



Legislation Text

File #: Int 0304-2014, Version: A

Proposed Int. No. 304-A

By The Public Advocate (Ms. James) and Council Members Johnson, Chin, Cornegy, Crowley, Koo, Lancman, Rose, Rosenthal, Constantinides and Lander

A Local Law to amend the administrative code of the city of New York, in relation to the promotion of health and safety at nail salons.

Be it enacted by the Council as follows:

Section 1. Chapter one of title 17 of the administrative code of the city of New York is amended by adding a new section 17-198 to read as follows:

§ 17-198 Healthy nail salons a. Definitions. For the purposes of this section, the following terms shall mean:

1. “Dilution ventilation system” means any system which brings in clean air in order to dilute contaminated air, and which exhausts diluted air outside via exhaust fans.

2. “Exhaust ventilation system” means any system that captures and removes airborne contaminants at their source before they contaminate the breathing zones of salon customers and workers, including, but not limited to, downdraft ventilated tables or portable source capture exhaust ventilation systems.

3. “Mechanical ventilation unit” means either a dilution ventilation system or local exhaust ventilation system in operation during business hours.

4. “Nail salon” means any business in the practice of providing services for a fee or any consideration or exchange to cut, shape or enhance the appearance of the nails of the hands or feet, including the application and removal of sculptured or artificial nails.

5. “Nail salon employee” means individuals employed by a nail salon, including, but not limited to,

technicians, and shall also include independent contractors.

6. “Nail salon product” means any chemical product used in a nail salon to enhance the appearance of the nails of the hands or feet, including the application and removal of sculptured or artificial nails.

b. Health and Safety Guidelines. The department shall develop guidelines relating to the health and safety of nail salons. Such guidelines shall cover topics including, but not limited to:

1. the danger of certain nail salon products and recommendations for the substitution of hazardous products with less hazardous alternatives, including, but not limited to, refraining from the use of nail polish thinners and using safer nail polish removers such as acetone;

2. prohibiting the use of nail polishes that contain dibutyl phthalate, toluene or formaldehyde;

3. methods and recommendations to improve air quality in nail salons and reduce the level of chemical vapors, pollutants, mist or dust within the salon. Such methods may include, but not be limited to, utilizing a mechanical ventilation unit, methods to reconfigure workstations and fans to reduce vapors, pollutants, mist, dust and odors, use of metal bin or garbage cans with lids to dispose of products used at workstations, and regularly opening windows and doors throughout the day;

4. procedures to (i) limit the spread of communicable diseases by, among other practices, washing hands, cleaning and disinfecting tools after each use, and (ii) limit the risk of harm to nail salon employees through, among other practices, taking meal and rest breaks, ensuring that such employees have regular access to fresh air and ensuring that food or beverages are not ingested where chemicals are used or stored; and

5. use of personal protective equipment for nail salon staff, including, but not limited to, respirators approved by the national institute for occupational safety and health, goggles and disposable nitrile gloves.

The department shall amend such guidelines within one year following the release of the report pursuant to subdivision k of section 17-198.1 of this chapter and based on such report’s findings and recommendations.

c. Certification. The department shall establish a certification program to encourage nail salons to promote healthy standards for nail salon employees and customers; to reduce or eliminate the use of products

with potentially harmful chemicals and air pollutants; to support and promote nail salons that place a high priority on customer and employee health and safety; and to help the public make more informed decisions about nail salon services. Such certification shall be for a period of two years and may be renewed upon satisfaction of the requirements enumerated in this subdivision. The department shall provide a seal to any nail salon granted a healthy nail salon certification stating such salon's status as a healthy nail salon. The department shall grant a certification to any nail salon that satisfies the following requirements:

1. submission to the department of an attestation that the nail salon is in compliance with article 27 of the New York state general business law or any regulations promulgated pursuant thereto;

2. completion of a course, provided by the department or such other entity as approved by the department, that educates nail salon owners and managers on how to protect nail salon owners, employees, customers and occupants of adjacent businesses and residences from any adverse health and safety impacts caused by nail salons, including, but not limited to, by educating on the guidelines as developed pursuant to subdivision b of this section;

