

Legislative Bill Drafting Commission  
11486-09-2

S. -----  
Senate  
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IN SENATE--Introduced by Sen

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

----- A.  
Assembly  
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IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

**\*LABOLA\***  
(Establishes the nail salon minimum  
standards council act)

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Lab. nail salon minimum standards

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:

IN SENATE

Senate introducer's signature

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

s15 Addabbo	s17 Felder	s07 Kaplan	s58 O'Mara	s10 Sanders
s52 Akshar	s59 Gallivan	s26 Kavanagh	s62 Ortt	s23 Savino
s36 Bailey	s05 Gaughran	s63 Kennedy	s01 Palumbo	s32 Sepulveda
s34 Biaggi	s12 Gianaris	s28 Krueger	s21 Parker	s41 Serino
s57 Borrello	s22 Gounardes	s24 Lanza	s19 Persaud	s29 Serrano
s04 Boyle	s47 Griffo	s11 Liu	s13 Ramos	s39 Skoufis
s44 Breslin	s40 Harckham	s50 Mannion	s61 Rath	s16 Stavisky
s25 Brisport	s54 Helming	s42 Martucci	s38 Reichlin-	s45 Stec
s08 Brooks	s46 Hinchey	s02 Mattera	Melnick	s35 Stewart-
s55 Brouk	s27 Hoylman	s53 May	s48 Ritchie	Cousins
s30 Cleare	s31 Jackson	s37 Mayer	s33 Rivera	s49 Tedisco
s14 Comrie	s43 Jordan	s20 Myrie	s60 Ryan	s06 Thomas
s56 Cooney	s09 Kaminsky	s51 Oberacker	s18 Salazar	s03 Weik

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:

a049 Abbate	a045 Cymbrowitz	a100 Gunther	a015 Montesano	a076 Seawright	
a092 Abinanti	a018 Darling	a139 Hawley	a145 Morinello	a084 Septimo	
a031 Anderson	a053 Davila	a083 Heastie	a065 Niou	a016 Sillitti	
a122 Angelino	a003 DeStefano	a028 Hevesi	a037 Nolan	a052 Simon	
a107 Ashby	a070 Dickens	a128 Hunter	a144 Norris	a114 Simpson	
a035 Aubry	a054 Dilan	a029 Hyndman	a069 O'Donnell	a005 Smith	
a120 Barclay	a081 Dinowitz	a079 Jackson	a091 Otis	a118 Smullen	
a030 Barnwell	a147 DiPietro	a104 Jacobson	a132 Palmesano	a022 Solages	
a106 Barrett	a009 Durso	a011 Jean-Pierre	a088 Paulin	a110 Steck	
a082 Benedetto	a048 Eichenstein	a134 Jensen	a141 Peoples-	a010 Stern	
a042 Bichotte	a004 Englebright	a115 Jones	Stokes	a127 Stirpe	
	Hermelyn	a074 Epstein	a077 Joyner	a058 Perry	a102 Tague
a117 Blankenbush	a109 Fahy	a125 Kelles	a023 Pheffer	a064 Tannousis	
a098 Brabene	a061 Fall	a040 Kim	Amato	a086 Tapia	
a026 Braunstein	a080 Fernandez	a105 Lalor	a089 Pretlow	a071 Taylor	
a138 Bronson	a008 Fitzpatrick	a013 Lavine	a073 Quart	a001 Thiele	
a012 Brown	a057 Forrest	a097 Lawler	a019 Ra	a033 Vanel	
a093 Burdick	a124 Friend	a126 Lemondes	a038 Rajkumar	a116 Walczyk	
a085 Burgos	a046 Frontus	a135 Lunsford	a006 Ramos	a055 Walker	
a142 Burke	a095 Galef	a123 Lupardo	a062 Reilly	a143 Wallace	
a119 Buttenschon	a050 Gallagher	a129 Magnarelli	a087 Reyes	a112 Walsh	
a094 Byrne	a131 Gallahan	a036 Mamdani	a043 Richardson	a041 Weinstein	
a133 Byrnes	a007 Gandolfo	a130 Manktelow	a078 Rivera, J.	a024 Weprin	
a103 Cahill	a002 Giglio, J.A.	a108 McDonald	a149 Rivera, J.D.	a059 Williams	
a044 Carroll	a148 Giglio, J.M.	a014 McDonough	a027 Rosenthal, D.	a113 Woerner	
a136 Clark	a066 Glick	a146 McMahan	a067 Rosenthal, L.	a096 Zebrowski	
a047 Colton	a034 Gonzalez-	a137 Meeks	a025 Rozic	a056 Zinerman	
a140 Conrad	Rojas	a017 Mikulin	a121 Salka	a060	
a032 Cook	a150 Goodell	a101 Miller, B.	a111 Santabarbara	a068	
a039 Cruz	a075 Gottfried	a020 Miller, M.	a090 Sayegh	a072	
a063 Cusick	a021 Griffin	a051 Mitaynes	a099 Schmitt		

