
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 part XXX to be
3 appropriately 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. The department may increase initial permit
12 application and renewal fees 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 on or before the first day of January of
16 each year.

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

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

11 (1) A \$50 participation fee if an event features less than
12 three tattoo artists demonstrating for educational,
13 non-monetary purposes only; or
14 (2) A \$500 participation fee, if an event features at
15 least three but not more than forty tattoo artists;
16 provided that the department may annually increase the
17 participation fees in paragraphs (1) and (2) by not more than
18 \$10 and \$100 per year, respectively.

19 **§321-B Temporary licenses.** (a) The department may issue
20 temporary licenses for educational, trade show, or product
21 demonstration purposes to tattoo artists not licensed in the
22 State; provided that the temporary license shall be valid for a

1 maximum of fourteen consecutive calendar days in any given
2 calendar year. Temporary licensees shall be subject to all
3 applicable rules established by the department.

4 (b) Applications for temporary licenses shall be made in
5 writing to the department at least sixty days prior to the
6 proposed events and accompanied by a non-refundable application
7 fee of \$25 and written proof satisfying the requirements under
8 subsection (c). An applicant shall be notified by mail of the
9 disposition of the application in a timely manner. If an
10 application is approved, the applicant shall submit the
11 notification of approval, a photo identification, and a
12 temporary license fee of \$100 to the department in order to be
13 issued the temporary license.

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

16 (1) Passed a blood borne pathogen course developed
17 specifically for the tattoo industry, and approved by
18 the director, within two years of the filing of the
19 application; or

20 (2) Passed the state tattoo artist written examination
21 within two years of the filing of the application.

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

- 1 (1) Are professional tattooists in jurisdictions outside
- 2 the State; and
- 3 (2) Intend to participate in educational, trade, or
- 4 product shows demonstrating tattoo artistry in the
- 5 State.
- 6 (e) The department may increase temporary license fees
- 7 annually by not more than \$10."

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

11 "'Tattoo artist" means any person who creates indelible
 12 marks or decorative designs by introducing pigments beneath the
 13 surface of the skin, resulting in permanent or semi-permanent
 14 markings with the aid of needles, electric machines, hand tools,
 15 or other devices[-] or means."

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

18 "**§321-374 License required; exemptions.** (a) Except as
 19 otherwise provided by law, no person shall practice the
 20 occupation of tattoo artist in this State either gratuitously or
 21 for pay, or shall announce oneself either publicly or privately

1 as prepared or qualified to practice that occupation without
2 having a valid unrevoked license to do so.

3 (b) Any applicant for licensure shall be in compliance
4 with the requirements of section 321-B(c) (1) or 321-B(c) (2).

5 (c) No license shall be issued or renewed unless the
6 applicant:

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

11 (2) Has completed the hepatitis B vaccination series or
12 antibody testing showing immunity, unless the vaccine
13 is contraindicated for medical reason, as specified in
14 Occupational Safety Bloodborne Pathogens Standard and
15 Exposure Control (29 Code of Federal Regulations
16 1910.1030(f)) and has signed the appropriate waiver.

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

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

1 "~~{}~~§321-379~~{}—Discipline;~~ Violations; discipline;
2 complaints; grounds; proceedings; hearings. (a) The director
3 shall have the power to revoke, limit, condition, or suspend a
4 permit or license [as a tattoo artist] issued under this part
5 and to fine or otherwise discipline an owner of a tattoo shop or
6 a licensed tattoo artist for any violation of [subsection (b)].
7 this part.

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

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

14 (1) Unfitness or incompetence by reason of negligence,
15 habits, or other causes regardless of whether actual
16 damage or damage to the public is established;

17 (2) Habitual intemperance, addiction, or dependency on
18 alcohol or other habit-forming substances;

19 (3) Mental incompetence resulting in an inability to
20 practice as a tattoo artist;

21 (4) Submitting to or filing with the department any
22 application, notice, statement, or other document in

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

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

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

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

1 "~~[+]~~**S321-380**~~[+]~~ **Penalties.** (a) Any person against whom
2 proceedings have been brought pursuant to section 321-379 which
3 resulted in findings of any of the causes listed in subsection
4 321-379(b) may be assessed a fine of not less than \$100 ~~[per]~~
5 and not more than \$5,000 for each offense. Any action taken to
6 impose or collect the penalty provided for in this subsection
7 shall be considered a civil action.

8 (b) Any person in violation of section 321-374, 321-A(a),
9 or 321-B shall be fined not less than \$500 and not more than
10 \$5,000.

11 (c) Any person that practices as a tattoo artist at a
12 location without a permit shall be fined not less than \$500 and
13 not more than \$5,000.

14 (d) In addition to any other penalties prescribed by law,
15 any person who knowingly or wilfully makes a false statement to
16 the department relating to any requirement of this part shall be
17 guilty of a misdemeanor and fined not less than \$500 and not
18 more than \$5,000 for each offense.

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

21 SECTION 6. In codifying the new sections added by
22 section 1 of this Act, the revisor of statutes shall substitute

1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect on July 1, 2050.

Report Title:

Tattoo Artists; Regulation; Licensure; Permits; Temporary License

Description:

Updates the regulation of tattoo artists and tattoo shops in the State. (SD1)