
SUBSTITUTE SENATE BILL 5913

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Kastama, Kohl-Welles and Rasmussen)

READ FIRST TIME 03/08/05.

1 AN ACT Relating to regulating tattooing and body piercing
2 businesses; amending RCW 18.16.010, 18.16.020, 18.16.030, 18.16.050,
3 18.16.060, 18.16.130, 18.16.170, 18.16.180, 18.16.190, 18.16.200,
4 18.16.290, 70.54.320, 70.54.330, 70.54.340, and 70.54.350; reenacting
5 and amending RCW 18.16.175; adding new sections to chapter 18.16 RCW;
6 and prescribing penalties.

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

8 **Sec. 1.** RCW 18.16.010 and 2002 c 111 s 1 are each amended to read
9 as follows:

10 The legislature recognizes that the practices of cosmetology,
11 barbering, manicuring, ~~((and))~~ esthetics, tattooing, and body piercing
12 involve the use of tools, invasive procedures, and chemicals which may
13 be dangerous when mixed or applied improperly, and therefore finds it
14 necessary in the interest of the public health, safety, and welfare to
15 regulate those practices in this state.

16 **Sec. 2.** RCW 18.16.020 and 2003 c 400 s 2 are each amended to read
17 as follows:

1 As used in this chapter, the following terms have the meanings
2 indicated unless the context clearly requires otherwise:

3 (1) "Apprenticeship program" means an apprenticeship pilot program
4 approved under RCW 18.16.280 for the practice of cosmetology,
5 barbering, esthetics, and manicuring, which expires July 1, 2006.

6 (2) "Apprentice" means a person engaged in a state-approved
7 apprenticeship program and who may receive a wage or compensation while
8 engaged in the program.

9 (3) "Department" means the department of licensing.

10 (4) "Board" means the cosmetology, barbering, esthetics, ~~((and))~~
11 manicuring, tattooing, and body piercing advisory board.

12 (5) "Director" means the director of the department of licensing or
13 the director's designee.

14 (6) "The practice of cosmetology" means arranging, dressing,
15 cutting, trimming, styling, shampooing, permanent waving, chemical
16 relaxing, straightening, curling, bleaching, lightening, coloring,
17 waxing, tweezing, shaving, and mustache and beard design of the hair of
18 the face, neck, and scalp; temporary removal of superfluous hair by use
19 of depilatories, waxing, or tweezing; manicuring and pedicuring,
20 limited to cleaning, shaping, polishing, decorating, and caring for and
21 treatment of the cuticles and nails of the hands and feet, excluding
22 the application and removal of sculptured or otherwise artificial
23 nails; esthetics limited to toning the skin of the scalp, stimulating
24 the skin of the body by the use of preparations, tonics, lotions, or
25 creams; and tinting eyelashes and eyebrows.

26 (7) "Cosmetologist" means a person licensed under this chapter to
27 engage in the practice of cosmetology.

28 (8) "The practice of barbering" means the cutting, trimming,
29 arranging, dressing, curling, shampooing, shaving, and mustache and
30 beard design of the hair of the face, neck, and scalp.

31 (9) "Barber" means a person licensed under this chapter to engage
32 in the practice of barbering.

33 (10) "Practice of manicuring" means the cleaning, shaping,
34 polishing, decorating, and caring for and treatment of the cuticles and
35 the nails of the hands or feet, and the application and removal of
36 sculptured or otherwise artificial nails by hand or with mechanical or
37 electrical apparatus or appliances.