3. submission to the department of a statement, signed by the owner of the nail salon, that the nail salon shall comply with the guidelines developed by the department pursuant to subdivision b of this section and train all nail salon staff on such guidelines;

4. installation of a mechanical ventilation unit;

5. posting of such sign as provided in subdivision h of this section;

6. submitting to inspection by the department, including, but not limited to, at initial certification and certification renewal; and

7. the nail salon has registered pursuant to subdivision i of this section.

d. Revocation. The department may revoke a nail salon's certification upon a finding that such salon has failed to comply with the certification program.

e. Reimbursement. The department shall develop a program to provide a reimbursement to any nail

salon for expenses related to the purchase and installation of mechanical ventilation units within one year of such purchase or installation, provided, however, that such nail salon has been certified pursuant to subdivision c of this section, and applies for such funds on a form, to be approved by the department, and in accordance with rules or guidelines as developed by the department. Such reimbursement may only be given to a nail salon that is in full compliance with such certification program, and which has not had any substantiated claims or judgments against it for wage theft or violations of regulations of the United States office of occupational health and safety or violations of New York state general business law or any regulations promulgated thereto at or since the time of designation in the certification program. The department shall establish amounts and rates for such reimbursement, provided that reimbursements to individual nail salons shall not exceed five hundred dollars.

f. Website. The department shall post on its website a description of the department's guidelines developed pursuant to subdivision b, the certification program created pursuant to subdivision c, and the reimbursement program created pursuant to subdivision e of this section. In addition to the description of such certification program, the website shall also list the names and addresses of all nail salons participating in such certification program. The department of consumer affairs and the department of small business services shall also post on their website such list or shall provide links on their respective websites to the department's website accompanied by a conspicuous description of such certification program.

g. Education and outreach. The department shall educate nail salon owners, employees, customers, product suppliers or distributors, community and immigrant organizations, health and safety advocates and the general public about potential health hazards present in nail salons and methods to control, eliminate or reduce such potential hazards, including, but not limited to, information regarding the (i) potentially harmful effects of exposure to pregnant women from the chemicals found in nail salon products and (ii) symptoms and/or illnesses, including, but not limited to, allergic and irritant dermatitis, occupational asthma, eye, skin or mucous membrane irritation, fatigue, and nausea that may be experienced by nail salon employees and customers. Such

education efforts shall include, but not be limited to, distribution of educational materials, technical assistance, education workshops or forums, and public service advertisements.

h. Signs. Nail salon owners shall post signs, to be developed and provided by the department, in such owner's nail salon that detail procedures and information for nail salon employees and customers to increase safety and reduce harmful health effects from exposure to communicable diseases, nail care cosmetics and airborne dust particles. Such sign shall be based upon guidelines developed by the department pursuant to subdivision b of this section. Such signs shall be posted conspicuously in public areas in accordance with the rules of the department and shall be printed in English, Spanish, Korean, Vietnamese, Nepali, Chinese and any other languages the department deems necessary in order to communicate to nail salon employees and customers. Such sign shall include information on how to make anonymous complaints to appropriate state authorities regarding businesses suspected of violating regulations promulgated pursuant to article 27 of the New York state general business law.

i. Registration. 1. It shall be unlawful for any individual to operate a nail salon without having registered with the department. Registration shall include registrant's name, address, corporate structure and ownership, and other information as the department may require and shall be filed on forms to be prescribed by the department.

2. Any individual, partnership, corporation, limited liability company, joint venture, association, or other business entity that operates a nail salon without registering shall be subject to a civil penalty of not more than one hundred dollars per month such nail salon operates without registering.

3. Notwithstanding paragraph 2 of this subdivision, a first-time violation of paragraph one of this subdivision or any rules promulgated pursuant thereto by any individual, partnership, corporation, limited liability company, joint venture, association, or other business entity that operates a nail salon shall be mitigated to half the amount if, within thirty days of the date of the issuance of the notice of violation, or at the hearing of such notice of violation, such individual, partnership, corporation, limited liability company, joint venture,

association, or other business entity submits adequate proof of having cured the violation.

