified mail or in any
18 manner authorized by the civil practice law and rules for service of a
19 summons. If a hearing is requested, such hearing shall be held at such
20 time and place as the department shall prescribe. If the applicant
21 fails to make a written request for a hearing within thirty days after
22 receipt of such notification, then the notification of denial shall
23 become the final determination of the department. The department, acting
24 by such officer or person in the department as the secretary may desig-
25 nate, shall have the power to subpoena and bring before the officer or
26 person so designated any person in this state, and administer an oath to
27 and take testimony of any person or cause his deposition to be taken. A
28 subpoena issued under this section shall be regulated by the civil prac-

1 tice law and rules. If, after such hearing, the application is denied,
2 written notice of such denial shall be served upon the applicant
3 personally or by certified mail or in any manner authorized by the civil
4 practice law and rules for the service of a summons.

5 2. Revocation, suspension, reprimands, fines; unlicensed activities.
6 The department shall, before revoking or suspending any license or
7 registration or imposing any fine or reprimand on the holder thereof, or
8 before issuing any order directing the cessation of unlicensed activ-
9 ities, and at least ten days prior to the date set for the hearing,
10 notify in writing the holder of such license or registration, or the
11 person alleged to have engaged in unlicensed or unregistered activities,
12 of any charges made and shall afford such person an opportunity to be
13 heard in person or by counsel in reference thereto. Such written notice
14 may be served by delivery of same personally to the licensee or regis-
15 trant or person charged, or by mailing same by certified mail to the
16 last known business or other address provided by such person to the
17 secretary of state, or by any method authorized by the civil practice
18 law and rules for the service of a summons. The hearing on such charges
19 shall be at such time and place as the department shall prescribe.

20 § 11. Section 412 of the general business law, as amended by chapter
21 341 of the laws of 1998, is amended to read as follows:

22 § 412. [Civil penalties] Penalties. 1. The practice of nail special-
23 ty, waxing, natural hair styling, esthetics or cosmetology[, or the
24 operation of an appearance enhancement business] without a license or
25 while under suspension or revocation, or in violation of an order
26 directing the cessation of unlicensed activity issued by the secretary
27 pursuant to section four hundred ten or four hundred eleven of this
28 article, is a violation and is subject to a civil penalty of up to five

1 hundred dollars for the first violation; one thousand dollars for a
2 second such violation; and two thousand five hundred dollars for a third
3 violation and any subsequent violation.

4 2. The following violations shall be deemed separate offenses and be
5 deemed a misdemeanor, and upon conviction, shall be punishable by impris-
6 onment for not more than six months, or by a fine of up to two thousand
7 five hundred dollars or by both such fine and imprisonment:

8 (a) the operation of an appearance enhancement business without a
9 license or when such license has been suspended or revoked; or

10 (b) the operation of an appearance enhancement business in violation
11 of an order directing the cessation of unlicensed activity issued by the
12 secretary pursuant to section four hundred ten of this article.

13 3. The operation of an appearance enhancement business without a (a)
14 bond or (b) liability insurance or liability coverage which is covered
15 through a bond shall be punishable by a civil penalty of up to two thou-
16 sand five hundred dollars. The enforcement of this provision shall
17 require the department of financial services to certify in writing to
18 the secretary that any bonds or liability insurance that is required by
19 the department is readily available to appearance enhancement businesses
20 from the market place.

21 § 12. This act shall take effect immediately; provided, however that
22 the provisions set forth in paragraph (c) of subdivision 2 of section
23 410 of the general business law as added by section nine of this act and
24 subdivision 3 of section 412 of the general business law as added by
25 section eleven of this act shall take effect on the sixtieth day after
26 the department of financial services has certified in writing to the
27 secretary of state that any bonds or liability insurance that is

06/14/15

12

12013-12-5

1 required by the department of state is readily available to the busi-
2 nesses from the market place.