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: in Assembly 2 copies of memorandum in support, in  
Senate 4 copies of memorandum in support (single house); or 4 signed copies  
of bill and 6 copies of memorandum in support (uni-bill).

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:

5 ARTICLE 19-E

6 NAIL SALON MINIMUM STANDARDS COUNCIL ACT

7 Section 697. Statement of public policy.

8 697-a. Definitions.

9 697-b. Nail salon minimum standards council.

10 697-c. Minimum pricing committee.

11 697-d. Powers and duties of the council.

12 697-e. Powers and duties of the commissioner with respect to the  
13 council.

14 697-f. Labor protections.

15 697-g. Future meetings.

16 697-h. Severability.

17 697-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  
22 their families. Such employment: impairs the health, efficiency, and  
23 well-being of such workers; constitutes unfair competition against other  
24 employers and their workers; threatens the stability of the industry;  
25 reduces the purchasing power of workers; and requires, in many  
26 instances, that wages be supplemented by the payment of public moneys  
27 for relief or other public and private assistance. Documented inappro-  
28 priate working conditions include the following: exposure to known

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

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

22 Accordingly, it is the declared policy of the state of New York that  
23 inappropriate conditions be eliminated as rapidly as practicable without  
24 substantially curtailing opportunities for employment or earning power.  
25 To this end, the commissioner shall establish a nail salon minimum stan-  
26 dards council pursuant to section six hundred ninety-seven-b of this  
27 article, to investigate and recommend minimum wages and standards in the  
28 nail salon industry, and the commissioner shall establish and implement

1 and maintain such wages and standards. Furthermore, the commissioner  
2 shall convene an independent minimum pricing committee pursuant to  
3 section six hundred ninety-seven-c of this article to determine a fair  
4 minimum pricing model that will provide adequate maintenance for nail  
5 salon workers and protect consumer and worker health and safety stand-  
6 ards while maintaining business enterprise autonomy and a competitive  
7 marketplace.

8 The commissioner and the nail salon minimum standards council estab-  
9 lished pursuant to section six hundred ninety-seven-b of this article  
10 shall have the power to investigate the wages and standards for workers  
11 in the nail salon industry to ascertain whether the minimum wages and  
12 standards established in accordance with the provisions of this article  
13 are sufficient to provide adequate maintenance and adequate health  
14 protections for nail salon workers, consumers, and the general public.  
15 The legislature understands that provisions of this article may have  
16 anti-competitive effects, and enacts this article with full knowledge of  
17 its possible anti-competitive effects and with the specific intention  
18 that all conduct authorized by this article receive immunity from feder-  
19 al antitrust laws to the fullest extent possible.

20 § 697-a. Definitions. As used in this article: 1. "Council" means the  
21 nail salon minimum standards council established pursuant to section six  
22 hundred ninety-seven-b of this article.

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

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

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

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

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

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

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

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

17 § 697-b. Nail salon minimum standards council. 1. (a) There is hereby  
18 established the nail salon minimum standards council, which shall  
19 consist of fifteen voting members plus six non-voting delegate members.  
20 The voting members shall consist of six nail salon workers, six nail  
21 salon employers, and three public representative members. Three of the  
22 non-voting delegate members shall be nail salon worker delegates and the  
23 other three non-voting delegate members shall be nail salon employer  
24 delegates. The commissioner shall appoint the public representatives.  
25 In addition, the commissioner shall appoint one nominating represen-  
26 tative with a demonstrated history of representing the interests of  
27 workers in New York state who shall nominate at least six worker members  
28 and at least three non-voting delegate members to the council. The

