

JAN 25 2012

A BILL FOR AN ACT

RELATING TO BODY PIERCING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 321-13, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The department of health, with the approval of the
4 governor, may adopt rules as it deems necessary for the public
5 health or safety respecting:

6 (1) The occupations or practices of clinical laboratory
7 directors, medical technologists (clinical laboratory
8 scientists), clinical laboratory specialists,
9 cytotechnologists, medical laboratory technicians
10 (clinical laboratory technicians), tattoo artists,
11 body piercers, and environmental health professionals;

12 (2) The health, education, training, experience, habits,
13 qualifications, or character of persons to whom
14 certificates of registration or permits for these
15 occupations or practices may be issued;

16 (3) The health, habits, character, practices, standards,
17 or conduct of persons holding these certificates or
18 permits; and



(4) The grounds or causes for revoking or suspending these certificates or permits.

The rules shall have the force and effect of law."

SECTION 2. Chapter 321, part XXX, Hawaii Revised Statutes, is amended by amending the title to read as follows:

"[+]PART XXX. [+] TATTOO ARTISTS AND BODY PIERCERS"

SECTION 3. Section 321-371, Hawaii Revised Statutes, is amended to read as follows:

"[+]§321-371[+] Purpose. The purpose of this part is [the protection of] to protect public health and safety through the licensing and regulation of tattoo artists[-] and body piercers."

SECTION 4. Section 321-372, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

"Body piercer" means a person who performs body piercing as:

(1) Part of the person's job or occupation for remuneration; or

(2) If not remunerated, as an ancillary activity that is part of a paid purchase of ear or body jewelry meant for the client's personal cosmetic adornment.



1 "Body piercing" means puncturing or penetration of the skin
2 of a person, using pre-sterilized single use needles, and the
3 insertion of pre-sterilized jewelry or other adornment in the
4 opening, including the piercing of the outer perimeter or lobe
5 of the ear using a pre-sterilized single use stud and clasp ear
6 piercing system."

7 SECTION 5. Section 321-373, Hawaii Revised Statutes, is
8 amended by amending the title to read as follows:

9 "~~§~~321-373 Regulation of tattoo artists~~[-]~~ and body
10 piercers."

11 SECTION 6. Section 321-373.5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~[+]~~§321-373.5~~[+]~~ Permit~~[+]~~ required for tattoo shop ~~[and]~~
14 or body piercing shop; temporary locations. (a) No person,
15 partnership, firm, corporation, or other legal entity shall
16 operate a tattoo shop, body piercing shop, or temporary location
17 without a permit pursuant to department rules.

18 (b) Each initial permit application under this section
19 shall be accompanied by a fee of \$125 for a permit valid for one
20 year~~[-]~~; provided that a tattoo shop and a body piercing shop
21 may operate in the same location, but shall pay separate fees.

22 For renewal of a permit, each applicant shall pay a fee of \$75



1 per year. Initial permit application and renewal fees may be
2 increased by not more than \$10 per year.

3 (c) All permits shall expire on December 31 of each year.
4 The application for a permit renewal shall be submitted to the
5 department in writing on or before December 31 annually.

6 (d) The department may issue a temporary permit valid for
7 a maximum of seven consecutive days per calendar year for
8 locations other than a permitted tattoo shop or body piercing
9 shop for the purpose of a trade show, product demonstration, or
10 educational demonstration; provided that the show or
11 demonstration shall meet all safety and hygiene standards as
12 specified by the director and in this chapter. The temporary
13 permit application shall be made in writing to the department at
14 least sixty days prior to the scheduled event, shall include
15 specific measures to meet specified health and safety standards,
16 and may be subject to a site inspection. Temporary permit
17 applicants shall pay a \$50 nonrefundable application fee in
18 addition to:

- 19 (1) A \$500 nonrefundable permit fee for an event featuring
20 not more than forty total participating tattoo
21 artists[+] and body piercers; or



(2) A \$50 nonrefundable permit fee for an event featuring less than three total participating tattoo artists and body piercers demonstrating for educational purposes only, without compensation, consideration, or donation by the public;

provided that the department may annually increase the fees specified in paragraphs (1) and (2) by not more than \$100 and \$10 per year, respectively."

