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# A BILL FOR AN ACT

RELATING TO TATTOO ARTISTS.

**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 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



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

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

4 SECTION 2. Section 321-371, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "~~[+]§321-371[+]~~ **Purpose.** The purpose of this part is ~~[the~~  
7 ~~protection of]~~ to protect the public health and safety through  
8 the ~~[licensing and regulation]~~ registration of tattoo artists."

9 SECTION 3. Section 321-372, Hawaii Revised Statutes, is  
10 amended by deleting the definition of "facial tattoo".

11 [~~"Facial tattoo" means any tattoo applied above the~~  
12 ~~jawline, anterior to the ear and frontal hairline including the~~  
13 ~~eyelids, eyebrows, or lips."~~]

14 SECTION 4. Section 321-374, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§321-374 [License] Registration required; exemptions.**

17 (a) Except as otherwise provided by law, no person shall  
18 practice the occupation of tattoo artist in this State either  
19 gratuitously or for pay, or shall announce oneself either  
20 publicly or privately as prepared or qualified to practice that  
21 occupation without having ~~[a valid unrevoked license to do so.]~~  
22 first registered with the department.



1           (b) The application for registration shall be submitted on  
2 forms provided by the department. Upon approval by the  
3 department, a copy of the registration shall be provided to the  
4 applicant; provided that the registration fee pursuant to  
5 section 321-382 has been paid in full. The application shall  
6 include information as required by the department.

7           (c) Physicians holding a valid unrevoked license under  
8 chapter 453 or 460 are exempt from the requirements of this  
9 part."

10           SECTION 5. Section 321-381, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           "~~§321-381~~ **[Biennial] Annual registration renewal;**  
13 **failure to renew.** ~~[The biennial renewal fee shall be paid to~~  
14 ~~the department of health]~~ Registration shall be renewed  
15 annually. Annual registration renewal applications shall be  
16 submitted to the department on or before December 31 of each  
17 ~~[even-numbered] year. [Failure, neglect, or refusal of any~~  
18 ~~licensee to pay the biennial renewal fee on or before such date~~  
19 ~~shall constitute a forfeiture of the license.]"~~

20           SECTION 6. Section 321-382, Hawaii Revised Statutes, is  
21 amended to read as follows:



1       "~~[+]§321-382[+]~~ **Fees.** [~~The director may establish fees by~~  
2 ~~rules pursuant to chapter 91.~~] Each initial registration  
3 application shall be accompanied by a fee of \$75 and each annual  
4 registration renewal application shall be accompanied by a fee  
5 of \$7.50."

6       SECTION 7. Section 321-373, Hawaii Revised Statutes, is  
7 repealed.

8       "~~§321-373 Regulation of tattoo artists.~~ (a) ~~The~~  
9 ~~department shall adopt rules under chapter 91 to implement this~~  
10 ~~part. The rules shall include but not be limited to:~~  
11       ~~(1) Prohibiting the use of injections, unless administered~~  
12       ~~by a physician licensed under chapter 453 or 460, or~~  
13       ~~by a registered nurse licensed under chapter 457;~~  
14       ~~(2) Appropriate restrictions on topical anesthetics;~~  
15       ~~(3) Prescribing procedures and conditions for~~  
16       ~~sterilization, storage of sterilized equipment,~~  
17       ~~resterilization, and disposal of discarded needles and~~  
18       ~~other equipment;~~  
19       ~~(4) Creating examination standards; and~~  
20       ~~(5) Fixing penalties and fines for violations of this part~~  
21       ~~or any of the rules adopted by the department.~~



1       ~~(b) The rules may provide for separate standards for~~  
2 ~~facial tattoos." ]~~

3       SECTION 8. Section 321-375, Hawaii Revised Statutes, is  
4 repealed.

5       ~~[ "~~§321-375~~ Examination, fees required. (a) No license~~  
6 ~~shall be issued unless the applicant takes an examination as~~  
7 ~~prescribed by the director and receives a passing score. No~~  
8 ~~license shall be issued unless all fees required by the director~~  
9 ~~have been paid.~~

10       ~~(b) The department may contract with a professional~~  
11 ~~testing service to prepare, administer, and grade the~~  
12 ~~examination for licensure as a tattoo artist. For these~~  
13 ~~purposes, the department may require applicants to pay the~~  
14 ~~examination fee directly to the testing service." ]~~

15       SECTION 9. Section 321-376, Hawaii Revised Statutes, is  
16 repealed.

17       ~~[ "~~§321-376~~ Facial tattoos. Application of facial tattoos~~  
18 ~~shall be prohibited except by a physician licensed under chapter~~  
19 ~~453 or 460, or by a tattoo artist who is under the general~~  
20 ~~supervision of such a physician." ]~~

21       SECTION 10. Section 321-377, Hawaii Revised Statutes, is  
22 repealed.



1       ~~["§321-377 Suspension, revocation, or denial of the~~  
2 ~~renewal of license. The director may revoke, suspend, or deny~~  
3 ~~the renewal of the license of any person applying to be licensed~~  
4 ~~under this part who:~~

- 5       ~~(1) Is found guilty of any fraud, deceit, or misconduct in~~  
6       ~~the practice of the occupation of tattoo artist; or~~  
7       ~~(2) Violates this part or any of the rules adopted by the~~  
8       ~~department.~~