1 commissioner shall also appoint one nominating representative with a  
2 demonstrated history of representing the interests of nail salon employ-  
3 ers who shall nominate at least six employer members and at least three  
4 non-voting delegate members to the council. The public representatives  
5 shall consist of the following: one member from the department; one  
6 member from the department of health, with expertise in occupational  
7 safety and health; and one member at the discretion of the commissioner.  
8 The public representative members shall have no financial ties to the  
9 nail salon industry, including campaign contributions within five years  
10 of such representatives' appointment to the council, and shall not have  
11 had complete or partial ownership of a nail salon at present or within  
12 five years of such representatives' appointment to the council. No  
13 public representative member shall have lobbied on behalf of nail salon  
14 workers or nail salon employers within five years of such represen-  
15 tative's appointment to the council.

16 (b) The commissioner shall appoint the nominating representative for  
17 nail salon workers, the nominating representative for nail salon employ-  
18 ers, and the three public representatives within sixty days of the  
19 effective date of this article.

20 (c) Within sixty days of being appointed, the nominating represen-  
21 tative for nail salon workers shall submit to the commissioner the names  
22 of the nail salon workers and non-voting worker delegates to be consid-  
23 ered for appointment to the council. Within fifteen days of receipt of  
24 these nominations, the commissioner shall consider the nominations and  
25 appoint six nail salon worker members and three nail salon worker deleg-  
26 ates.

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

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

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

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

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

19 (i) labor relations;

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

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

24 (f) Within sixty days of being appointed, the nominating represen-  
25 tative for nail salon employers shall submit to the commissioner the  
26 names of nail salon employers and non-voting employer delegates. Within  
27 fifteen days of receipt of these nominations, the commissioner shall

1 consider the nominations and appoint six nail salon employer members and  
2 three nail salon employer delegates.

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

4 (i) Four nail salon employer members shall at the time of the appoint-  
5 ment be nail salon employers at nail salons located in the city of New  
6 York, one nail salon employer member shall at the time of the appoint-  
7 ment be a nail salon employer at a nail salon located in Westchester  
8 county, Nassau county or Suffolk county, and one nail salon employer  
9 member shall at the time of appointment be a nail salon employer at a  
10 nail salon in any county of the state except for the city of New York,  
11 Westchester county, Nassau county or Suffolk county.

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

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

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

28 (i) labor and government relations;



1 (ii) compliance and advocacy related to occupational health and safety  
2 standards; or

3 (iii) general business practices and operations.

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

10 (j) The public representative members shall be the chairpersons of the  
11 council. The chairpersons shall conduct the meetings of the council,  
12 take attendance at council meetings and act as the primary point persons  
13 between the commissioner and the council.

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

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

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

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

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

8 2. (a) The committee established pursuant to subdivision one of this  
9 section shall consist of three members: one recommended by the nominat-  
10 ing representative for workers, one recommended by the nominating repre-  
11 sentative for employers, and one selected by the commissioner. Each  
12 member shall be from a different organization and shall have demon-  
13 strated experience and expertise in economic research on the nail salon  
14 industry in the state or on similar low-wage industries in the state.  
15 At least fifteen days before final approval of the three committee  
16 members, the commissioner shall apprise members and delegates of the  
17 council of the individuals the commissioner is considering for appoint-  
18 ment and forward to the members and delegates all of the materials  
19 submitted by each individual under consideration in support of the  
20 application. The commissioner shall provide the members and delegates of  
21 the council an opportunity to submit comments on each individual under  
22 consideration, and shall take account of such comments in making a final  
23 decision. The commissioner shall approve the committee members within  
24 ninety days of the effective date of this article.

25 (b) The commissioner shall establish a member application which shall  
26 ask, at a minimum, the following information of the applicant: (i) the  
27 name, phone number, and email address of the applicant; (ii) the occupa-  
28 tion and job title of the applicant; (iii) the firm name and address

1 which the applicant works for or is associated with; (iv) a description  
2 of the applicant's experience and expertise in economic research on the  
3 nail salon industry in the state or on similar low-wage industries in  
4 the state; and (v) a list of research reports on topics relevant to the  
5 tasks of the committee which were written by the applicant or for which  
6 the applicant provided information.

