

JAN 28 2009

S.B. NO. 1263

A BILL FOR AN ACT

RELATING TO TATTOO ARTISTS.

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

1 SECTION 1. Chapter 321, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§321-A Permit; required for tattoo shop. (a) No person,
5 partnership, firm, corporation, or other legal entity shall
6 operate a tattoo shop without registering the shop with the
7 department and obtaining a permit pursuant to department rules.

8 (b) Each initial permit application under this section
9 shall be accompanied by a fee of \$125 for a permit valid for one
10 year. For renewal of a permit, each applicant shall pay a fee
11 of \$75 per year. Initial permit application and renewal fees
12 may be increased by not more than \$10 per year.

13 (c) All permits shall expire on January 31 of each year.
14 The application for a permit renewal shall be submitted to the
15 department in writing before January 10 of each year.

16 (d) Temporary permits may be issued for locations other
17 than a permitted tattoo shop for the purpose of a trade show or
18 educational demonstration; provided that the show or



1 demonstration shall meet all standards set by professional
2 tattoo associations for convention safety pursuant to
3 Occupational Safety and Health Administration standards under 29
4 Code of Federal Regulations 1910.1030 or chapter 396. The
5 temporary permit application shall be made in writing to the
6 department at least sixty days prior to the scheduled event and
7 shall include specific measures to meet specified health and
8 safety standards. Temporary permit applicants shall pay a \$25
9 fee in addition to:

10 (1) A \$50 participation fee if an event features less than
11 three tattoo artists demonstrating for educational,
12 non-monetary purposes only; or
13 (2) A \$500 participation fee, if an event features at
14 least three but not more than forty tattoo artists;
15 provided that the department may annually increase the
16 participation fees in paragraphs (1) and (2) by not more than
17 \$10 and \$100 per year, respectively.

18 **§321-B Temporary licenses.** (a) The department may issue
19 temporary licenses valid for fourteen calendar days to tattoo
20 artists not licensed in the State for educational, trade show,
21 or product demonstration purposes. Temporary licensees shall be
22 subject to this part and applicable rules.



1 (b) Applications for temporary licenses shall be made in
2 writing to the department at least sixty days prior to the
3 proposed events and accompanied by an application fee of \$25 and
4 written proof satisfying the requirements under subsection (c).
5 An applicant shall be notified by mail of the disposition of the
6 application in a timely manner. If an application is approved,
7 the applicant shall present the notification, a photo
8 identification, and a temporary license fee of \$100 before the
9 issuance of a temporary license.

10 (c) An applicant for a temporary license shall comply with
11 section 321-374(c) and shall have:

12 (1) Passed a blood borne pathogen course developed
13 specifically for the tattoo industry, approved by the
14 director within two years of taking the course;

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

17 (d) This section shall apply to tattoo artists who:

18 (1) Are appropriately licensed in jurisdictions without
19 the State; and

20 (2) Intend to participate in educational, trade, or
21 product shows demonstrating tattoo artistry in the
22 State.



1 (e) Temporary license fees may be increased annually by
2 not more than \$10.

3 SECTION 2. Section 321-372, Hawaii Revised Statutes, is
4 amended by amending the definition of "tattoo artist" to read as
5 follows:

6 "Tattoo artist" means any person who creates indelible
7 marks or decorative designs by introducing pigments beneath the
8 surface of the skin, resulting in permanent or semi-permanent
9 markings with the aid of needles, electric machines, hand tools,
10 or other devices[-] or means."

11 SECTION 3. Section 321-374, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§321-374 License required; exemptions.** (a) Except as
14 otherwise provided by law, no person shall practice the
15 occupation of tattoo artist in this State either gratuitously or
16 for pay, or shall announce oneself either publicly or privately
17 as prepared or qualified to practice that occupation without
18 having a valid unrevoked license to do so.

19 (b) The applicant shall be required to show by examination
20 the knowledge of the provisions of this chapter including
21 knowledge of virology, bacteriology, and aseptic techniques to



1 ensure that infection and contagious disease will not be
2 transmitted by the application of tattoos.

3 (c) No license shall be issued or renewed unless the
4 applicant:

5 (1) Has taken and passed a tuberculin skin test or chest
6 x-ray examination within six months of the
7 application, using report forms prescribed and
8 provided by the department;

9 (2) Has completed the hepatitis B vaccination series or
10 antibody testing showing immunity, unless the vaccine
11 is contraindicated for medical reason, as specified in
12 Occupational Safety Bloodborne Pathogens Standard and
13 Exposure Control (29 Code of Federal Regulations
14 1910.1030(f)); and

15 (3) Has signed appropriate waivers.