- 1 (11) "Manicurist" means a person licensed under this chapter to
2 engage in the practice of manicuring.
- 3 (12) "Practice of esthetics" means care of the skin by application
4 and use of preparations, antiseptics, tonics, essential oils, or
5 exfoliants, or by any device or equipment, electrical or otherwise, or
6 by wraps, compresses, cleansing, conditioning, stimulation, pore
7 extraction, or product application and removal; the temporary removal
8 of superfluous hair by means of lotions, creams, mechanical or
9 electrical apparatus, appliance, waxing, tweezing, or depilatories;
10 tinting of eyelashes and eyebrows; and lightening the hair, except the
11 scalp, on another person.
- 12 (13) "Esthetician" means a person licensed under this chapter to
13 engage in the practice of esthetics.
- 14 (14) "Instructor-trainee" means a person who is currently licensed
15 in this state as a cosmetologist, barber, manicurist, or esthetician,
16 and is enrolled in an instructor-trainee curriculum in a school
17 licensed under this chapter.
- 18 (15) "School" means any establishment that offers curriculum of
19 instruction in the practice of cosmetology, barbering, esthetics,
20 manicuring, or instructor-trainee to students and is licensed under
21 this chapter.
- 22 (16) "Student" means a person sixteen years of age or older who is
23 enrolled in a school licensed under this chapter and receives
24 instruction in any of the curricula of cosmetology, barbering,
25 esthetics, manicuring, or instructor-training with or without tuition,
26 fee, or cost, and who does not receive any wage or commission.
- 27 (17) "Instructor" means a person who gives instruction in a school
28 in a curriculum in which he or she holds a license under this chapter,
29 has completed at least five hundred hours of instruction in teaching
30 techniques and lesson planning in a school, and has passed a licensing
31 examination approved or administered by the director. An applicant who
32 holds a degree in education from an accredited postsecondary
33 institution shall upon application be licensed as an instructor to give
34 instruction in a school in a curriculum in which he or she holds a
35 license under this chapter. An applicant who holds an instructional
36 credential from an accredited community or technical college and who
37 has passed a licensing examination approved or administered by the

1 director shall upon application be licensed as an instructor to give
2 instruction in a school in a curriculum in which he or she holds a
3 license under this chapter.

4 (18) "Person" means any individual, partnership, professional
5 service corporation, joint stock association, joint venture, or any
6 other entity authorized to do business in this state.

7 (19) "Salon/shop" means any building, structure, or any part
8 thereof, other than a school, where the commercial practice of
9 cosmetology, barbering, esthetics, ~~((or))~~ manicuring, tattooing, or
10 body piercing is conducted; provided that any person, except employees
11 of a salon/shop, who operates from a salon/shop is required to meet all
12 salon/shop licensing requirements and may participate in the
13 apprenticeship program when certified by the advisory committee as
14 established by the department of labor and industries apprenticeship
15 council.

16 (20) "Crossover training" means training approved by the director
17 as training hours that may be credited to current licensees for similar
18 training received in another profession licensed under this chapter.

19 (21) "Approved security" means surety bond.

20 (22) "Personal services" means a location licensed under this
21 chapter where the practice of cosmetology, barbering, manicuring, or
22 esthetics is performed for clients in the client's home, office, or
23 other location that is convenient for the client.

24 (23) "Individual license" means a cosmetology, barber, manicurist,
25 esthetician, or instructor license issued under this chapter.

26 (24) "Location license" means a license issued under this chapter
27 for a salon/shop, school, personal services, or mobile unit.

28 (25) "Mobile unit" is a location license under this chapter where
29 the practice of cosmetology, barbering, esthetics, or manicuring is
30 conducted in a mobile structure. Mobile units must conform to the
31 health and safety standards set by rule under this chapter.

32 (26) "Curriculum" means the courses of study taught at a school,
33 set by rule under this chapter, and approved by the department. After
34 consulting with the board, the director may set by rule a percentage of
35 hours in a curriculum, up to a maximum of ten percent, that could
36 include hours a student receives while training in a salon/shop under
37 a contract approved by the department. Each curriculum must include at
38 least the following required hours:

- 1 (a) Cosmetologist, one thousand six hundred hours;
2 (b) Barber, one thousand hours;
3 (c) Manicurist, six hundred hours;
4 (d) Esthetician, six hundred hours;
5 (e) Instructor-trainee, five hundred hours.

6 (27) "Student monthly report" means the student record of daily
7 activities and the number of hours completed in each course of a
8 curriculum that is prepared monthly by the school and provided to the
9 student, audited annually by the department, and kept on file by the
10 school for three years.

11 (28) "Tattoo artist" means a person who practices the business of
12 tattooing for a fee.

13 (29) "Tattooing" means the indelible mark, figure, or decorative
14 design introduced by insertion of nontoxic dyes or pigments into or
15 under the subcutaneous portion of the skin upon the body of a live
16 human being for cosmetic or figurative purposes.

17 (30) "Body piercer" means a person who performs body piercing.

18 (31) "Body piercing" means the creation of an opening in an
19 individual's body, other than in an individual's earlobe, to insert
20 jewelry or another decoration. This act does not authorize a licensed
21 body piercer to implant or embed foreign objects into the human body or
22 otherwise engage in the practice of medicine.