SECTION 7. Section 321-374, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Except as otherwise provided by law, no person shall practice the occupation of tattoo artist or body piercer in this State, with or without compensation, consideration, or donation, or shall announce [~~oneself~~] either publicly or privately [~~as~~] that the person is prepared or qualified to practice that occupation, without having a valid unrevoked license from the department to do so."

2. By amending subsection (e) to read:

"(e) An applicant for a temporary license as a tattoo artist shall have either:



(1) Passed a blood borne pathogen course developed specifically for the tattoo industry, approved by the director, within two years of the date of application; or

(2) Passed the state tattoo artist written examination within two years of the date of the application."

3. By amending subsection (g) to read:

"(g) Licensed tattoo artists shall tattoo only in a shop or temporary location that has a valid unrevoked permit issued by the director. Licensed body piercers shall perform body piercing only in a shop or temporary location that has a valid unrevoked permit issued by the director."

SECTION 8. Section 321-375, Hawaii Revised Statutes, is amended to read as follows:

"§321-375 **Examination, fees required.** (a) No license shall be issued unless the applicant takes an examination as prescribed by the director and receives a passing score or, if seeking a temporary license as a tattoo artist, meets the criteria specified in section 321-374(e). No license shall be issued unless all fees required by the director have been paid.

(b) The department may contract with a professional testing service to prepare, administer, and grade the



1 examination for licensure as a tattoo artist[-] or body piercer.
2 For these purposes, the department may require applicants to pay
3 the examination fee directly to the testing service."

4 SECTION 9. Section 321-377, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The director may revoke or suspend the permit or
7 license of any person permitted or licensed under this part who:

8 (1) Is found guilty of any fraud, deceit, or misconduct in
9 the practice of the occupation of tattoo artist[+] or
10 body piercer; or

11 (2) Violates this part or any of the rules adopted by the
12 department."

13 SECTION 10. Section 321-379, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) Violations of this part include but are not limited
16 to:

17 (1) Submitting to or filing with the department any
18 application, notice, statement, or other document in
19 procuring or attempting to procure licensure as a
20 tattoo artist or body piercer that is false or untrue
21 or contains any material misstatement of fact, or
22 assisting another party in doing so;



- 1 (2) Using the title licensed tattoo artist, licensed body
2 piercer, or any other designation tending to imply
3 that the person is a licensed tattoo artist or
4 licensed body piercer when the person is not in fact
5 licensed or the person's license has been suspended or
6 revoked;
- 7 (3) Violating the conditions or limitations of a permit or
8 a license or assisting another party in violating
9 those conditions;
- 10 (4) Engaging in conduct resulting in physical injury to an
11 individual or the public in the course of professional
12 services or activities;
- 13 (5) Aiding or abetting an unlicensed person, knowingly
14 combining or conspiring with an unlicensed person,
15 allowing one's license to be used by an unlicensed
16 person, or acting as agent or associate of an
17 unlicensed person to evade the use of title
18 restrictions of this part;
- 19 (6) Tattooing or body piercing any person under the age of
20 eighteen without the written consent of the person's
21 parent or legal guardian or not maintaining the



1 consent forms in a confidential manner [~~at the tattoo~~
2 ~~shop~~] for not less than two years; or

3 (7) Making a false or misleading statement to the
4 department relating to any matter under this part."

5 SECTION 11. This Act does not affect rights and duties
6 that matured, penalties that were incurred, and proceedings that
7 were begun before its effective date.

8 SECTION 12. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 13. This Act shall take effect on January 1, 2013.

11
INTRODUCED BY: Clarence W. Mishkin



S.B. NO. 2917

Report Title:

Professions and Occupations; Body Piercing

Description:

Requires any person who performs body piercing to be licensed.
Defines "body piercer" and "body piercing".

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