LBDC

M23:

GENEBULA *Governor 3 R-1*

(Relates to authorizing the secretary of state to order the cessation of unlicensed appearance enhancement activity and to register trainees in the practice of nail specialty)

Gen Bus L. unlicensed nail person

By

Amend ASSEMBLY BILL NO. 7630 as follows:

Strike out all after "AN ACT" and insert

to amend the general business law, in relation to authorizing the secretary of state to order the cessation of unlicensed appearance enhancement activity and to register trainees in the practice of nail specialty

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

1 Section 1. Section 400 of the general business law is amended by
2 adding a new subdivision 11 to read as follows:

3 11. "Trainee" means a person pursuing in good faith a course of study
4 in the practice of nail specialty under the tutelage, supervision and
5 direction of a licensed nail practitioner. Such trainee shall be
6 employed by a licensed appearance enhancement business.

7 § 2. Subdivision 1 of section 401 of the general business law, as
8 amended by chapter 341 of the laws of 1998, is amended to read as
9 follows:

10 1. No person shall engage in the practice of nail specialty, waxing,
11 natural hair styling, esthetics or cosmetology, as defined in section
12 four hundred of this article, without having received a license to
13 engage in such practice in the manner prescribed in this article. No
14 person shall act as a trainee or perform any service as such unless he
15 or she has obtained a certificate of registration pursuant to this arti-
16 cle.

17 § 3. Section 404 of the general business law, as amended by chapter
18 341 of the laws of 1998, is amended to read as follows:

19 § 404. Rules and regulations. The secretary shall promulgate rules and
20 regulations which establish standards for practice and operation by
21 licensees and trainees under this article in order to ensure the health,
22 safety and welfare of the public including licensees and trainees when
23 they are working within such establishments. Such rules and regulations
24 shall include, but not be limited to, the sanitary conditions and proce-
25 dures required to be maintained, a minimum standard of training appro-

1 priate to the duties of nail specialists, trainees, waxers, natural hair
2 stylists, estheticians, and cosmetologists and the provision of service
3 by nail specialists, trainees, waxers, natural hair stylists, estheti-
4 cians or cosmetologists at remote locations other than the licensee's
5 home provided that such practitioner holds an appearance enhancement
6 business license to operate at a fixed location or is employed by the
7 holder of an appearance enhancement business license. Regulations
8 setting forth the educational requirements for nail specialists and
9 trainees shall include education in the area of causes of infection and
10 bacteriology. In promulgating such rules and regulations the secretary
11 shall consult with the state education department, the advisory commit-
12 tee established pursuant to this article, any other state agencies and
13 private industry representatives as may be appropriate in determining
14 minimum training requirements.

15 § 4. Section 404-b of the general business law, as added by chapter
16 489 of the laws of 2010, is amended to read as follows:

17 § 404-b. Nail specialty; owner responsibilities. In addition to any
18 rules and regulations establishing standards for practices and oper-
19 ations by licensees under this article, in order to ensure the health,
20 safety and welfare within appearance enhancement businesses, all owners
21 and operators of appearance enhancement businesses which practice nail
22 specialty shall make available[, upon request] for use, gloves and face-
23 masks for nail speciality licensees and trainees who work in such busi-
24 nesses. [No owner or operator of any appearance enhancement business
25 that engages in the practice of nail speciality shall prohibit any
26 licensee practicing nail specialty from wearing a mask or gloves while
27 engaged in the practice of nail specialty at such business.]

28 § 5. Subdivision 1 of section 406 of the general business law is
29 amended by adding a new paragraph f to read as follows:

30 f. Notwithstanding the educational requirements of this section, a
31 trainee may obtain a license to practice nail specialty if such trainee
32 provides satisfactory evidence to the secretary that such trainee has
33 been actively engaged in a traineeship for a period of one year and has
34 completed a course of study set forth by the secretary. Such course of
35 study may be delivered by electronic means.

36 § 6. The general business law is amended by adding a new section 408-a
37 to read as follows:

38 § 408-a. Trainee. 1. Each applicant for a certificate of registration
39 as a trainee shall make an application which shall include the physi-
40 cian's certificate required by paragraph e of subdivision one of section
41 four hundred six of this article, two recent photographs, and such other
42 information required by such section and in such form as the secretary
43 may prescribe.

44 2. A certificate of registration as a trainee shall be for a period of
45 one year, renewable for a second year, and may be renewed for additional
46 terms within the discretion of the secretary.

47 3. Each certificate of registration issued as provided in this section
48 shall be posted in a conspicuous place in the appearance enhancement
49 business in which the trainee is actually engaged in the practice of
50 nail specialty as a trainee.