9       ~~In every case where it is proposed to revoke, suspend, or~~  
10 ~~deny the renewal of a license, the director shall give the~~  
11 ~~licensee or applicant concerned notice and a hearing. The~~  
12 ~~notice shall be given in writing by registered or certified mail~~  
13 ~~with return receipt requested at least fifteen days before the~~  
14 ~~hearing. All hearings shall be conducted pursuant to chapter~~  
15 ~~91." ]~~

16       SECTION 11. Section 321-378, Hawaii Revised Statutes, is  
17 repealed.

18       ~~["§321-378] Denial of licensure, hearing. (a) No~~  
19 ~~applicant shall be licensed as a tattoo artist if:~~

- 20       ~~(1) The applicant has been convicted of a crime and the~~  
21       ~~basis of denial of licensure falls within the~~  
22       ~~exceptions provided in section 831-3.1,~~



1       ~~(2) The applicant has been declared mentally incompetent~~  
2           ~~by any court and the decree has not since been~~  
3           ~~dismissed, or~~

4       ~~(3) Proceedings brought against the applicant pursuant to~~  
5           ~~this section resulted in findings of any of the causes~~  
6           ~~listed in subsection 321-379(b).~~

7       ~~(b) Any person whose application for licensure has been~~  
8       ~~denied shall be given notice and the opportunity for a~~  
9       ~~hearing." ]~~

10       SECTION 12. Section 321-379, Hawaii Revised Statutes, is  
11       repealed.

12       ~~["~~§321-379~~ Discipline, complaints, grounds, proceedings,~~  
13       ~~hearings. (a) The director shall have the power to revoke,~~  
14       ~~limit, condition, or suspend a license as a tattoo artist and to~~  
15       ~~fine or otherwise discipline a licensed tattoo artist for any~~  
16       ~~violation of subsection (b).~~

17       ~~(b) The department shall have the power to accept,~~  
18       ~~investigate, prosecute, and hear complaints regarding any~~  
19       ~~person, who is a licensed tattoo artist regarding the following~~  
20       ~~allegations:~~



- 1       ~~(1) Unfitness or incompetence by reason of negligence,~~  
2       ~~habits, or other causes regardless of whether actual~~  
3       ~~damage or damage to the public is established,~~
- 4       ~~(2) Habitual intemperance, addiction, or dependency on~~  
5       ~~alcohol or other habit forming substances,~~
- 6       ~~(3) Mental incompetence resulting in an inability to~~  
7       ~~practice as a tattoo artist,~~
- 8       ~~(4) Submitting to or filing with the department any~~  
9       ~~application, notice, statement, or other document in~~  
10       ~~procuring or attempting to procure licensure as a~~  
11       ~~tattoo artist, which is false or untrue or contains~~  
12       ~~any material misstatement of fact,~~
- 13       ~~(5) Using the title, licensed tattoo artist, or any~~  
14       ~~designation tending to imply that the person is a~~  
15       ~~licensed tattoo artist when the person is not in fact~~  
16       ~~licensed or the person's license has been suspended or~~  
17       ~~revoked,~~
- 18       ~~(6) Violating conditions or limitations upon which~~  
19       ~~licensure occurs,~~
- 20       ~~(7) Engaging in dishonorable, unethical, or unprofessional~~  
21       ~~conduct of a character likely to deceive, defraud, or~~





- 1 ~~harm an individual or the public in the course of~~  
2 ~~professional services or activities;~~
- 3 ~~(8) Having disciplinary action taken against the tattoo~~  
4 ~~artist in another state;~~
- 5 ~~(9) Aiding or abetting an unlicensed person, knowingly~~  
6 ~~combining or conspiring with an unlicensed person,~~  
7 ~~allowing one's license to be used by an unlicensed~~  
8 ~~person, or acting as agent or associate of an~~  
9 ~~unlicensed person to evade the use of title~~  
10 ~~restrictions of this part;~~
- 11 ~~(10) Engaging in false or misleading advertising; or~~  
12 ~~(11) Engaging in sexual conduct in connection with~~  
13 ~~professional services or activities.~~

14 ~~(c) In any proceeding under this section the person~~  
15 ~~subject to the proceeding shall be given notice and the~~  
16 ~~opportunity for a hearing in conformity with chapter 91." ]~~

17 SECTION 13. Section 321-380, Hawaii Revised Statutes, is  
18 repealed.

19 ~~["§321-380] Penalties. (a) Any person against whom~~  
20 ~~proceedings have been brought pursuant to section 321-379 which~~  
21 ~~resulted in findings of any of the causes listed in subsection~~  
22 ~~321-379(b) may be assessed a fine of not less than \$100 nor more~~



1 ~~than \$5,000 for each offense. Any action taken to impose or~~  
2 ~~collect the penalty provided for in this subsection shall be~~  
3 ~~considered a civil action.~~

4 ~~(b) The director may bring a civil action to enjoin any~~  
5 ~~person for violation of section 321-379(b)."]~~

6 SECTION 14. Section 321-383, Hawaii Revised Statutes, is  
7 repealed.

8 ~~["**§321-383** License without necessity of examination.~~  
9 ~~All persons holding valid licenses as tattoo artists from the~~  
10 ~~department of health and practicing on the day prior to~~  
11 ~~January 1, 1991, shall be considered licensed under this part on~~  
12 ~~January 1, 1991, without necessity of examination." ]~~

13 SECTION 15. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 16. This Act shall take effect upon its approval.



**Report Title:**

Tattoo Artists; Registration; Fees

**Description:**

Requires tattoo artists to register with the department of health prior to practicing the occupation of tattoo artistry and to pay registration fees. Repeals tattoo artist licensure procedures and requirements. (SD1)

