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SENATE BILL 5138

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State of Washington

56th Legislature

1999 Regular Session

By Senator Roach

Read first time 01/13/1999. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to regulating body art facilities; amending RCW  
2 43.20.050; adding a new section to chapter 70.05 RCW; and creating a  
3 new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that members of the  
6 public are obtaining body art including tattooing and body piercing.  
7 Body art involves procedures where the skin is broken and the chance  
8 for exposure to virus and infection exists. These procedures involve  
9 health risks, some of which are significant because of bloodborne  
10 pathogens contained in blood and other bodily fluids and the exposure  
11 to contaminated waste. Although many providers of body art, including  
12 tattooing and body piercing, maintain sufficient health and safety  
13 standards and use proper techniques that protect and promote public  
14 health and the health and safety of members of the public, others do  
15 not. Currently, members of the public have no way of knowing which  
16 body artists and facilities are fully qualified to perform these  
17 invasive procedures. While significant work has been done by many  
18 providers as a group and individually to develop and implement health

1 and safety standards, intervention by state and local health  
2 authorities is needed to protect the public's health and safety.

3 **Sec. 2.** RCW 43.20.050 and 1993 c 492 s 489 are each amended to  
4 read as follows:

5 (1) The state board of health shall provide a forum for the  
6 development of public health policy in Washington state. It is  
7 authorized to recommend to the secretary means for obtaining  
8 appropriate citizen and professional involvement in all public health  
9 policy formulation and other matters related to the powers and duties  
10 of the department. It is further empowered to hold hearings and  
11 explore ways to improve the health status of the citizenry.

12 (a) At least every five years, the state board shall convene  
13 regional forums to gather citizen input on public health issues.

14 (b) Every two years, in coordination with the development of the  
15 state biennial budget, the state board shall prepare the state public  
16 health report that outlines the health priorities of the ensuing  
17 biennium. The report shall:

18 (i) Consider the citizen input gathered at the forums;

19 (ii) Be developed with the assistance of local health departments;

20 (iii) Be based on the best available information collected and  
21 reviewed according to RCW 43.70.050 (~~and recommendations from the~~  
22 ~~council~~));

23 (iv) Be developed with the input of state health care agencies. At  
24 least the following directors of state agencies shall provide timely  
25 recommendations to the state board on suggested health priorities for  
26 the ensuing biennium: The secretary of social and health services, the  
27 health care authority administrator, the insurance commissioner, the  
28 superintendent of public instruction, the director of labor and  
29 industries, the director of ecology, and the director of agriculture;

30 (v) Be used by state health care agency administrators in preparing  
31 proposed agency budgets and executive request legislation;

32 (vi) Be submitted by the state board to the governor by January 1  
33 of each even-numbered year for adoption by the governor. The governor,  
34 no later than March 1 of that year, shall approve, modify, or  
35 disapprove the state public health report.

36 (c) In fulfilling its responsibilities under this subsection, the  
37 state board may create ad hoc committees or other such committees of  
38 limited duration as necessary.

1 (2) In order to protect public health, the state board of health  
2 shall:

3 (a) Adopt rules necessary to assure safe and reliable public  
4 drinking water and to protect the public health. Such rules shall  
5 establish requirements regarding:

6 (i) The design and construction of public water system facilities,  
7 including proper sizing of pipes and storage for the number and type of  
8 customers;

9 (ii) Drinking water quality standards, monitoring requirements, and  
10 laboratory certification requirements;

11 (iii) Public water system management and reporting requirements;

12 (iv) Public water system planning and emergency response  
13 requirements;

14 (v) Public water system operation and maintenance requirements;

15 (vi) Water quality, reliability, and management of existing but  
16 inadequate public water systems; and

17 (vii) Quality standards for the source or supply, or both source  
18 and supply, of water for bottled water plants.

19 (b) Adopt rules and standards for prevention, control, and  
20 abatement of health hazards and nuisances related to the disposal of  
21 wastes, solid and liquid, including but not limited to sewage, garbage,  
22 refuse, and other environmental contaminants; adopt standards and  
23 procedures governing the design, construction, and operation of sewage,  
24 garbage, refuse and other solid waste collection, treatment, and  
25 disposal facilities;

26 (c) Adopt rules controlling public health related to environmental  
27 conditions including but not limited to heating, lighting, ventilation,  
28 sanitary facilities, cleanliness and space in all types of public  
29 facilities including but not limited to food service establishments,  
30 schools, institutions, recreational facilities and transient  
31 accommodations and in places of work;

32 (d) Adopt rules for the imposition and use of isolation and  
33 quarantine;

34 (e) Adopt rules for the prevention and control of infectious and  
35 noninfectious diseases, including food and vector borne illness, and  
36 rules governing the receipt and conveyance of remains of deceased  
37 persons, and such other sanitary matters as admit of and may best be  
38 controlled by universal rule; and

1 (f) Adopt rules for accessing existing data bases for the purposes  
2 of performing health related research.