23 **Sec. 3.** RCW 18.16.030 and 2004 c 51 s 7 are each amended to read
24 as follows:

25 In addition to any other duties imposed by law, including RCW
26 18.235.030 and 18.235.040, the director shall have the following powers
27 and duties:

28 (1) To set all license, examination, and renewal fees in accordance
29 with RCW 43.24.086;

30 (2) To adopt rules necessary to implement this chapter;

31 (3) To prepare and administer or approve the preparation and
32 administration of licensing examinations;

33 (4) To establish minimum safety and sanitation standards for
34 schools, instructors, cosmetologists, barbers, manicurists,
35 estheticians, tattoo artists, body piercers, salons/shops, personal
36 services, and mobile units;

- 1 (5) To establish curricula for the training of students under this
2 chapter;
- 3 (6) To maintain the official department record of applicants and
4 licensees;
- 5 (7) To establish by rule the procedures for an appeal of an
6 examination failure;
- 7 (8) To set license expiration dates and renewal periods for all
8 licenses consistent with this chapter;
- 9 (9) To ensure that all informational notices produced and mailed by
10 the department regarding statutory and regulatory changes affecting any
11 particular class of licensees are mailed to each licensee in good
12 standing or on inactive status in the affected class whose mailing
13 address on record with the department has not resulted in mail being
14 returned as undeliverable for any reason; and
- 15 (10) To make information available to the department of revenue to
16 assist in collecting taxes from persons required to be licensed under
17 this chapter.

18 **Sec. 4.** RCW 18.16.050 and 2002 c 111 s 4 are each amended to read
19 as follows:

20 (1) There is created a state cosmetology, barbering, esthetics,
21 ~~((and))~~ manicuring, tattooing, and body piercing advisory board
22 consisting of ~~((nine))~~ twelve members appointed by the director. These
23 members of the board shall include: A representative of private
24 schools licensed under this chapter; a representative of public
25 vocational technical schools licensed under this chapter; a consumer
26 who is unaffiliated with the cosmetology, barbering, esthetics, or
27 manicuring industry; ~~((and))~~ six members who are currently practicing
28 licensees who have been engaged in the practice of manicuring,
29 esthetics, barbering, or cosmetology for at least three years; and
30 three members who are currently practicing licensees who have been
31 engaged in the practice of tattooing or body piercing for at least
32 three years. Members shall serve a term of three years. Any board
33 member may be removed for just cause. The director may appoint a new
34 member to fill any vacancy on the board for the remainder of the
35 unexpired term.

36 (2) Board members shall be entitled to compensation pursuant to RCW

1 43.03.240 for each day spent conducting official business and to
2 reimbursement for travel expenses as provided by RCW 43.03.050 and
3 43.03.060.

4 (3) The board may seek the advice and input of officials from the
5 following state agencies: (a) The work force training and education
6 coordinating board; (b) the department of employment security; (c) the
7 department of labor and industries; (d) the department of health; (e)
8 the department of licensing; and (f) the department of revenue.

9 **Sec. 5.** RCW 18.16.060 and 2004 c 51 s 1 are each amended to read
10 as follows:

11 (1) It is unlawful for any person to engage in a practice listed in
12 subsection (2) of this section unless the person has a license in good
13 standing as required by this chapter. A license issued under this
14 chapter shall be considered to be "in good standing" except when: (a)
15 The license has expired or has been canceled and has not been renewed
16 in accordance with RCW 18.16.110; (b) the license has been denied,
17 revoked, or suspended under RCW 18.16.210, 18.16.230, or 18.16.240, and
18 has not been reinstated; (c) the license is held by a person who has
19 not fully complied with an order of the director issued under RCW
20 18.16.210 requiring the licensee to pay restitution or a fine, or to
21 acquire additional training; or (d) the license has been placed on
22 inactive status at the request of the licensee, and has not been
23 reinstated in accordance with RCW 18.16.110(3).

24 (2) The director may take action under RCW 18.235.150 and
25 18.235.160 against any person who does any of the following without
26 first obtaining, and maintaining in good standing, the license required
27 by this chapter:

28 (a) Except as provided in subsection (3) of this section, engages
29 in the commercial practice of cosmetology, barbering, esthetics, ((~~or~~))
30 manicuring, tattooing, or body piercing;

31 (b) Instructs in a school;

32 (c) Operates a school; or

33 (d) Operates a salon/shop, personal services, or mobile unit.