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

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

25 4. The committee shall submit the report required pursuant to subdivi-  
26 sion two of this section to the commissioner within one year of the  
27 first meeting of the committee; provided however, that the committee has  
28 duly and sufficiently considered all recommendations of the council

1 accepted by the commissioner pursuant to section six hundred ninety-sev-  
2 en-e of this article prior to submitting the report. If the committee  
3 requires more time to consider the recommendations of the council  
4 accepted by the commissioner, the committee may submit a request for an  
5 extension of the report for no more than ninety days.

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

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

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

25 6. Any recommendation or modification thereof accepted by the commis-  
26 sioner shall be published as a proposed regulation in the New York state  
27 register for a period of thirty days, and the public shall be permitted  
28 to submit comments on the matter to the commissioner during that period.

1 At the conclusion of that thirty-day period, the commissioner shall  
2 either adopt the proposal as a final regulation, or publish in the New  
3 York state register a revised proposed regulation. In the event the  
4 commissioner publishes a revised proposed regulation, the public shall  
5 be permitted to submit comments on the matter to the commissioner during  
6 that period. Upon the commissioner's adoption of a final regulation, the  
7 regulation shall have the force and effect of law.

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

11 § 697-d. Powers and duties of the council. 1. In addition to the func-  
12 tions, powers and duties otherwise provided by this article, the council  
13 shall have the following powers and duties:

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

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

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

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

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

10 (ii) gratuities;

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

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

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

17 (vi) policies regarding disciplinary actions and termination;

18 (vii) health and safety protections for consumers;

19 (viii) enforcement of anti-discrimination laws;

20 (ix) trainings, trainees, and certifications;

21 (x) job descriptions and duties; and

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

24 2. The council shall have the power, subject to the provisions of  
25 section seventy-three of the civil rights law, to hold hearings, subpoena  
26 witnesses, administer oaths, take testimony and compel the production  
27 of books, papers, documents and other evidence in furtherance of its  
28 duties; provided, however, that no subpoena shall issue except upon the

1 affirmative vote of a majority of the whole membership of the council.  
2 The council may request and shall receive from all agencies such assist-  
3 ance and data as will enable it to properly perform its powers and  
4 duties pursuant to this section.

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

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

16 5. Each recommendation shall be voted and accepted by a majority vote  
17 of the council at the final meeting of the council. Only the votes of  
18 those in attendance shall be counted; provided, however, that all of the  
19 votes of the worker members shall be counted as one vote (the majority  
20 of the votes of the worker members in attendance shall be determinative  
21 of that one vote), all of the votes of the employer members in attend-  
22 ance shall be counted as one vote (the majority of the votes of the  
23 employer members in attendance shall be determinative of that one vote),  
24 and all of the votes of the public representative members in attendance  
25 shall count as one vote (the majority of the votes of the public repre-  
26 sentative members in attendance shall be determinative of that one  
27 vote). However, if quorum cannot be achieved at the final meeting on the  
28 first date scheduled by the council, then the council shall postpone the

1 meeting and set a second date for the final meeting which shall occur  
2 within the next thirty days and if quorum cannot be achieved by the  
3 second date scheduled by the council, the members in attendance shall  
4 take a vote on each of the recommendations and provide an opportunity  
5 for remaining members to vote via electronic mail to the three public  
6 representatives within forty-eight hours.

7 6. The council shall hold at least four hearings, at least two of  
8 which shall take place in the city of New York, and one in each of the  
9 other two regions as described in section six hundred ninety-seven-b of  
10 this article. The council shall provide notice of each hearing at least  
11 four weeks prior to such hearing. Such notice shall be provided through  
12 a means which shall be determined before each hearing and shall disclose  
13 the time, place, and format of the hearing; provided, however, that each  
14 hearing shall be scheduled, to the best extent practicable, at a time  
15 convenient for workers and owners of nail salons and the council.

16 7. Members of the council may bring individuals serving in the capaci-  
17 ty of interpreter to council meetings, or they may request that the  
18 department provide them with an interpreter for meetings and hearings.  
19 Member requests that an interpreter of a certain language be available  
20 for a hearing shall be made no less than one week prior to the hearing  
21 and the department shall provide such interpretation services for all  
22 members making such requests.