51 4. The holder of a certificate of registration as a trainee shall not
52 be entitled to an appearance enhancement business license.

53 § 7. Subdivisions 3, 4, 5, 6 and 7 of section 409 of the general busi-
54 ness law are renumbered subdivisions 4, 5, 6, 7 and 8, and a new subdivi-
55 sion 3 is added to read as follows:

1 3. Upon a determination that it is in the best public interest to do
2 so, the secretary may promulgate rules imposing fees not to exceed twen-
3 ty dollars for the registration and renewal of the registration of a
4 trainee.

5 § 8. Subdivision 1 of section 410 of the general business law, as
6 added by chapter 509 of the laws of the 1992, is amended to read as
7 follows:

8 1. Suspension and revocation of licenses or registrations; fines;
9 reprimands. A license or registration issued pursuant to this article
10 may be suspended or revoked, or a fine not exceeding five hundred
11 dollars payable to the department may be imposed for any one or more of
12 the following causes:

13 a. Fraud or bribery in securing a license or registration or permis-
14 sion to take an examination therefor.

15 b. The making of any false statement as to a material matter in any
16 application or other statement or certificate required by or pursuant to
17 this article.

18 c. Incompetence or untrustworthiness.

19 d. Failure to display the license or registration as provided in this
20 article.

21 e. Violation of any provision of this article, or of any rule or regu-
22 lation adopted hereunder.

23 f. Conviction of any of the following crimes subsequent to the issu-
24 ance of a license or registration pursuant to this article: fraud
25 pursuant to sections 170.10, 170.15, 176.15, 176.20, 176.25, 176.30 and
26 190.65; falsifying business records pursuant to section 175.10; grand
27 larceny pursuant to article 155; bribery pursuant to sections 180.03,
28 180.08, 180.15, 180.25, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12,
29 200.45, 200.50; perjury pursuant to sections 210.10, 210.15, 210.40;
30 assault pursuant to sections 120.05, 120.10, 120.11, 120.12; robbery
31 pursuant to article 160; homicide pursuant to sections 125.25 and
32 125.27; manslaughter pursuant to sections 125.15 and 125.20; kidnapping
33 and unlawful imprisonment pursuant to sections 135.10, 135.20 and
34 135.25; unlawful weapons possession pursuant to sections 265.02, 265.03
35 and 265.04; criminal use of a weapon pursuant to sections 265.08 and
36 265.09; criminal sale of a weapon pursuant to sections 265.11 and
37 265.12; compelling prostitution pursuant to section 230.33; sex traf-
38 ficking pursuant to section 230.34; and sex offenses pursuant to article
39 130 of the penal law. Provided, however, that for the purposes of this
40 article, none of the following shall be considered criminal convictions
41 or reported as such: (i) a conviction for which an executive pardon has
42 been issued pursuant to the executive law; (ii) a conviction which has
43 been vacated and replaced by a youthful offender finding pursuant to
44 article seven hundred twenty of the criminal procedure law, or the
45 applicable provisions of law of any other jurisdiction; or (iii) a
46 conviction the records of which have been expunged or sealed pursuant to
47 the applicable provisions of the laws of this state or of any other
48 jurisdiction; and (iv) a conviction for which other evidence of success-
49 ful rehabilitation to remove the disability has been issued.

50 Provided, however, a fine shall not be imposed for the causes speci-
51 fied in paragraph f of this subdivision.

52 In lieu of or in conjunction with the suspension or revocation of a
53 license or registration, or the imposition of a fine pursuant to this
54 section, the secretary may issue a reprimand. When a license or regis-
55 tration issued pursuant to this article is revoked, such license or
56 registration shall not be reinstated or reissued until after the expira-

1 tion of a period of one year from the date of such revocation. No
2 license or registration shall be issued after a second revocation.