34 (3) A person who receives a license as an instructor may engage in
35 the commercial practice for which he or she held a license when
36 applying for the instructor license without also renewing the
37 previously held license. However, a person licensed as an instructor

1 whose license to engage in a commercial practice is not or at any time
2 was not renewed may not engage in the commercial practice previously
3 permitted under that license unless that person renews the previously
4 held license.

5 **Sec. 6.** RCW 18.16.130 and 1991 c 324 s 10 are each amended to read
6 as follows:

7 Any person who is properly licensed in any state, territory, or
8 possession of the United States, or foreign country shall be eligible
9 for examination if the applicant submits the approved application and
10 fee and provides proof to the director that he or she is currently
11 licensed in good standing as a cosmetologist, barber, manicurist,
12 esthetician, instructor, tattoo artist, body piercer, or the equivalent
13 in that jurisdiction. Upon passage of the required examinations the
14 appropriate license will be issued.

15 **Sec. 7.** RCW 18.16.170 and 2002 c 111 s 10 are each amended to read
16 as follows:

17 (1) Subject to subsection (2) of this section, licenses issued
18 under this chapter expire as follows:

19 (a) A salon/shop, personal services, or mobile unit license expires
20 one year from issuance or when the insurance required by RCW
21 18.16.175(1)(g) expires, whichever occurs first;

22 (b) A school license expires one year from issuance; and

23 (c) Cosmetologist, barber, manicurist, esthetician, ~~((and))~~
24 instructor, tattoo artist, and body piercer licenses expire two years
25 from issuance.

26 (2) The director may provide for expiration dates other than those
27 set forth in subsection (1) of this section for the purpose of
28 establishing staggered renewal periods.

29 **Sec. 8.** RCW 18.16.175 and 2002 c 111 s 11 and 2002 c 86 s 216 are
30 each reenacted and amended to read as follows:

31 (1) A salon/shop or mobile unit shall meet the following minimum
32 requirements:

33 (a) Maintain an outside entrance separate from any rooms used for
34 sleeping or residential purposes;

1 (b) Provide and maintain for the use of its customers adequate
2 toilet facilities located within or adjacent to the salon/shop or
3 mobile unit;

4 (c) Any room used wholly or in part as a salon/shop or mobile unit
5 shall not be used for residential purposes, except that toilet
6 facilities may be used jointly for residential and business purposes;

7 (d) Meet the zoning requirements of the county, city, or town, as
8 appropriate;

9 (e) Provide for safe storage and labeling of chemicals used in the
10 practices under this chapter;

11 (f) Meet all applicable local and state fire codes; and

12 (g) Certify that the salon/shop or mobile unit is covered by a
13 public liability insurance policy in an amount not less than one
14 hundred thousand dollars for combined bodily injury and property damage
15 liability.

16 (2) The director may by rule determine other requirements that are
17 necessary for safety and sanitation of salons/shops, personal services,
18 or mobile units. The director may consult with the state board of
19 health and the department of labor and industries in establishing
20 minimum salon/shop, personal services, and mobile unit safety
21 requirements.

22 (3) Personal services license holders shall certify coverage of a
23 public liability insurance policy in an amount not less than one
24 hundred thousand dollars for combined bodily injury and property damage
25 liability.

26 (4) Upon receipt of a written complaint that a salon/shop or mobile
27 unit has violated any provisions of this chapter, chapter 18.235 RCW,
28 or the rules adopted under either chapter, or at least once every two
29 years for an existing salon/shop or mobile unit, the director or the
30 director's designee shall inspect each salon/shop or mobile unit. If
31 the director determines that any salon/shop or mobile unit is not in
32 compliance with this chapter, the director shall send written notice to
33 the salon/shop or mobile unit. A salon/shop or mobile unit which fails
34 to correct the conditions to the satisfaction of the director within a
35 reasonable time shall, upon due notice, be subject to the penalties
36 imposed by the director under RCW 18.235.110. The director may enter
37 any salon/shop or mobile unit during business hours for the purpose of

1 inspection. The director may contract with health authorities of local
2 governments to conduct the inspections under this subsection.

3 (5) A salon/shop, personal services, or mobile unit shall obtain a
4 certificate of registration from the department of revenue.