23 § 697-e. Powers and duties of the commissioner with respect to the  
24 council. In addition to the functions, powers and duties otherwise  
25 provided by this article, and notwithstanding any other provisions of  
26 law, the commissioner shall:

27 1. promulgate rules and regulations governing the manner in which the  
28 council shall function and perform its duties under this article,



1 including procedures to be followed by the committee, to ensure that the  
2 actions of the council are consistent with the goals as described in the  
3 statement of public policy;

4 2. furnish the council and the committee with adequate legal, steno-  
5 graphic, clerical, linguistic, and other assistance as deemed needed,  
6 including, but not limited to, administrative resources and meeting  
7 facilitators;

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

10 4. provide translation of all documents and forms used by or issued to  
11 members of the council. Such translation shall be made available in the  
12 languages as requested by worker and employer representatives. The  
13 commissioner shall direct the department to provide interpretation  
14 services to members and hearing attendees at all council meetings and  
15 hearings;

16 5. review the report and recommendations submitted by the council and,  
17 upon review, approve or reject each recommendation. If a recommendation  
18 is rejected by the commissioner, the council shall not be precluded in  
19 considering the same recommendation when the council reconvenes for  
20 future meetings;

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

26 7. publish any recommendation accepted by the commissioner as a  
27 proposed regulation in the New York state register for a period of thir-  
28 ty days, and the public shall be permitted to submit comments on the

1 matter to the commissioner during that period. At the conclusion of the  
2 thirty-day period, the commissioner shall either adopt the proposal as a  
3 final regulation or reject it. In the event the commissioner rejects the  
4 proposed regulation, the commissioner shall state the reasons for the  
5 rejection, and such rejection of the proposed regulation shall not  
6 preclude the council from considering the same recommendation when the  
7 council reconvenes for future meetings. Upon the commissioner's adoption  
8 of a final regulation, the regulation shall have the force and effect of  
9 law; and

10 8. promote compliance with the minimum standards as adopted by the  
11 commissioner pursuant to this section by: (a) issuing to the secretary  
12 of state a quarterly report on any nail salon business determined to be  
13 liable in a civil, criminal, or administrative action involving egre-  
14 gious or repeated noncompliance with the minimum standards adopted by  
15 the commissioner which shall include the name of the business and speci-  
16 fy the violation or violations, the dates of occurrence, and any fines,  
17 penalties, and judgments rendered; and (b) publishing such report on the  
18 website described in paragraph (a) of subdivision two of section six  
19 hundred ninety-seven-b of this article.

20 § 697-f. Labor protections. 1. No nail salon owner or manager shall  
21 discharge or in any manner discriminate or retaliate against any nail  
22 salon worker because: (a) the worker has made any complaint or disclosed  
23 any information to the council regarding working conditions, health  
24 measures, or rates of pay; (b) the worker has testified or submitted  
25 testimony at a hearing sponsored by the council; (c) the worker has  
26 participated as a worker representative on the council or applied to be  
27 a worker representative; or (d) the employer believes that the worker

1 has made a complaint to his or her employer, the commissioner or his or  
2 her authorized representative, or the attorney general.

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

9 § 697-g. Future meetings. The council shall reconvene no later than  
10 two years after the implementation of the council's last recommenda-  
11 tions. Three months prior to such meeting, the commissioner shall  
12 contact the current members, who shall attest to any changes in their  
13 employment or ownership status at nail salons. If a member of the coun-  
14 cil steps down, the commissioner shall appoint new members to the coun-  
15 cil chosen by the nominating representatives of the nail salon workers  
16 or nail salon employers in accordance with the provisions of section six  
17 hundred ninety-seven-b of this article.

18 § 697-h. Severability. If any section of this article or the applica-  
19 tion thereof to any person or circumstances shall be adjudged invalid by  
20 a court of competent jurisdiction, such order or judgment shall be  
21 confined in its operation to the controversy in which it was rendered,  
22 and shall not affect or invalidate the remainder of any provision of any  
23 section or the application of any part thereof to any other person or  
24 circumstance and to this end the provisions of each section of the arti-  
25 cle are hereby declared to be severable.

26 § 697-i. Preemption. This law shall not preempt any state or local  
27 enactment which provides greater benefits or protections to a covered  
28 worker.

1 § 3. Paragraph b of subdivision 2 of section 102 of the state adminis-  
2 trative procedure act is amended by adding a new subparagraph (xv) to  
3 read as follows:

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

6 § 4. This act shall take effect immediately.