ASSEMBLY, No. 3718

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MARCH 22, 2018

Sponsored by:
Assemblyman RAJ MUKHERJI
District 33 (Hudson)
Assemblywoman ANNETTE QUIJANO
District 20 (Union)

SYNOPSIS
“Nail Salon Worker Protection Act.”

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 3/23/2018)
AN ACT concerning wage, health, and safety protections for certain
workers and supplementing chapter 11 of Title 34 of the Revised
Statutes.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. This act shall be known and may be cited as the “Nail Salon
Worker Protection Act.”

2. As used in this act:
   “Commissioner” means the Commissioner of Labor and
   Workforce Development.
   “Manicuring” means any one or combination of the following
   practices when performed on the human body for cosmetic purposes
   and not for the treatment of disease or physical or mental ailments
   and when performed for the general public, for male or female
   customers:
   (1) manicuring of the fingernails;
   (2) pedicuring of the toenails; or
   (3) nail sculpturing.
   “Nail salon” means any establishment or place where one or
   more persons engage in manicuring.
   “Owner” means any person, corporation, firm, or partnership that
   has a financial interest in a nail salon and is entitled to participate in
   the promotion, management, and proceeds of the nail salon.

3. a. The owner of a nail salon shall require, and provide for,
the use of personal protective equipment by an employee of the
owner, including but not limited to gloves, face masks, goggles, or
ventilating fans or other ventilation systems when the employee
uses or works with harmful substances, including but not limited to
acetone, dibutyl phthalate, toluene, or formaldehyde.
   b. The owner of a nail salon shall post a highly visible and
conspicuously placed notice informing nail salon employees of the
rights provided under this act, and the rights provided to employees
under the “New Jersey State Wage and Hour Law,” P.L.1966, c.113
(C.34:11-56a et seq.), and P.L.1965, c.173 (C.34:11-4.1 et seq.).
The notice shall be available in multiple languages so that it is
accessible to employees with limited English proficiency. The
notice shall include telephone numbers for representatives of the
Department of Labor and Workforce Development so that
employees may report complaints.
   c. The commissioner, in consultation with the New Jersey State
Board of Cosmetology and Hairstyling within the Division of
Consumer Affairs in the Department of Law and Public Safety,
shall promulgate regulations concerning the use of personal
protective equipment used by nail salon employees, and the posting
of a notice informing nail salon employees of their rights, pursuant to subsection b. of this section.

4. The owner of a nail salon that is licensed to open and operate a shop that provides manicuring services, under the “Cosmetology and Hairstyling Act of 1984,” P.L.1984, c.205 (C.45:5B-1 et seq.), shall secure a bond or an expanded insurance policy to cover unpaid wages owed to its employees pursuant to a claim against the owner under P.L.1966, c.113 (C.34:11-56a et seq.) or P.L.1965, c.173 (C.34:11-4.1 et seq.), in an amount fixed by the commissioner. In the case of an owner that fails to comply with an order to pay the assessed unpaid wages to an employee pursuant to P.L.1966, c.113 (C.34:11-56a et seq.) or P.L.1965, c.173 (C.34:11-4.1 et seq.), the commissioner shall require the owner to secure an additional bond to cover the assessed unpaid wages owed to the employee plus an amount equal to two years of wages earned by the employee.

5. Any owner of a nail salon who discharges or in any other manner discriminates against an employee because the employee has made any complaint to the owner, to the Department of Labor and Workforce Development, or to their authorized representatives, that the owner has violated any provision of this act, or any provision of P.L.1966, c.113 (C.34:11-56a et seq.) or P.L.1965, c.173 (C.34:11-4.1 et seq.), or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this act, or under or related to P.L.1966, c.113 (C.34:11-56a et seq.) or P.L.1965, c.173 (C.34:11-4.1 et seq.), or because the employee has testified or is about to testify in any such proceeding, shall be guilty of a disorderly persons offense and, upon conviction for a violation, shall be punished by a fine of not less than $100 nor more than $1,000. In the case of a discharge or other act of discrimination against the employee which is in violation of this section, the owner shall be required to offer reinstatement in employment to the discharged employee and to correct the discriminatory action, and also to pay to the employee, in full, all wages lost as a result of the discharge or discriminatory action, under penalty of contempt proceedings for failure to comply with the requirement.