5 (6) This section does not prohibit the use of motor homes as mobile
6 units if the motor home meets the health and safety standards of this
7 section.

8 (7) Salon/shop or mobile unit licenses issued by the department
9 must be posted in the salon/shop or mobile unit's reception area.

10 (8) Cosmetology, barbering, esthetics, ~~((and))~~ manicuring,
11 tattooing, and body piercing licenses issued by the department must be
12 posted at the licensed person's work station.

13 **Sec. 9.** RCW 18.16.180 and 1991 c 324 s 16 are each amended to read
14 as follows:

15 The director shall prepare and provide to all licensed salons/shops
16 a notice to consumers. At a minimum, the notice shall state that
17 cosmetology, barber, esthetics, ~~((and))~~ manicure, tattooing, and body
18 piercing salons/shops are required to be licensed, that salons/shops
19 are required to maintain minimum safety and sanitation standards, that
20 customer complaints regarding salons/shops may be reported to the
21 department, and a telephone number and address where complaints may be
22 made.

23 **Sec. 10.** RCW 18.16.190 and 1991 c 324 s 20 are each amended to
24 read as follows:

25 It is a violation of this chapter for any person to engage in the
26 commercial practice of cosmetology, barbering, esthetics, ~~((or))~~
27 manicuring, tattooing, or body piercing except in a licensed salon/shop
28 or the home, office, or other location selected by the client for
29 obtaining the services of a personal service operator, or with the
30 appropriate individual license when delivering services to placebound
31 clients. Placebound clients are defined as persons who are ill,
32 disabled, or otherwise unable to travel to a salon/shop.

33 **Sec. 11.** RCW 18.16.200 and 2004 c 51 s 4 are each amended to read
34 as follows:

1 In addition to the unprofessional conduct described in RCW
2 18.235.130, the director may take disciplinary action against any
3 applicant or licensee under this chapter if the licensee or applicant:

4 (1) Has been found to have violated any provisions of chapter 19.86
5 RCW;

6 (2) Has engaged in a practice prohibited under RCW 18.16.060
7 without first obtaining, and maintaining in good standing, the license
8 required by this chapter;

9 (3) Has engaged in the commercial practice of cosmetology,
10 barbering, manicuring, ((~~or~~)) esthetics, tattooing, or body piercing in
11 a school;

12 (4) Has not provided a safe, sanitary, and good moral environment
13 for students in a school or the public;

14 (5) Has failed to display licenses required in this chapter; or

15 (6) Has violated any provision of this chapter or any rule adopted
16 under it.

17 **Sec. 12.** RCW 18.16.290 and 2004 c 51 s 2 are each amended to read
18 as follows:

19 (1) If the holder of an individual license in good standing submits
20 a written and notarized request that the licensee's cosmetology,
21 barber, manicurist, esthetician, ((~~or~~)) instructor, tattooing, or body
22 piercing license be placed on inactive status, together with a fee
23 equivalent to that established by rule for a duplicate license, the
24 department shall place the license on inactive status until the
25 expiration date of the license. If the date of the request is no more
26 than six months before the expiration date of the license, a request
27 for a two-year extension of the inactive status, as provided under
28 subsection (2) of this section, may be submitted at the same time as
29 the request under this subsection.

30 (2) If the holder of a license placed on inactive status under this
31 section submits, by the expiration date of the license, a written and
32 notarized request to extend that status for an additional two years,
33 the department shall, without additional fee, extend the expiration
34 date of: (a) The licensee's individual license; and (b) the inactive
35 status for two years from the expiration date of the license.

36 (3) A license placed on inactive status under this section may not

1 be extended more frequently than once in any twenty-four month period
2 or for more than six consecutive years.

3 (4) If, by the expiration date of a license placed on inactive
4 status under this section, a licensee is unable, or fails, to request
5 that the status be extended and the license is not renewed, the license
6 shall be canceled.

7 **Sec. 13.** RCW 70.54.320 and 2001 c 194 s 1 are each amended to read
8 as follows:

9 The legislature finds and declares that the practice(~~(s)~~) of
10 electrology (~~(and tattooing)~~) involves an invasive procedure with the
11 use of needles and instruments which may be dangerous when improperly
12 sterilized presenting a risk of infecting the client with bloodborne
13 pathogens such as HIV and Hepatitis B. It is in the interests of the
14 public health, safety, and welfare to establish requirements for the
15 sterilization procedures in the commercial practice(~~(s)~~) of electrology
16 (~~(and tattooing)~~) in this state.