3 § 9. Subdivision 2 of section 410 of the general business law, as
4 amended by chapter 324 of the laws of the 1998, is amended to read as
5 follows:

6 2. Unlicensed activities. a. The secretary may issue an order direct-
7 ing the cessation of any activity related to nail specialty, waxing,
8 natural hair styling, esthetics or cosmetology for which a license is
9 required by this article upon a determination that a person, [including
10 a] partnership, [a] limited liability company or business corporation,
11 [has engaged] engaging in [or followed] the business or occupation of,
12 or [held] holding himself, herself or itself out as or acted, temporar-
13 ily or otherwise, as a nail specialist, natural hair stylist, estheti-
14 cian[,] or cosmetologist [or appearance enhancement business] within
15 this state without a valid license being in effect. The [department]
16 secretary shall, before making such determination and order, afford such
17 person, partnership, limited liability company or business corporation
18 an opportunity to be heard in person or by counsel in reference thereto
19 in an adjudicatory proceeding held pursuant to [this article] section
20 four hundred eleven of this article as applicable.

21 b. Notwithstanding any provision to the contrary, if the secretary
22 finds that a person, partnership, limited liability company or business
23 corporation, is holding himself, herself or itself out as or is acting
24 as, temporarily or otherwise, an appearance enhancement business within
25 this state without a valid license, the secretary shall provide the
26 person, partnership, limited liability company or business corporation
27 with a written notice of violation and complaint, and shall afford an
28 opportunity to be heard, either in person or by counsel, before an
29 administrative law judge no sooner than three days from delivery of such
30 notice of violation. If documentary proof that the deficiency has been
31 cured is not provided to the secretary at or before such hearing,
32 following a hearing determination that unlicensed activities have
33 occurred, the secretary may issue an immediate order directing the
34 cessation of any activity for which an appearance enhancement license is
35 required.

36 c. The secretary may issue an order directing the cessation of any
37 activity if the secretary finds that a person, including a partnership,
38 a limited liability company or business corporation, is holding himself,
39 herself or itself out as or is acting as, temporarily or otherwise, an
40 appearance enhancement business within the state without a (i) bond or
41 (ii) liability insurance or liability coverage which is covered through
42 a bond. The secretary shall, before making such determination and order,
43 afford such person, partnership, limited liability company or business
44 corporation an opportunity to be heard in person or by counsel in refer-
45 ence thereto in an adjudicatory proceeding held pursuant to section four
46 hundred eleven of this article. The enforcement of this provision shall
47 require the department of financial services to certify in writing to
48 the secretary that any bonds or liability insurance that is required by
49 the department is readily available to appearance enhancement businesses
50 from the market place.

51 d. The attorney general, acting on behalf of the secretary, may
52 commence an action or proceeding in a court of competent jurisdiction to
53 obtain a judgment against such person, partnership, limited liability
54 company or business corporation in an amount equal to that assessed as a
55 civil penalty. Said judgment shall thereafter be enforceable by any
56 means authorized by the civil practice law and rules.

1 e. Where an appearance enhancement business operator continues to
2 operate without a license following the issuance of an order by the
3 secretary directing cessation, the attorney general, acting on behalf of
4 the secretary, may commence an action or proceeding in a court of compe-
5 tent jurisdiction against such operator to obtain an order enjoining
6 further operation of such business. An appearance enhancement business
7 that has been ordered to cease operation shall not re-open without first
8 obtaining a license as required by this article and paying any assessed
9 fin.

10 § 10. Subdivisions 1 and 2 of section 411 of the general business law,
11 subdivision 1 as added by chapter 509 of the laws of 1992, and subdivi-
12 sion 2 as amended by chapter 134 of the laws of the 2000, are amended to
13 read as follows:

14 1. Denial of license or registration. The department shall, before
15 making a final determination to deny an application for a license or
16 registration, notify the applicant in writing of the reasons for such
17 proposed denial and shall afford the applicant an opportunity to be
18 heard in person or by counsel prior to denial of the application. Such
19 notification shall be served personally or by certified mail or in any
20 manner authorized by the civil practice law and rules for service of a
21 summons. If a hearing is requested, such hearing shall be held at such
22 time and place as the department shall prescribe. If the applicant
23 fails to make a written request for a hearing within thirty days after
24 receipt of such notification, then the notification of denial shall
25 become the final determination of the department. The department, acting
26 by such officer or person in the department as the secretary may desig-
27 nate, shall have the power to subpoena and bring before the officer or
28 person so designated any person in this state, and administer an oath to
29 and take testimony of any person or cause his deposition to be taken. A
30 subpoena issued under this section shall be regulated by the civil prac-
31 tice law and rules. If, after such hearing, the application is denied,
32 written notice of such denial shall be served upon the applicant
33 personally or by certified mail or in any manner authorized by the civil
34 practice law and rules for the service of a summons.

