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*Committee on Health*

*Rep. Ryan I. Yamane, Chair*

*Rep. Dee Morikawa, Vice Chair*

*Tuesday, March 13, 2012*

*Conference Room 329, 9 AM*

**Support of SB 2398 S.D. 2 with proposed amendments**

Dear Chair Yamane, Vice Chair Morikawa and members of the committee,

I am writing in strong support of SB 2398 S.D. 2 relating to tattoo artists but respectfully submit a few proposed amendments for clarification. Recently, researchers from the Centers for Disease Control and Prevention analyzed dozens of studies and concluded that tattoos from non-professionals carry a risk of transmitting hepatitis C. Closer to home, a case-controlled study found that if someone had a non-professional tattoo in Hawai'i, they were 9 times more likely to have hepatitis C than someone without a tattoo. Restricting sales to licensed tattoo artists only, adding a blood-borne pathogen training requirement and convening a task force to are great steps towards making tattooing safer in Hawaii.

SB 2398 S.D. 2 goes a long way to make tattooing safer in Hawaii, however I respectfully urge the committee to clarify several vague areas in the bill:

- Please clearly define the tattoo equipment which is restricted to licensed tattoo artists and define penalty
- Please require the blood-borne pathogen training requirement to be aligned with OSHA standards and be required at least every 2 years ("training" instead of "test" should be used)
- Please ensure task force represents a wide variety of stakeholders, including those with expertise in infectious disease prevention

The CHOW Project's mission is to prevent the transmission of HIV and other blood-borne pathogens such as hepatitis B and C among high-risk drug users in Hawaii. Hep Free Hawai'i is a coalition of more than twenty-five agencies whose mission is to reach out to Hawai'i's 'ohana to raise awareness and encourage active participation in the prevention, diagnosis and treatment of viral hepatitis and liver disease in Hawai'i. We feel strongly that the components of SB 2398 S.D. 2 will help support safer tattooing, with the proposed amendments and will decrease the potential transmission of viral hepatitis and other infections through tattooing.

Thank you for the opportunity to testify.

Heather Lusk

Acting Director, CHOW Project

Director, Hep Free Hawai'i

[hlusk@chowproject.org](mailto:hlusk@chowproject.org)

## morikawa2 - Grant

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 11, 2012 3:47 PM  
**To:** HLTtestimony  
**Cc:** unclletimtattoo@msn.com  
**Subject:** Testimony for SB2398 on 3/13/2012 9:00:00 AM

**Categories:** Green Category

Testimony for HLT 3/13/2012 9:00:00 AM SB2398

Conference room: 329  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Don T. Heitkotter  
Organization: Individual  
E-mail: [unclletimtattoo@msn.com](mailto:unclletimtattoo@msn.com)  
Submitted on: 3/11/2012

**Comments:**

As a licensed tattoo artist in the State of Hawaii, I am opposed to this bill as it is written. I do not believe Hawaii is ready for tattoo conventions (trade shows) as the current legislation is weak and vague and presents obvious dangers to the public that the DOH and the legislature are still not addressing adequately. The promoters are hurriedly pushing this bill through to line their pockets and possibly the pockets of the legislators and have little or no concern for public safety or the well being of the tattoo industry in Hawaii, despite their claims. As I speak, a letter is being circulated by one of the promoters, misrepresenting themselves as the voice of the authority over the DOH and the State. They are deliberately and erroneously representing themselves as the guardians of our interests. The same people that pushed through accommodations for temporary licensing. The same people who have hired lawyers to find loopholes in the laws so they can be misconstrued. This is a serious mistake and is only implemented to circumvent existing laws already on the books about licensing so a tattoo convention can legally take place. Their motivations are purely selfish. I suggest that this bill, as currently written, be scrapped, rewritten or tabled until the "Task force" proposed by Senator Espero can insure opposing viewpoints and the agenda be very, very closely monitored. There is the stench of favoritism here in our midst. The only things that really matter here are public safety and professionalism. This, I offer as my opinion as the only stake I have in this issue is my honor, my integrity and livelihood as 17 year veteran tattoo artist.