3 (3)(a) The state board of health may adopt rules for the purpose of  
4 permitting local health jurisdictions to regulate body art operators  
5 and body art facilities. These rules shall establish requirements  
6 regarding:

7 (i) Minimum standards for facility cleanliness and education of  
8 body artists;

9 (ii) Incorporation of national standards as developed by nationally  
10 recognized organizations with extensive expertise in body art;

11 (iii) Knowledge and practice by operators of universal precautions,  
12 and requirements for sanitation, personal hygiene, sterilization, and  
13 aftercare requirements to prevent transmission of disease;

14 (iv) Appropriate exemptions for physicians and other medical  
15 personnel performing within their legal scope of practice;

16 (v) Requirements for disclosure of the health risks, aftercare  
17 requirements, and contacts at the local health department to whom  
18 complaints or inquiries may be addressed to customers or potential  
19 customers of body art.

20 (b) For the purposes of this subsection:

21 (i) "Body art" means the practice of physical body adornment by  
22 body piercing, tattooing, branding, and scarification. "Body art" does  
23 not include practices that are considered medical or nursing  
24 procedures, such as implants under the skin that are within the  
25 licensed professionals' scope of practice;

26 (ii) "Body art facility" means a place or premise, whether public,  
27 private, temporary, or permanent in nature or location, where the  
28 practices of body art are performed, even if no compensation is  
29 received;

30 (iii) "Body piercing" means any method of piercing or invading the  
31 skin or mucosa, except an ear lobe, in order to place any object or  
32 forms of jewelry through the skin or mucosa. "Body piercing" does not  
33 include practices that are considered medical or nursing procedures,  
34 such as implants under the skin that are within the licensed  
35 professionals' scope of practice;

36 (iv) "Jewelry" means a personal ornament inserted into a pierced  
37 area. "Jewelry" must be: Made of surgical implant grade steel or  
38 other appropriate metal, including gold; free of nicks, scratches, or

1 irregular surfaces; and properly sterilized before insertion. Ear  
2 studs are not considered jewelry for the purposes of this subsection;

3 (v) "Operator" means a person who controls, operates, manages,  
4 conducts, or practices body art activities and who is responsible for  
5 compliance with this chapter, whether or not the person actually  
6 performs body art. "Operator" includes a technician who performs body  
7 art under the direction of an operator; and

8 (vi) "Tattooing" means any method of placing ink or other pigment  
9 into or under the skin or mucosa, by the aid of needles or any other  
10 instrument used to puncture the skin, resulting in permanent coloration  
11 of the skin or mucosa.

12 (4) The state board may delegate any of its rule-adopting authority  
13 to the secretary and rescind such delegated authority.

14 ~~((4))~~ (5) All local boards of health, health authorities and  
15 officials, officers of state institutions, police officers, sheriffs,  
16 constables, and all other officers and employees of the state, or any  
17 county, city, or township thereof, shall enforce all rules adopted by  
18 the state board of health. In the event of failure or refusal on the  
19 part of any member of such boards or any other official or person  
20 mentioned in this section to so act, he shall be subject to a fine of  
21 not less than fifty dollars, upon first conviction, and not less than  
22 one hundred dollars upon second conviction.

23 ~~((5))~~ (6) The state board may advise the secretary on health  
24 policy issues pertaining to the department of health and the state.

25 NEW SECTION. Sec. 3. A new section is added to chapter 70.05 RCW  
26 to read as follows:

27 (1) The local public health officer, under powers and duties  
28 provided in RCW 70.05.070, may establish a program to regulate body art  
29 operators and body art facilities, based on standards adopted by rule  
30 by the state board of health.

31 (2) Local public health officers may develop their own standards,  
32 if the standards are not less rigorous than those developed by the  
33 state board of health.

34 (3) Local public health officers may charge a fee or fees to body  
35 art facilities and artists sufficient to cover the expenses of their  
36 regulatory program under this chapter, but the fee or fees may not be  
37 more than the actual cost of the regulatory program.

1       (4) Local public health officers that adopt a regulatory program  
2 are encouraged to work with local body artists in promoting public  
3 awareness of the risks of body art and the need to use body artists who  
4 meet at least the minimum standards as set forth in the state board of  
5 health rules.

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