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## A BILL FOR AN ACT

RELATING TO BODY PIERCING.

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

1           SECTION 1. Chapter 321, Hawaii Revised Statutes, is  
2 amended by adding a new section to part XXX to be appropriately  
3 designated to read as follows:

4           "§321-       Body piercing of minors; consent of parent or  
5 guardian required. (a) No body piercer shall perform body  
6 piercing without first:

7           (1) Informing the prospective client that consent of a  
8           parent or guardian is required to perform body  
9           piercing on a minor;

10          (2) Ascertaining, by reasonable request for  
11          identification, the prospective client's status as a  
12          minor or adult; and

13          (3) If the prospective client is a minor, obtaining  
14          written consent from the minor's parent or guardian in  
15          person or obtaining written notarized consent from the  
16          minor's parent or guardian; provided that the written  
17          consent or written notarized consent shall identify  
18          the part of the body to be pierced.



1        (b) Body piercers shall maintain written consents and  
2 written notarized consents in a confidential manner for not less  
3 than two years.

4        (c) In addition to any other penalties, any person who  
5 violates subsection (a)(3) shall be guilty of a petty  
6 misdemeanor."

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

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

12        (1) The occupations or practices of clinical laboratory  
13                directors, medical technologists (clinical laboratory  
14                scientists), clinical laboratory specialists,  
15                cytotechnologists, medical laboratory technicians  
16                (clinical laboratory technicians), tattoo artists,  
17                body piercers, and environmental health professionals;

18        (2) The health, education, training, experience, habits,  
19                qualifications, or character of persons to whom  
20                certificates of registration or permits for these  
21                occupations or practices may be issued;



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

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

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

7 SECTION 3. Chapter 321, Hawaii Revised Statutes, is  
8 amended by amending the title of part XXX to read as follows:

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

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

12 "[+]§321-371[+] **Purpose.** The purpose of this part is [~~the~~  
13 ~~protection of~~] to protect public health and safety through the  
14 licensing and regulation of tattoo artists[~~-~~] and body  
15 piercers."

16 SECTION 5. Section 321-372, Hawaii Revised Statutes, is  
17 amended by adding two new definitions to be appropriately  
18 inserted and to read as follows:

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

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



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

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

10           SECTION 6. Section 321-373, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           "**§321-373 Regulation of tattoo artists[-] and body**  
13 **piercers.** The department shall adopt rules under chapter 91 to  
14 implement this part. The rules shall include but not be limited  
15 to:

16           (1) Prohibiting the use of injections, unless administered  
17                   by a physician or osteopathic physician licensed under  
18                   chapter 453, or by a registered nurse licensed under  
19                   chapter 457;

20           (2) Appropriate restrictions on topical anesthetics;

21           (3) Prescribing procedures and conditions for  
22                   sterilization, storage of sterilized equipment,



1           resterilization, and disposal of discarded needles and  
2           other equipment;

3           (4)    Creating examination standards; and

4           (5)    Fixing penalties and fines for violations of this part  
5           or any of the rules adopted by the department."

6           SECTION 7.   Section 321-373.5, Hawaii Revised Statutes, is  
7           amended to read as follows:

8           "~~§~~321-373.5~~§~~   ~~Permit~~~~[-]~~ ~~required for tattoo shop~~ ~~[and]~~  
9           or body piercing shop; temporary locations.   (a)   No person,  
10          partnership, firm, corporation, or other legal entity shall  
11          operate a tattoo shop, body piercing shop, or temporary location  
12          without a permit pursuant to department rules.

13          (b)   Each initial permit application under this section  
14          shall be accompanied by a fee of \$125 for a permit valid for one  
15          year~~[-]~~; provided that a tattoo shop and a body piercing shop  
16          may operate in the same location, but shall pay separate fees.  
17          For renewal of a permit, each applicant shall pay a fee of \$75  
18          per year.   Initial permit application and renewal fees may be  
19          increased by not more than \$10 per year.

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



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

- 14 (1) A \$500 nonrefundable permit fee for an event featuring  
15 not more than forty total participating tattoo  
16 artists[+] and body piercers; or
- 17 (2) A \$50 nonrefundable permit fee for an event featuring  
18 less than three total participating tattoo artists and  
19 body piercers demonstrating for educational purposes  
20 only, without compensation, consideration, or donation  
21 by the public;



1 provided that the department may annually increase the fees  
2 specified in paragraphs (1) and (2) by not more than \$100 and  
3 \$10 per year, respectively."

4 SECTION 8. Section 321-374, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

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

13 SECTION 9. Section 321-375, Hawaii Revised Statutes, is  
14 amended by amending subsection (b) to read as follows:

15 "(b) The department may contract with a professional  
16 testing service to prepare, administer, and grade the  
17 examination for licensure as a tattoo artist~~[-]~~ or body piercer.  
18 For these purposes, the department may require applicants to pay  
19 the examination fee directly to the testing service."

20 SECTION 10. Section 321-377, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§321-377   Suspension or revocation of permit or license.

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

4           (1)   Is found guilty of any fraud, deceit, or misconduct in  
5               the practice of the occupation of tattoo artist[?] or  
6               body piercer; or

7           (2)   Violates this part or any of the rules adopted by the  
8               department.

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

16           SECTION 11.  Section 321-379, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18           "(b)  Violations of this part include but are not limited  
19 to:

20           (1)  Submitting to or filing with the department any  
21               application, notice, statement, or other document in  
22               procuring or attempting to procure licensure as a





- 1 tattoo artist or body piercer that is false or untrue  
2 or contains any material misstatement of fact, or  
3 assisting another party in doing so;
- 4 (2) Using the title licensed tattoo artist, licensed body  
5 piercer, or any other designation tending to imply  
6 that the person is a licensed tattoo artist or  
7 licensed body piercer when the person is not in fact  
8 licensed or the person's license has been suspended or  
9 revoked;
- 10 (3) Violating the conditions or limitations of a permit or  
11 a license or assisting another party in violating  
12 those conditions;
- 13 (4) Engaging in conduct resulting in physical injury to an  
14 individual or the public in the course of professional  
15 services or activities;
- 16 (5) 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;



1 (6) Tattooing or body piercing any person under the age of  
 2 eighteen without the written consent of the person's  
 3 parent or legal guardian or not maintaining the  
 4 consent forms in a confidential manner [~~at the tattoo~~  
 5 ~~shop~~] for not less than two years; or

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

8 SECTION 12. This Act does not affect rights and duties  
 9 that matured, penalties that were incurred, and proceedings that  
 10 were begun before its effective date.

11 SECTION 13. Statutory material to be repealed is bracketed  
 12 and stricken. New statutory material is underscored.

13 SECTION 14. This Act shall take effect on January 1, 2013.

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INTRODUCED BY:

*[Signature]*  
Tom Brown  
*[Signature]*  
*[Signature]*  
Cindy Evans  
*[Signature]*  
*[Signature]*



# H.B. NO. 2108

**Report Title:**

Body Piercing; Minors; Consent

**Description:**

Licenses and regulates body piercers. Defines "body piercers". Requires written consent of parent or guardian for minors to obtain body piercing. Requires tattoo artists and body piercers to maintain written customer consent forms for not less than two years.

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