Sincerely,  
Don T. Heitkotter  
Blue Tiki Tattoo  
Hanalei, HI  
(808) 826-0114

Testimony for HLT 3/13/2012

SB2398 SD2 (SSCR2677)

Testifier will be present: Yes

Submitted by: Peggy Sucher, licensed tattooer and studio owner,  
Alliance of Professional Tattooist BBP Instructor, Board Member,  
National Tattoo Assn.

Email: [tattoohawaii@hotmail.com](mailto:tattoohawaii@hotmail.com)

Dear House Committee on Health:

I am writing with concern regarding the bill before you, SB2398. While I support many of the ambitions of this bill I wish to define my concerns.

**RESTRICTIONS OF SALES TO MINORS AND UNLICENSED:**

I am in full support of keeping tattoo equipment which has the potential for spreading bloodborne pathogens OUT of the hands of minors and the unlicensed BUT I believe that 'equipment' must be defined as tattoo machines ('guns'), needles, tubes (steel and disposable), pigment (ink), clip cords, foot switches and power supplies. A clear definition of 'equipment' is necessary.

There also **MUST** be a penalty stated. Tattooing without a license currently carries a \$5000 fine which would be appropriate for any vendor caught selling to the above mentioned minor or

unlicensed person.

We have an epidemic of hepatitis in America and this equipment in untrained hands can be deadly. HCV and HBV can live for up to ONE WEEK on a dried surface. Trained tattooers know this and take the necessary Standard Precautions as per OSHA's BloodBorne Pathogen Standard 1910.1030. This is a public health issue that MUST be addressed properly.

Testimony was received in a prior hearing from DOH Director Fuddy and Dr. Tualii with the UH School of Medicine with concerns on this issue of public health. Their testimony is public record and available for review.

I ask for these definitions in light of the 'construed' meaning of our current regulations regarding tattoo trade shows because it is imperative that we must state the exact definitions of equipment and penalty. This way the law is clear and not open to interpretation for special interest groups and their sponsors. We are currently witnessing such definition problems with our current state tattoo regulations which, in the words of a representative of the DOH, can be 'construed' to meanings beyond their original intent as the regulations were written. Enough of 'construing' definitions of regulations.

The wording must be exact and with no margin for error or interpretation

#### **BLOOD BORNE PATHOGEN TRAINING REQUIREMENT:**

As a certified instructor for the Alliance of Professional Tattooist Bloodborne Pathogen Course I am fully in favor of such requirement to accompany the state tattoo test BUT only if,

again, it is clearly defined. There are many pathogen courses that are not industry specific and virtually worthless. 'Approved by the director' is similar wording used in the upgrade of our regulations in 2009 and since then we have not seen such 'approval' come to fruition. I fear the same will happen with this paragraph and once again we will be left in limbo.

Also courses are valid for only two years which would coincide with our licensing structure NOT the four years as stated in this bill. Health issues change too frequently to allow for a four year span.

TATTOO DEMONSTRATIONS Section 2, Section 321-373.5, Hawaii revised statues....(d):

Trade shows have been stricken by the Senate committee [~~trade show~~] therefore line (1) 'A \$500 nonrefundable fee for an event featuring not more than forty participating tattoo artists' is moot.

It must be removed from this bill to make it accurate, valid and NOT open to be further 'construed' by various authorities. As the distinguished Senator Baker stated in the Senate hearing of this bill, "Hawaii is not ready for trade shows". It would follow that there would be NO fee structure for something that is not allowed.

TASK FORCE COMMITTEE SECTION 4 (a) :

It is imperative that the members of the task force committee be impartial and not aligned with friends or special interests be it promoters or other parties. Should not representatives of the Health Committees and Commerce be present? I feel they must

be included as the revision of tattoo regulations is a health issue AND a commerce issue. The tattooers invited to participate should have at least 5 years experience in professional studios preferably in Hawaii. Again we do not want promoters with special interests influencing what becomes law in Hawaii.

#### SECTION (5) BLOODBORNE PATHOGEN TRAINING:

Is repetitive and should be stricken.