35 2. Revocation, suspension, reprimands, fines; unlicensed activities.
36 The department shall, before revoking or suspending any license or
37 registration or imposing any fine or reprimand on the holder thereof, or
38 before issuing any order directing the cessation of unlicensed activ-
39 ities, and at least ten days prior to the date set for the hearing,
40 notify in writing the holder of such license or registration, or the
41 person alleged to have engaged in unlicensed or unregistered activities,
42 of any charges made and shall afford such person an opportunity to be
43 heard in person or by counsel in reference thereto. Such written notice
44 may be served by delivery of same personally to the licensee or regis-
45 trant or person charged, or by mailing same by certified mail to the
46 last known business or other address provided by such person to the
47 secretary of state, or by any method authorized by the civil practice
48 law and rules for the service of a summons. The hearing on such charges
49 shall be at such time and place as the department shall prescribe.

50 § 11. Section 412 of the general business law, as amended by chapter
51 341 of the laws of 1998, is amended to read as follows:

52 § 412. [Civil penalties] Penalties. 1. The practice of nail special-
53 ty, waxing, natural hair styling, esthetics or cosmetology[, or the
54 operation of an appearance enhancement business] without a license or
55 while under suspension or revocation, or in violation of an order
56 directing the cessation of unlicensed activity issued by the secretary

1 pursuant to section four hundred ten or four hundred eleven of this
2 article, is a violation and is subject to a civil penalty of up to five
3 hundred dollars for the first violation; one thousand dollars for a
4 second such violation; and two thousand five hundred dollars for a third
5 violation and any subsequent violation.

6 2. The following violations shall be deemed separate offenses and be
7 deemed a misdemeanor, and upon conviction, shall be punishable by impris-
8 onment for not more than six months, or by a fine of up to two thousand
9 five hundred dollars or by both such fine and imprisonment:

10 (a) the operation of an appearance enhancement business without a
11 license or when such license has been suspended or revoked; or

12 (b) the operation of an appearance enhancement business in violation
13 of an order directing the cessation of unlicensed activity issued by the
14 secretary pursuant to section four hundred ten of this article.

15 3. The operation of an appearance enhancement business without a (a)
16 bond or (b) liability insurance or liability coverage which is covered
17 through a bond shall be punishable by a civil penalty of up to two thou-
18 sand five hundred dollars. The enforcement of this provision shall
19 require the department of financial services to certify in writing to
20 the secretary that any bonds or liability insurance that is required by
21 the department is readily available to appearance enhancement businesses
22 from the market place.

23 § 12. This act shall take effect immediately; provided, however that
24 the provisions set forth in paragraph (c) of subdivision 2 of section
25 410 of the general business law as added by section nine of this act and
26 subdivision 3 of section 412 of the general business law as added by
27 section eleven of this act shall take effect on the sixtieth day after
28 the department of financial services has certified in writing to the
29 secretary of state that any bonds or liability insurance that is
30 required by the department of state is readily available to the busi-
31 nesses from the market place.

STATE OF NEW YORK

7630

2015-2016 Regular Sessions

IN ASSEMBLY

May 20, 2015

Introduced by M. of A. KIM, ROSENTHAL -- (at request of the Governor) --
read once and referred to the Committee on Economic Development

INSERT
AN ACT ~~to amend the general business law to authorize the secretary of~~
~~state to order the cessation of unlicensed appearance enhancement~~
~~activity and to register trainees in the practice of nail specialty~~

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

1 Section 1. Section 400 of the general business law is amended by
2 adding a new subdivision 11 to read as follows:

3 11. "Trainee" means a person pursuing in good faith a course of study
4 in the practice of nail specialty under the tutelage, supervision and
5 direction of a licensed nail practitioner and who assists such practi-
6 tioner in such practice.

7 § 2. Subdivision 1 of section 401 of the general business law, as
8 amended by chapter 341 of the laws of 1998, is amended to read as
9 follows:

10 1. No person shall engage in the practice of nail specialty, waxing,
11 natural hair styling, esthetics or cosmetology, as defined in section
12 four hundred of this article, without having received a license to
13 engage in such practice in the manner prescribed in this article. No
14 person shall act as a trainee or perform any service as such unless he
15 or she has obtained a certificate of registration pursuant to this arti-
16 cle.