16 [~~b~~] (d) Physicians holding a valid unrevoked license
17 under chapter 453 [~~or 460~~] are exempt from the requirements of
18 this part."

19 SECTION 4. Section 321-379, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "§321-379 [~~Discipline~~] Violations; discipline;
22 complaints; grounds; proceedings; hearings. (a) The director



1 shall have the power to revoke, limit, condition, or suspend a
2 permit or license [as a tattoo artist] issued under this part
3 and to fine or otherwise discipline an owner of a tattoo shop or
4 a licensed tattoo artist for any violation of [subsection (b).]
5 this part.

6 ~~[(b)]~~ The department shall have the power to accept,
7 investigate, prosecute, and hear complaints regarding any
8 ~~[person, who is a licensed]~~ owner of a tattoo shop or tattoo
9 artist regarding [the following] allegations[+] of any violation
10 of this part.

11 (b) The following are violations of this part:

- 12 (1) Unfitness or incompetence by reason of negligence,
13 habits, or other causes regardless of whether actual
14 damage or damage to the public is established;
- 15 (2) Habitual intemperance, addiction, or dependency on
16 alcohol or other habit-forming substances;
- 17 (3) Mental incompetence resulting in an inability to
18 practice as a tattoo artist;
- 19 (4) Submitting to or filing with the department any
20 application, notice, statement, or other document in
21 procuring or attempting to procure licensure as a



- 1 tattoo artist[~~which~~] that is false or untrue or
2 contains any material misstatement of fact;
- 3 (5) Using the title, licensed tattoo artist, or any
4 designation tending to imply that the person is a
5 licensed tattoo artist when the person is not in fact
6 licensed or the person's license has been suspended or
7 revoked;
- 8 (6) Violating conditions or limitations upon which
9 licensure occurs;
- 10 (7) Engaging in dishonorable, unethical, or unprofessional
11 conduct of a character likely to deceive, defraud, or
12 harm an individual or the public in the course of
13 professional services or activities;
- 14 (8) Having disciplinary action taken against the tattoo
15 artist in another state;
- 16 (9) Aiding or abetting an unlicensed person, knowingly
17 combining or conspiring with an unlicensed person,
18 allowing one's license to be used by an unlicensed
19 person, or acting as agent or associate of an
20 unlicensed person to evade the use of title
21 restrictions of this part;
- 22 (10) Engaging in false or misleading advertising; [e#]



- 1 (11) Engaging in sexual conduct in connection with
- 2 professional services or activities[-];
- 3 (12) Tattooing any person under the age of eighteen without
- 4 the written consent of the person's parent or legal
- 5 guardian or not maintaining the consent forms at the
- 6 tattoo shop for not less than two years in a
- 7 confidential manner;
- 8 (13) Tattooing anyone under the age of sixteen regardless
- 9 of parental or legal consent; or
- 10 (14) Practicing tattooing while having a communicable
- 11 disease; provided that the director may allow this
- 12 practice if the tattoo artist obtains a certificate
- 13 signed by a physician licensed in the State that the
- 14 tattoo artist is not a risk to customers or other
- 15 employees of the tattoo shop.

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

19 SECTION 5. Section 321-380, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[+]§321-380[+] **Penalties.** (a) Any person against whom
22 proceedings have been brought pursuant to section 321-379 which



1 resulted in findings of any of the causes listed in subsection
2 321-379(b) may be assessed a fine of not less than \$100 nor more
3 than \$5,000 for each offense. Any action taken to impose or
4 collect the penalty provided for in this subsection shall be
5 considered a civil action.

6 (b) Any person in violation of sections 321-393, 321-A(a),
7 or 321-B shall be fined not less than \$500 nor more than \$5,000.

8 (c) Any person that practices as a tattoo artist at a
9 location without a permit shall be fined not less than \$500 nor
10 more than \$5,000.

11 (d) In addition to any other penalties prescribed by law,
12 any person who knowingly or willfully makes a false statement to
13 the department relating to any matter under this part shall be
14 guilty of a misdemeanor and fined not less than \$500 nor more
15 than \$5,000 for each offense.

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

18 SECTION 6. In codifying the new sections added by section
19 2 of this Act, the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.



1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect upon its approval.
4

INTRODUCED BY: David Y. Lee
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Report Title:

Tattoo Artists; Regulation

Description:

Strengthens the regulation of tattoo artists in the State.