As a 30 year veteran of the tattoo business, an active 27 year member in the oldest tattoo organization in the world (National Tattoo Association), Instructor of the Year for the Alliance of Professional Tattooists, columnist for various publications and websites (aroundhawaii.com) I ask that the Chairs and the Health Committee give serious consideration to this bill and the changes I have presented.

I respectfully thank you for your attention,

Peggy Sucher

Honorable Committee Chairs and Committee Members,

Thank you for this opportunity to voice my opinion. I have been a licensed tattooist since 1992 (license #262) and am in general support of the current draft of the bill with minor modification:

My first comments are regarding the "blood test" section (page 1, lines 16 on) as the wording is far too ambiguous. Also on the testing requirement, page 2, line 2 specifies a refresher course every 4 years, perhaps the refresher course should be every 2 years, the same as our renewal of licensure to simplify processes for Dept of Sanitation in the renewal process. In actuality it makes even more sense to align it with OSHA (HIOSH) requirements which specify a refresher course annually, as is required in numerous other states. Much of this section is repeated again on p. 5 lines 9-13. But here again, is too vague. I would highly recommend that this requirement be further investigated and discussed by the task force, particularly with advice from Heather Lusk who has extensive experience in such requirements and our state standards and has expressed a willingness to serve on a task force. Our requirements perhaps should coincide with those specified by HIOSH and OSHA.

My other concern is on page 3, lines 1-2 pertaining to the fees for events featuring not over 40 participants. This maximum number of participants is only specified in the fee schedule rather than being included in the actual text of the bill itself. The inclusion in the fee schedule, however, seems irrelevant since trade shows are not permitted in the current draft, but perhaps the maximum of 40 participants in any given event should remain in place, but strengthening the wording, adding such to the actual body of the bill (not just the fee structure). Educational demonstrations (such as a demonstration at the museum in conjunction with an exhibition) should be allowed and are exactly why page 3, lines 3-7 are included, but need lines 1 and 2 remain since trade shows will be prohibited? I believe this requires further discussion to avoid the inherent contradiction. Also the phrase "trade shows and product demonstration" while common terminology in statute and legal documents, are unusual in the tattoo community where the term "convention" is standard. Perhaps this should be clarified.

My deepest thanks for your consideration and for this opportunity to testify.

Tricia Allen  
PO Box 61967  
Honolulu, HI 96839

Testimony for HLT 3/13/2012 9:00: AM  
SB2398 SD2 (SSCR2677)  
Conference room: 229  
Testifier position: Comment  
Testifier will be present: Yes  
Submitted by: Sean McCready  
Organization: Individual  
E-mail: sean@tattooicious.com  
Submitted on : 3/10/2012

Dear House Committee on Health,

As you already understand, the bills on tattoo regulation have been a familiar issue in the Senate and House for the last three years. I would like to clarify the journey that summarizes the issues around this bill that keep resurfacing.

In 2008, Respected House Member, John Mizuno introduced a bill similar to the one in circulation now. A fellow constituent of his recommended that if the state would change its regulation on tattooing, trade shows could happen and increase revenue to the state. Reasonably, this sounded beneficial by an entertainment and financial standpoint. Understandably so, Mr. Mizuno wasn't fully aware of the ramifications affecting the health and safety of the public on this matter. Not to his fault at all, this just happens when the intimate details of an industry aren't available or familiar to the public office official.

During this time, with respect to limited staffing and funding, the Health Department was grateful to wash their hands of the growing needs of the Tattoo Industry. Thus, supported the bill and wrote a very surprising comment that stated. *"Our information regarding infection rates from tattoos show that commercial tattoo artists are not responsible for significant numbers of transmitted infections. We recommend that the regulatory system for licensing of all tattoo artists in Hawaii be changed from licensing to one of registration"* Surprisingly enough, this struck a chord with many people who are quite aware of a much more valid understanding to the concerns of blood-borne pathogens at risk in our industry. "Not responsible for significant numbers" they justified. This drew immense opposition to their new stance on registration vs. regulation based on this misleading statement. When contested in legislation the Health Department was embarrassed by this statement and couldn't present any documentation or source supporting their wild position. Dr. Tile and a representative from the Center for Disease Control and Prevention quickly contested their finding, as well as fellow tattooists. Fortunately, they apologized for this very incorrect information and immediately changed their stance on the bill. I'm quite sure the Health Department didn't have ill intentions but was a bit overwhelmed to really assess this correctly. You can find this interesting stance change referenced in two different documents the director of the Health Department sent in testimony two days apart. First on March 28, 2008 and second on March 30, 2008. They are attached below.