17 § 3. Section 404 of the general business law, as amended by chapter
18 341 of the laws of 1998, is amended to read as follows:

19 § 404. Rules and regulations. The secretary shall promulgate rules and
20 regulations which establish standards for practice and operation by
21 licensees and trainees under this article in order to ensure the health,
22 safety and welfare of the public as well as licensees and trainees
23 offering services. Such rules and regulations shall include, but not be
24 limited to, the sanitary conditions and procedures required to be main-

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

LBD12013-01-5

1 tained, a minimum standard of training appropriate to the duties of nail
2 specialists, trainees, waxers, natural hair stylists, estheticians, and
3 cosmetologists and the provision of service by nail specialists, train-
4 ees, waxers, natural hair stylists, estheticians or cosmetologists at
5 remote locations other than the licensee's home provided that such prac-
6 titioner holds an appearance enhancement business license to operate at
7 a fixed location or is employed by the holder of an appearance enhance-
8 ment business license. Regulations setting forth the educational
9 requirements for nail specialists and trainees shall include education
10 in the area of causes of infection and bacteriology. In promulgating
11 such rules and regulations the secretary shall consult with the state
12 education department, the advisory committee established pursuant to
13 this article, any other state agencies and private industry represen-
14 tatives as may be appropriate in determining minimum training require-
15 ments.

16 § 4. Section 404-b of the general business law, as added by chapter
17 489 of the laws of 2010, is amended to read as follows:

18 § 404-b. Nail specialty; owner responsibilities. In addition to any
19 rules and regulations establishing standards for practices and oper-
20 ations by licensees under this article, in order to ensure the health,
21 safety and welfare within appearance enhancement businesses, all owners
22 and operators of appearance enhancement businesses which practice nail
23 specialty shall make available[upon request] for use, gloves and face-
24 masks for nail speciality licensees and trainees who work in such busi-
25 nesses. [No owner or operator of any appearance enhancement business
26 that engages in the practice of nail speciality shall prohibit any
27 licensee practicing nail specialty from wearing a mask or gloves while
28 engaged in the practice of nail specialty at such business.]

29 § 5. Subdivision 2 of section 405 of the general business law, as
30 added by chapter 509 of the laws of 1992, is amended to read as follows:

31 2. An appearance enhancement business licensee shall file and maintain
32 during the term of the license evidence of a bond [or], liability insur-
33 ance or a combination thereof, as required by the secretary.

34 § 6. Subdivision 1 of section 406 of the general business law is
35 amended by adding a new paragraph f to read as follows:

36 f. Notwithstanding the educational requirements of this section, a
37 trainee may obtain a license to practice nail specialty if such trainee
38 provides satisfactory evidence to the secretary that such trainee has
39 been actively engaged in a traineeship for a period of one year and has
40 completed a course of study set forth by the secretary. Such course of
41 study may be delivered by electronic means.

42 § 7. The general business law is amended by adding a new section 408-a
43 to read as follows:

44 § 408-a. Trainee. 1. Each applicant for a certificate of registration
45 as a trainee shall make an application which shall include the physi-
46 cian's certificate required by paragraph e of subdivision one of section
47 four hundred six of this article, two recent photographs, and such other
48 information required by such section and in such form as the secretary
49 may prescribe.

50 2. A certificate of registration as a trainee shall be for a period of
51 one year and may be renewed once.

52 3. Each certificate of registration issued as provided in this section
53 shall be posted in a conspicuous place in the appearance enhancement
54 business in which the trainee is actually engaged in the practice of
55 nail specialty as a trainee.

1 4. The holder of a certificate of registration as a trainee shall not
2 be entitled to an appearance enhancement business license.

3 § 8. Subdivisions 3, 4, 5, 6 and 7 of section 409 of the general busi-
4 ness law are renumbered subdivisions 4, 5, 6, 7 and 8, and a new subdi-
5 vision 3 is added to read as follows:

6 3. The fee for the registration or the renewal of the registration of
7 a trainee shall be twenty dollars.

