

JAN 17 2013

A BILL FOR AN ACT

RELATING TO BODY PIERCING.

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 body piercers, 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. Chapter 321, part XXX, Hawaii Revised Statutes,
5 is amended by amending the title to read as follows:

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

7 SECTION 3. Section 321-371, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[+]§321-371[+] Purpose. The purpose of this part is the
10 protection of public health and safety through the licensing and
11 regulation of tattoo artists[-] and body piercers."

12 SECTION 4. Section 321-372, Hawaii Revised Statutes, is
13 amended by adding three new definitions to be appropriately
14 inserted and to read as follows:

15 "Body piercer" means a person who performs body piercing
16 as:

17 (1) Any part of the person's job or occupation for
18 remuneration; or

19 (2) An ancillary activity that is part of a paid purchase
20 for ear or body jewelry meant for a client's personal
21 cosmetic adornment.



1 "Body piercing" means puncturing or penetrating the skin of
2 a person, using pre-sterilized single use needles, and inserting
3 pre-sterilized jewelry or other adornment in the opening,
4 including the piercing of the outer perimeter or lobe of the ear
5 using a pre-sterilized single use stud and clasp ear piercing
6 system.

7 "Body piercing shop" means any temporary or permanent
8 establishment that provides body piercing services as part or
9 all of the establishment's services."

10 SECTION 5. Section 321-373, Hawaii Revised Statutes, is
11 amended by amending the title to read as follows:

12 "~~§321-373 Regulation of tattoo artists[-]~~ and body
13 piercers."

14 SECTION 6. Section 321-373.5, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending the title and subsections (a) and (b) to
17 read:

18 "~~[+]§321-373.5[+] Permit[+] required for tattoo shop, body~~
19 piercing shop, and temporary locations. (a) No person,
20 partnership, firm, corporation, or other legal entity shall
21 operate a tattoo shop, body piercing shop, or temporary location
22 without a permit pursuant to department rules.



1 (b) Each initial permit application under this section
2 shall be accompanied by a fee of \$125 for a permit valid for one
3 year[-]; provided that a tattoo shop and a body piercing shop
4 may operate in the same location, but shall pay separate fees.
5 For the renewal of a permit, each applicant shall pay a fee of
6 \$75 per year[-]; provided that if a tattoo shop and a body
7 piercing shop operate in the same location, the tattoo shop and
8 the body piercing shop shall pay separate renewal fees. Initial
9 permit application and renewal fees may be increased by not more
10 than \$10 per year."

11 2. By amending subsection (d) to read:

12 "(d) The department may issue a temporary permit valid for
13 a maximum of seven consecutive days per calendar year for
14 locations other than a permitted tattoo shop or body piercing
15 shop for the purpose of a trade show, product demonstration, or
16 educational demonstration; provided that the show or
17 demonstration shall meet all safety and hygiene standards as
18 specified by the director and in this chapter. The temporary
19 permit application shall be made in writing to the department at
20 least sixty days prior to the scheduled event, shall include
21 specific measures to meet specified health and safety standards,
22 and may be subject to a site inspection. Temporary permit



1 applicants shall pay a \$50 nonrefundable application fee in
2 addition to:

3 (1) A \$500 nonrefundable permit fee for an event featuring
4 not more than forty total participating tattoo
5 artists[+] and body piercers; or

6 (2) A \$50 nonrefundable permit fee for an event featuring
7 less than three total participating tattoo artists and
8 body piercers demonstrating for educational purposes
9 only, without compensation, consideration, or donation
10 by the public;

11 provided that the department may annually increase the fees
12 specified in paragraphs (1) and (2) by not more than \$100 and
13 \$10 per year, respectively."

14 SECTION 7. Section 321-374, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsection (a) to read:

17 "(a) Except as otherwise provided by law, no person shall
18 practice the occupation of tattoo artist or body piercer in this
19 State, with or without compensation, consideration, or donation,
20 or shall announce [~~oneself~~ either] publicly or privately [~~as~~]
21 that the person is prepared or qualified to practice that



1 occupation without having a valid unrevoked license from the
2 department to do so."

3 2. By amending subsection (c) to read:

4 "(c) The department may issue, to tattoo artists or body
5 piercers who are not licensed in the State, temporary licenses
6 that are valid for a maximum of fourteen consecutive days per
7 calendar year for:

8 (1) Educational, trade show, or product demonstration
9 purposes; or

10 (2) The purpose of practicing the occupation of tattoo
11 artist at a permitted tattoo location[-] or body
12 piercer at a permitted body piercing location.

13 Temporary licensees shall be subject to this part and applicable
14 rules."

15 3. By amending subsection (e) to read:

16 "(e) An applicant for a temporary license as a tattoo
17 artist shall have [~~either~~]:

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



1 (2) Passed the state tattoo artist written examination
2 within two years of the date of the application."

3 4. By amending subsection (g) to read:

4 "(g) Licensed tattoo artists shall tattoo only in a shop
5 or temporary location that has a valid unrevoked permit issued
6 by the director. Licensed body piercers shall perform body
7 piercings only in a shop or temporary location that has a valid
8 unrevoked permit issued by the director."

9 SECTION 8. Section 321-375, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§321-375 Examination, fees required.** (a) No license for
12 a tattoo artist or a body piercer shall be issued unless the
13 applicant takes an examination as prescribed by the director and
14 receives a passing score or, or if seeking a temporary license
15 as a tattoo artist, meets the criteria specified in section 321-
16 374(e). No license shall be issued unless all fees required by
17 the director have been paid.

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



1 SECTION 9. Section 321-377, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The director may revoke or suspend the permit or
4 license of any person permitted or licensed 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 body piercer; or

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

10 SECTION 10. Section 321-379, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) Violations of this part include but are not limited
13 to:

14 (1) Submitting to or filing with the department any
15 application, notice, statement, or other document in
16 procuring or attempting to procure licensure as a
17 tattoo artist or body piercer that is false or untrue
18 or contains any material misstatement of fact, or
19 assisting another party in doing so;

20 (2) Using the title licensed tattoo artist, licensed body
21 piercer, or any other designation tending to imply
22 that the person is a licensed tattoo artist or a



- 1 licensed body piercer when the person is not in fact
2 licensed or the person's license has been suspended or
3 revoked;
- 4 (3) Violating the conditions or limitations of a permit or
5 a license or assisting another party in violating
6 those conditions;
- 7 (4) Engaging in conduct resulting in physical injury to an
8 individual or the public in the course of professional
9 services or activities;
- 10 (5) Aiding or abetting an unlicensed person, knowingly
11 combining or conspiring with an unlicensed person,
12 allowing one's license to be used by an unlicensed
13 person, or acting as agent or associate of an
14 unlicensed person to evade the use of title
15 restrictions of this part;
- 16 (6) Tattooing or performing a body piercing on any person
17 under the age of eighteen without the written consent
18 of the person's parent or legal guardian or not
19 maintaining the consent forms in a confidential manner
20 at the tattoo shop or body piercing shop for not less
21 than two years; or



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

3 SECTION 11. This Act does not affect rights and duties
 4 that matured, penalties that were incurred, and proceedings that
 5 were begun before its effective date.

6 SECTION 12. Statutory material to be repealed is bracketed
 7 and stricken. New statutory material is underscored.

8 SECTION 13. This Act shall take effect on January 1, 2014.
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S.B. NO. 39

Report Title:

Professions; Occupations; Body Piercing; Body Piercers

Description:

Requires any person who performs body piercing to be licensed.

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