When Mr. Mizuno realized the challenges and misinformation his constituent availed in promoting this bill, he changed his position quite significantly on deregulation and intently listened to those concerned to the health and safety on this matter. Thankfully the bill did pass with regulations staying in place. Unfortunately trade shows were permitted regardless of the Health Departments newly educated stance, that it was not in the best interest of the public and that it would lower the State's standards for licensing.

After the bill passed, the Health department was required to rewrite regulation regarding the safety guidelines around tattoo trade shows before they could begin. To my understanding as of three years later, the department hasn't provided specific regulations for a trade show safety checklist. Thus, showing that the department is still not ready to implement appropriate health and safety regulations at this time, which they have already stated in their opposition and testimony to this bill.

Bill SB2398 is being introduced this session by another Senator, aiming to help another trade show promoter circumvent current tattoo artist testing. Unfortunately, this Senator was not aware to the ramifications affecting the health and safety of the public on this matter, as was the House Member in the past. Clearly the introduction of those bills is to benefit the states revenue and pocket of its constituents instead of a higher priority regarding the matters of health and safety concerns. In recognition of the many wonderful contributions this Senator has helped the people of Hawaii with over the years, the Senator's strong push for this bill still stands in lieu of the Health Departments clear testimony of opposition.

It is well known that the Health Department is screaming for help around this industry and not more burden. Which is why allowing a task force to compile appropriate insight towards regulation would be an important cause in order to implement updated rules and/or educational exhibits, and possibly enable a different department to handle artist licensing regulation.

I also see it important to change the task force from the Committee on Public Safety, Government Operations, and Military Affairs to the Senate and House Committee on Health. Especially, for the purpose of ensuring that bias has no part in the introducing Senator's chair position in the PGM in relation to his constituent over this matter.

It should also be written, that the tattooist chosen for the task force have a proven significant amount of time in the industry to be selected for this purpose, as would any professional focus group merit. I would suggest a minimum of 10 to 15 years. A search aimed at health and safety background for the artist wouldn't hurt as well.

To emphasize the importance of this matter, here's a fun fact from the Center for Disease Control and Prevention Website: ***"How long does the Hepatitis B virus survive outside the body? Hepatitis B virus can survive outside the body at least 7***

*days. During that time, the virus can still cause infection if it enters the body of a person who is not infected"*

Source: <http://www.cdc.gov/hepatitis/b/bFAQ.htm>

That means hepatitis can be carried around from surface to surface, hand to hand, hand to counter, hand to doorknob etc..for at least 7 days. There are other updated reports of it surviving outside the body for up to a month. It is also invisible to the human eye due to it's estimated size 100,000<sup>th</sup> the size of a drop of blood. Can't just wipe this one up!

When it comes to legislation regarding tattooing, there really shouldn't be a lower bar put in place compared to cross contamination education that any hospital or physician would have. To argue this point would be absolutely a great disservice to the citizens of Hawaii and visitors alike. To be honest, there really isn't any difference in blood activity risk between a Physicians office and a tattoo procedure, except a tattoo procedure would actually be dealing with quite a bit more exposed blood and plasma over a larger surrounding area. Please do not put the public's safety at risk by cutting short the standards that should be instilled, over revenue as priority to the State.

Let's not irresponsibly change regulation before allowing a task force to fulfill its purpose. The Senate Committee on Commerce and Consumer Protection's Chair, Rosalyn Baker, communicated a strong opposition to trade shows at this time and an important need for task force to take place. I hope you will consider the same.