8 § 9. Subdivision 1 of section 410 of the general business law, as
9 added by chapter 509 of the laws of the 1992, is amended to read as
10 follows:

11 1. Suspension and revocation of licenses or registrations; fines;
12 reprimands. A license or registration issued pursuant to this article
13 may be suspended or revoked, or a fine not exceeding five hundred
14 dollars payable to the department may be imposed for any one or more of
15 the following causes:

16 a. Fraud or bribery in securing a license or registration or permis-
17 sion to take an examination therefor.

18 b. The making of any false statement as to a material matter in any
19 application or other statement or certificate required by or pursuant to
20 this article.

21 c. Incompetence or untrustworthiness.

22 d. Failure to display the license or registration as provided in this
23 article.

24 e. Violation of any provision of this article, or of any rule or regu-
25 lation adopted hereunder.

26 f. Conviction of any of the following crimes subsequent to the issu-
27 ance of a license pursuant to this article: fraud pursuant to sections
28 170.10, 170.15, 176.15, 176.20, 176.25, 176.30 and 190.65; falsifying
29 business records pursuant to section 175.10; grand larceny pursuant to
30 article 155; bribery pursuant to sections 180.03, 180.08, 180.15,
31 180.25, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.45, 200.50;
32 perjury pursuant to sections 210.10, 210.15, 210.40; assault pursuant to
33 sections 120.05, 120.10, 120.11, 120.12; robbery pursuant to article
34 160; homicide pursuant to sections 125.25 and 125.27; manslaughter
35 pursuant to sections 125.15 and 125.20; kidnapping and unlawful impris-
36 onment pursuant to sections 135.10, 135.20 and 135.25; unlawful weapons
37 possession pursuant to sections 265.02, 265.03 and 265.04; criminal use
38 of a weapon pursuant to sections 265.08 and 265.09; criminal sale of a
39 weapon pursuant to sections 265.11 and 265.12; and sex offenses pursuant
40 to article 130 of the penal law. Provided, however, that for the
41 purposes of this article, none of the following shall be considered
42 criminal convictions or reported as such: (i) a conviction for which an
43 executive pardon has been issued pursuant to the executive law; (ii) a
44 conviction which has been vacated and replaced by a youthful offender
45 finding pursuant to article seven hundred twenty of the criminal proce-
46 dure law, or the applicable provisions of law of any other jurisdiction;
47 or (iii) a conviction the records of which have been expunged or sealed
48 pursuant to the applicable provisions of the laws of this state or of
49 any other jurisdiction; and (iv) a conviction for which other evidence
50 of successful rehabilitation to remove the disability has been issued.

51 Provided, however, a fine shall not be imposed for the causes speci-
52 fied in paragraph f of this subdivision.

53 In lieu of or in conjunction with the suspension or revocation of a
54 license, or the imposition of a fine pursuant to this section, the
55 secretary may issue a reprimand. When a license issued pursuant to this
56 article is revoked, such license shall not be reinstated or reissued

1 until after the expiration of a period of one year from the date of such
2 revocation. No license shall be issued after a second revocation.

3 § 10. Subdivision 2 of section 410 of the general business law, as
4 amended by chapter 324 of the laws of the 1998, is amended to read as
5 follows:

6 2. Unlicensed activities. a. The conduct of any activity for which a
7 license is required by this article without such license, or without the
8 bond, liability insurance or combination thereof as required pursuant to
9 regulations promulgated by the secretary, constitutes a threat to public
10 health, safety and welfare. The secretary may issue an immediate order
11 directing the cessation of any activity for which a license is required
12 by this article [upon a determination] if the secretary finds that a
13 person, [including a] partnership, a limited liability company or busi-
14 ness corporation, [has engaged] is engaging in or [followed] following
15 the business or occupation of, or [held] holding himself, herself or
16 itself out as or [acted] is acting, temporarily or otherwise, as a nail
17 specialist, natural hair stylist, esthetician, cosmetologist or appear-
18 ance enhancement business within this state without a valid license
19 [being in effect], or without the bond, liability insurance or combina-
20 tion thereof as required pursuant to regulations promulgated by the
21 secretary. [The] Upon the issuance of such order, the department shall,
22 [before making such determination and order] upon request, afford such
23 person, partnership, limited liability company or business corporation
24 an opportunity to be heard in person or by counsel in reference thereto
25 in an adjudicatory proceeding [held pursuant to this article].