6. Notwithstanding any law, rule, or regulation to the contrary, the commissioner shall order the New Jersey State Board of Cosmetology and Hairstyling to suspend the license of a nail salon owner licensed to provide manicuring services under the “Cosmetology and Hairstyling Act of 1984,” P.L.1984, c.205 (C.45:5B-1 et seq.) for a period of one to three months, as determined by the commissioner, for a violation of any provision of this act, any provision of P.L.1966, c.113 (C.34:11-56a et seq.), or
any provision of P.L.1965, c.173 (C.34:11-4.1 et seq.). The commissioner shall order the board to permanently revoke the license of the owner for a subsequent violation of any provision of this act, any provision of P.L.1966, c.113 (C.34:11-56a et seq.), or any provision of P.L.1965, c.173 (C.34:11-4.1 et seq.).

7. In a civil action, with respect to a violation by an owner of any provision of this act, any provision of the P.L.1966, c.113 (C.34:11-56a et seq.), or any provision of P.L.1965, c.173 (C.34:11-4.1 et seq.), an employee may recover damages, the full amount of any wages due, or any wages due because of any act of discrimination in violation of section 5 of this act, plus an amount of liquidated damages equal to the wages due and any amount of wages lost as a result of the discrimination, together with costs and reasonable attorney’s fees as are allowed by the court.

8. This act shall take effect immediately.

STATEMENT

This bill enacts the “Nail Salon Labor Protection Act,” to provide remedies for workers who are mistreated by nail salon owners with respect to wage and hour laws and to require safety measures for nail salon workers using or working with harmful substances.

The bill requires the use of personal protective equipment by an employee of a nail salon, including but not limited to gloves, face masks, goggles, or ventilating fans or other ventilation systems when the employee uses or works with harmful substances, including but not limited to acetone, dibutyl phthalate, toluene, or formaldehyde.

The bill also requires the owner of a nail salon to post a highly visible and conspicuously placed notice informing employees of the rights provided under this bill, as well as rights provided under the “New Jersey State Wage and Hour Law,” P.L.1966, c.113 (C.34:11-56a et seq.) and the State’s wage payment law, P.L.1965, c.173 (C.34:11-4.1 et seq.). The notice must be available in multiple languages and include telephone numbers for employees to report complaints.

Under the bill, the owner of a nail salon must secure a bond or an expanded insurance policy that covers any unpaid wages owed to an employee in an amount fixed by the Commissioner of Labor and Workforce Development. In the case of an owner that fails to comply with an order to pay assessed unpaid wages to an employee, the commissioner must require the owner to secure an additional bond to cover the assessed unpaid wages owed to the employee plus an amount equal to two years of wages earned by the employee.
Any owner of a nail salon who discharges or in any other manner discriminates against an employee because the employee has made a complaint to the owner, or to the Department of Labor and Workforce Development, is guilty of a disorderly persons offense, punishable by a fine of not less than $100 nor more than $1,000.

The bill directs the commissioner to order the New Jersey State Board of Cosmetology and Hairstyling to suspend or revoke the license of any nail salon owner licensed to provide manicuring services under the “Cosmetology and Hairstyling Act of 1984,” P.L.1984, c.205 (C.45:5B-1 et seq.) for a violation of any provision of this bill, or any provision of the “New Jersey State Wage and Hour Law” or the State’s wage payment law.

Finally, the bill provides that an employee may recover in a civil action the full amount of any wages due resulting from a violation of the “New Jersey State Wage and Hour Law” or the State’s wage payment law, or any wages due because of any act of discrimination against the employee, plus an amount of liquidated damages equal to the wages due, together with costs and reasonable attorney’s fees as are allowed by the court.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.