Thank you for this opportunity to testify.

A Concerned patron for public safety,  
Sean McCready

Attachment to testimony noted as March 28, 2009  
Included with testimony from Sean McCready

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

CHIYOME LEINAALA FUKINO, MD  
DIRECTOR OF HEALTH

In reply, please refer to:  
File

Committee on Ways and Means

H.B. 2283, HD1, SD1, Relating to Tattoo Artists

Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health

Friday, March 28, 2008  
9:30 a.m.

- 1 Department's Position: The Department of Health supports this bill with reservations.
- 2 Fiscal Implications: An increase in funding and staffing will be required to adequately effect the
- 3 changes this bill would require for investigating the background and license of tattoo artists applying for
- 4 temporary certificates of registration to perform tattooing in Hawaii. The financial burden to the general
- 5 public should be minimized by including provisions in the bill that would allow the department to
- 6 charge fees for these temporary certificates of registration and temporary tattoo establishment permits.
- 7 Additional funding may also be required for administrative rule changes.
- 8 Purpose and Justification: The intent of this bill is to allow appropriately licensed tattoo artists to
- 9 practice tattooing in Hawaii without a valid Hawaii State Tattoo License for a period of 14 calendar
- 10 days.
- 11 Given the maturity of the industry and its ability to practice in a sanitary manner, we support this
- 12 bill with reservation. Our information regarding infection rates from tattoos [Centers for Disease
- 13 Control and Protection (CDC) and DOH Disease Investigation Branch] show that commercial tattoo
- 14 artists are not responsible for significant numbers of transmitted infections. We recommend that the

Attachment to testimony noted as March 28, 2009  
Included with testimony from Sean McCready

H.B. 2283, HDI, SDI  
Page 2 of 2

- 1 regulatory system for licensing of all tattoo artists in Hawaii be changed from licensing to one of  
2 registration whereby the department has means to keep track of practitioners.

3 The department would suggest that Sections 321-373 through 321-383, PART XXX. TATTOO  
4 ARTISTS, Hawaii Revised Statutes, be repealed and with a commitment by the department to amend  
5 HAR 11-17 Tattoo Artists to allow registration of appropriately licensed tattoo artists to practice  
6 tattooing without a valid Hawaii tattoo artist license. The department has attached a proposed bill to  
7 repeal Sections 321-373 through 321-383, Part XXX TATTOO ARTISTS, Hawaii Revised Statutes.

8 We would also like to add that licensing of individuals is only one law facing tattoo artists who  
9 want to practice in Hawaii. Our regulations only allow tattooing in a permitted tattoo establishment.

10 There are no provisions for a temporary tattoo shop in a convention or trade show type setting.

11 Thank you for the opportunity to testify.

Attachment to testimony noted as March 30 2009  
Included with testimony from Sean McCready

LINDA LINGLE  
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to  
File:

COMMITTEE ON HEALTH

H.B. 2283, Relating To Tattoo Artists

Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health

January 30, 2008  
8:00 a.m.

1 **Department's Position:** ~~The Department of Health respectfully opposes the bill.~~

2 **Fiscal Implications:** An increase in funding and staffing will be required to adequately implement the  
3 requirements of this bill, to investigate the background of unlicensed tattoo artists applying for  
4 temporary certificates of registration to in Hawaii.

5 **Purpose and Justification:** The intent of this bill is to allow unlicensed tattoo artists to practice  
6 tattooing in Hawaii without a valid Hawaii State Tattoo License for a period of 14 calendar days.

7 The Department does not support this bill because it would not be in the best interest of the  
8 public. The bill would lower the State's standards for licensing of tattoo artists by allowing unlicensed  
9 tattoo artists to operate in Hawaii, even on a temporary basis. It should also be noted that there are no  
10 national standards for the licensing and regulating of tattoo artists.

11 The Department understands that public health would be further served if it would concentrate its  
12 efforts on the sanitary inspections of the facilities and equipment at the tattoo establishments rather than  
13 regulating the occupation.

14 Thank you for the opportunity to testify.

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