26 b. The secretary or attorney general, acting on behalf of the secre-
27 tary, may commence an action or proceeding in a court of competent
28 jurisdiction to obtain a judgment against such person, partnership,
29 limited liability company or business corporation in an amount equal to
30 that assessed as a civil penalty. Said judgment shall thereafter be
31 enforceable by any means authorized by the civil practice law and rules.

32 c. Where an appearance enhancement business operator continues to
33 operate without a license following the issuance of an order by the
34 secretary directing cessation, the secretary or the attorney general,
35 acting on behalf of the secretary, may commence an action or proceeding
36 in a court of competent jurisdiction against such operator to obtain an
37 order enjoining further operation of such business. An appearance
38 enhancement business that has been ordered to cease operation shall not
39 re-open without first obtaining a license as required by this article
40 and paying any assessed fines.

41 § 11. Subdivisions 1 and 2 of section 411 of the general business law,
42 subdivision 1 as added by chapter 509 of the laws of 1992, and subdivi-
43 sion 2 as amended by chapter 134 of the laws of the 2000, are amended to
44 read as follows:

45 1. Denial of license or registration. The department shall, before
46 making a final determination to deny an application for a license or
47 registration, notify the applicant in writing of the reasons for such
48 proposed denial and shall afford the applicant an opportunity to be
49 heard in person or by counsel prior to denial of the application. Such
50 notification shall be served personally or by certified mail or in any
51 manner authorized by the civil practice law and rules for service of a
52 summons. If a hearing is requested, such hearing shall be held at such
53 time and place as the department shall prescribe. If the applicant
54 fails to make a written request for a hearing within thirty days after
55 receipt of such notification, then the notification of denial shall
56 become the final determination of the department. The department, acting

1 by such officer or person in the department as the secretary may desig-
2 nate, shall have the power to subpoena and bring before the officer or
3 person so designated any person in this state, and administer an oath to
4 and take testimony of any person or cause his deposition to be taken. A
5 subpoena issued under this section shall be regulated by the civil prac-
6 tice law and rules. If, after such hearing, the application is denied,
7 written notice of such denial shall be served upon the applicant
8 personally or by certified mail or in any manner authorized by the civil
9 practice law and rules for the service of a summons.

10 2. Revocation, suspension, reprimands, fines[; unlicensed activities].
11 The department shall, before revoking or suspending any license or
12 registration or imposing any fine or reprimand on the holder thereof[,
13 or before issuing any order directing the cessation of unlicensed activ-
14 ities,] and at least ten days prior to the date set for the hearing,
15 notify in writing the holder of such license[, or the person alleged to
16 have engaged in unlicensed activities,] or registration of any charges
17 made and shall afford such person an opportunity to be heard in person
18 or by counsel in reference thereto. Such written notice may be served
19 by delivery of same personally to the licensee or registrant or person
20 charged, or by mailing same by certified mail to the last known business
21 or other address provided by such person to the secretary of state, or
22 by any method authorized by the civil practice law and rules for the
23 service of a summons. The hearing on such charges shall be at such time
24 and place as the department shall prescribe.

25 § 12. Section 412 of the general business law, as amended by chapter
26 341 of the laws of 1998, is amended to read as follows:

27 § 412. Civil penalties. 1. The practice of nail specialty, waxing,
28 natural hair styling, esthetics or cosmetology, or the operation of an
29 appearance enhancement business without a license or while under suspen-
30 sion or revocation, or in violation of an order directing the cessation
31 of unlicensed activity issued by the secretary pursuant to section four
32 hundred eleven of this article, is a violation and is subject to a civil
33 penalty of up to five hundred dollars for the first violation; one thou-
34 sand dollars for a second such violation; and two thousand five hundred
35 dollars for a third violation and any subsequent violation.

36 2. The operation of an appearance enhancement business without a
37 license or while under suspension or revocation, or in violation of an
38 order directing cessation of unlicensed activity issued by the secretary
39 pursuant to section four hundred eleven of this article is a violation
40 and is subject to a civil penalty of up to two thousand five hundred
41 dollars for the first violation; five thousand dollars for a second such
42 violation; and ten thousand dollars for a third violation and any subse-
43 quent violation.

44 § 13. This act shall take effect immediately.