§ 2. Chapter one of title 17 of the administrative code of the city of New York is amended by adding a new section 17-198.1 to read as follows:

§ 17-198.1 Nail salon task force a. Definitions. For the purposes of this section, the following terms shall mean:

1. “Nail salon” means any business in the practice of providing services for a fee or any consideration or exchange to cut, shape or enhance the appearance of the nails of the hands or feet, including the application and removal of sculptured or artificial nails.

2. “Nail salon product” means any chemical product used in a nail salon to enhance the appearance of the nails of the hands or feet, including the application and removal of sculptured or artificial nails.

b. There shall be a task force to study and provide recommendations for nail salon health and safety. Such task force shall examine issues including, but not limited to, facility requirements, standards of practice, prohibitions of particular products, ways to improve enforcement and/or issuance of violations, and ways to encourage and address complaints concerning nail salon health and safety from nail salon employees and customers. Such task force shall also request from the New York state department of state data for the preceding three calendar years of all inspections of nail salons located within the city of New York and any enforcement actions undertaken by the New York state department of state, including, but not limited to, notices of violation, warnings, or fines against any such nail salons.

c. Such task force shall consist of seven members as follows:

1. Four members shall be appointed by the mayor, provided that such members are representatives of advocacy groups involved in nail salon health and safety, have experience in the field of nail salon health and safety or advocate for the interests of nail salon employees and the communities they represent, provided further that at least two such members have experience in the field of nail salon health and safety;

2. Two members shall be appointed by the speaker of the council, provided such members are

representatives of advocacy groups involved in nail salon health and safety or have experience in the field of nail salon health and safety or advocate for the interests of nail salon employees and the communities they represent; and

3. One member shall be appointed by the public advocate, provided that such member is a representative of an advocacy group involved in nail salon health and safety, has experience in the field of nail salon health and safety or advocates for the interests of nail salon employees and the communities they represent.

d. The commissioners of the department of health and mental hygiene and the department of consumer affairs, or their designees, shall serve ex officio.

e. The members shall be appointed within sixty days of the enactment of this local law.

f. At its first meeting, the task force shall select a chairperson from among its members by majority vote of the task force.

g. Each member shall serve for a term of twelve months, to commence after the final member of the task force is appointed. Any vacancies in the membership of the task force shall be filled in the same manner as the original appointment. A person filling such vacancy shall serve for the unexpired portion of the term of the succeeded member.

h. The department and the department of consumer affairs may provide staff to assist the task force.

i. No member of the task force shall be removed from office except for cause and upon notice and hearing by the appropriate appointing official.

j. Members of the task force shall serve without compensation and shall meet no less than once a month.

k. No later than twelve months from the date all seven members of the task force are appointed, the task force shall submit to the mayor, the speaker of the council and the public advocate a report that shall include the findings and recommendations of the task force and all data made available to the task force by the New York state department of state concerning inspections of and enforcement against nail salons located in the city of

New York. Such report shall examine the health and safety conditions present in nail salons in the city, including but not limited to, the health problems experienced by nail salon employees that could be attributed to such employees' work and work environment in a nail salon, the prevalence of the use of nail salon products that are unsafe or unhealthy, and the use of personal protective equipment by nail salon employees and customers. Such report shall be based on anonymous surveys, onsite observations, data from health care professionals and any other methods deemed appropriate by the task force in consultation with the department. Such report shall also include demographic data on the age, race, ethnicity, gender and national origin of nail salon owners and employees. The report shall provide recommendations, if any, for improving the health and safety in nail salons.

1. The task force shall dissolve upon submission of the report required by subdivision k of this section.

§ 3. This local law shall take effect 180 days after its enactment into law, provided, however, that the commissioner of the department of health and mental hygiene shall take such actions, including the promulgation of rules, as are necessary for timely implementation of this local law, prior to such effective date, provided further that paragraph 3 of subdivision i of section 17-198 of the administrative code of the city of New York, as added by section one of this local law, shall be deemed repealed one year after such effective date, and provided further that subdivision e of section 17-198 of the administrative code of the city of New York, as added by section one of this local law, shall be deemed repealed four years after such effective date.

JW/DSH
Int. 245/2010
LS 255/2014
4/9/15