17 **Sec. 14.** RCW 70.54.330 and 2001 c 194 s 2 are each amended to read
18 as follows:

19 The definitions in this section apply throughout RCW 70.54.320,
20 70.54.340, and 70.54.350 unless the context clearly requires otherwise.

21 (1) "Electrologist" means a person who practices the business of
22 electrology for a fee.

23 (2) "Electrology" means the process by which hair is permanently
24 removed through the utilization of solid needle/probe electrode
25 epilation, including thermolysis, being of shortwave, high frequency
26 type, and including electrolysis, being of galvanic type, or a
27 combination of both which is accomplished by a superimposed or
28 sequential blend.

29 ~~((3) "Tattoo artist" means a person who practices the business of
30 tattooing for a fee.~~

31 ~~(4) "Tattooing" means the indelible mark, figure, or decorative
32 design introduced by insertion of nontoxic dyes or pigments into or
33 under the subcutaneous portion of the skin upon the body of a live
34 human being for cosmetic or figurative purposes.)~~

1 **Sec. 15.** RCW 70.54.340 and 2001 c 194 s 3 are each amended to read
2 as follows:

3 The secretary of health shall adopt by rule requirements for the
4 sterilization of needles and instruments by electrologists (~~and tattoo~~
5 ~~artists~~) in accordance with nationally recognized professional
6 standards. The secretary shall consider the universal precautions for
7 infection control, as recommended by the United States centers for
8 disease control, and guidelines for infection control, as recommended
9 by the national environmental health association (~~and the alliance of~~
10 ~~professional tattooists~~), in the adoption of these sterilization
11 requirements.

12 **Sec. 16.** RCW 70.54.350 and 2001 c 194 s 4 are each amended to read
13 as follows:

14 (1) Any person who practices electrology (~~or tattooing~~) shall
15 comply with the rules adopted by the department of health under RCW
16 70.54.340.

17 (2) A violation of this section is a misdemeanor.

18 NEW SECTION. **Sec. 17.** A new section is added to chapter 18.16 RCW
19 to read as follows:

20 All tattooing and body piercing salon/shops shall provide a written
21 report of any infection or allergic reaction resulting from
22 electrology, tattooing, or body piercing to the department of licensing
23 within seventy-two hours of its occurrence or knowledge thereof. The
24 report shall include:

25 (1) The name of the infected client;

26 (2) The name and address of the salon/shop where the tattooing or
27 body piercing was performed;

28 (3) The name of the tattoo artist or body piercer;

29 (4) The date of the tattooing or body piercing practice;

30 (5) The location of the infection;

31 (6) The name and address of the health care practitioner, if any;

32 and

33 (7) Any other information considered relevant to the situation.

34 NEW SECTION. **Sec. 18.** A new section is added to chapter 18.16 RCW
35 to read as follows:

1 (1) Licensed tattoo artists and body piercers shall meet the
2 following standards and any others the board may adopt:

3 (a) Compliance with universal precautions for infection control, as
4 recommended by the United States centers for disease control, and
5 guidelines for infection control, as recommended by the national
6 environmental health association and the alliance of professional
7 tattooists;

8 (b) Compliance with sterilization procedures using sterilization
9 equipment approved by the United States food and drug administration
10 for the purpose of sterilization, and adequate in size to accommodate
11 necessary utensils and instruments; and

12 (c) Case history cards shall be kept for each client for five
13 years.

14 (2) A violation of this section is a misdemeanor punishable under
15 RCW 9A.20.021.

16 NEW SECTION. **Sec. 19.** A new section is added to chapter 18.16 RCW
17 to read as follows:

18 The board, in addition to any other penalty prescribed under this
19 chapter, may assess civil fines and costs, including attorneys' fees,
20 after proper notice and an opportunity to be heard, against a licensed
21 tattoo artist or body piercer for a violation of this chapter or rules
22 adopted under this chapter in an amount not to exceed five thousand
23 dollars for the first violation, ten thousand dollars for the second
24 violation, and fifteen thousand dollars for the third violation and for
25 each subsequent violation. In determining the amount of a penalty to
26 be assessed under this section, the board may consider the following
27 factors: (1) Willfulness of the violation; (2) repetitions of the
28 violation; and (3) magnitude of the risk of harm caused by the
29 violation.

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