
Business & Financial Services Committee

HB 2369

Brief Description: Concerning regulation of permanent cosmetics under the Washington body art, body piercing, and tattooing act.

Sponsors: Representative Ryu.

Brief Summary of Bill

- Adds permanent cosmetics to the Washington Body Art, Body Piercing, and Tattooing Act, and renames the Act accordingly.
- Applies the same regulatory scheme applicable to the commercial practice of tattooing, body art, and body piercing, to the commercial practice of permanent cosmetics.
- Requires an applicant for a permanent cosmetics license to have completed a permanent cosmetics curriculum, which must include a minimum of 100 hours of training on permanent cosmetics taught by a permanent cosmetics trainer.
- Establishes requirements for permanent cosmetics trainers and grants rule-making authority to the Department of Licensing to establish additional requirements.
- Adds, from rule to statute, the requirements that a person be age 18 or over and provide proof the person has a blood-borne pathogens certification, to qualify for a body art, body piercing, tattoo, or permanent cosmetics license.

Hearing Date: 1/10/18

Staff: Peter Clodfelter (786-7127).

Background:

The Department of Licensing (DOL) licenses and regulates practitioners of body art, body piercing, and tattooing pursuant to the Washington Body Art, Body Piercing, and Tattooing Act (the Act). An individual must be licensed, as well as the shop or business at which the licensed individual engages in the practice of body art, body piercing, or tattooing.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Body art is the practice of invasive cosmetic adornment including the use of branding and scarification. Body piercing is the process of penetrating the skin or mucous membrane to insert an object, including jewelry, for cosmetic purposes. Tattooing means to pierce or puncture the human skin with a needle or other instrument for the purpose of implanting an indelible mark, or pigment, into the skin. Certain limited exclusions apply to these definitions.

The DOL's powers and duties pertaining to the commercial practice of body art, body piercing, and tattooing include the following:

- setting license, examination, and renewal fees, and adopting rules necessary to implement the Act;
- establishing minimum safety and sanitation standards for practitioners, as determined by the Department of Health;
- obtaining the official record of applicants and licensees;
- ensuring informational notices are mailed to licensees regarding statutory and regulatory changes; and
- preparing and providing to all licensed shops and businesses a notice to customers, which notifies customers of the legal requirement for shops and businesses to maintain minimum safety and sanitation standards, informs customers that customer complaints regarding shops or businesses may be reported to the DOL, and includes a telephone number and address where complaints may be made.

It is unlawful for any person to engage in the practice of body art, body piercing, or tattooing, or to operate a shop or business for that purpose, unless the person has a license in good standing. The DOL may take action pursuant to the Uniform Regulation of Business and Professions Act to investigate or discipline a person who, without a license, engages in the practice of body art, body piercing, or tattooing, or operates a shop or business. The DOL may also discipline an applicant or licensee for violating the Uniform Regulation of Business and Professions Act or the Consumer Protection Act.

The minimum requirements for a shop or business license are the following:

- completing an application developed by the DOL;
- paying the license fee established by the DOL;
- maintaining an outside entrance separate from rooms used for sleeping and residential purposes;
- providing and maintaining for the use of customers, adequate toilet facilities located within or adjacent to the shop or business;
- ensuring any room used wholly or in part as a shop or business is not used for residential purposes, except that toilet facilities may be used for both residential and business purposes;
- meeting local zoning requirements;
- providing for safe storage and labeling of equipment;
- meeting local and state fire codes;
- certifying that the shop or business is covered by a public liability insurance policy in an amount not less than \$100,000 for combined bodily injury and property damage liability;
- obtaining a certificate of registration from the Department of Revenue;
- meeting any additional requirements necessary for safety and sanitation of shops and businesses established by the DOL in rule.

Rules developed by the DOL require an applicant for an individual license to provide proof of blood-borne pathogen certification. Pursuant to those rules, a person must hold the certification from a training course with standards in compliance with federal Occupational Health and Safety Administration rules at 29 C.F.R. 1910.1030, which establish duties, practices, and procedures pertaining to all occupation exposure to blood or other potentially infectious materials in a workplace.

Upon receipt of a written complaint that a shop or business has violated the Act or rules, or at least once every two years for an existing shop or business, the DOL must inspect each shop or business. If the DOL determines a shop or business is not in compliance with the Act, the DOL must send written notice to the shop or business. A shop or business that fails to correct the conditions to the satisfaction of the DOL within a reasonable time is, upon due notice, subject to the penalties imposed by the DOL in accordance with the Uniform Regulation of Business and Professions Act.

The DOL may enter any shop or business during business hours for the purpose of inspection, and may contract with health authorities of local governments to conduct the required inspections.

It is a violation of the Act for a person to engage in the commercial practice of body art, body piercing, or tattooing except in a licensed shop or business with the appropriate individual body art, body piercing, or tattooing license.

Following a hearing, if the DOL finds any person or an applicant or licensee has violated any provision of the Act or rules, the DOL may impose one or more of the following penalties:

- denial of a license or renewal;
- revocation or suspension of a license;
- a fine of not more than \$500 per violation;
- issuance of a reprimand or letter of censure;
- placement of the licensee on probation for a fixed period of time;
- restriction of the licensee's authorized scope of practice;
- requiring the licensee to make restitution or a refund as determined by the DOL to any individual injured by the violation; or
- requiring the licensee to obtain additional training or instruction.

Any person aggrieved by the refusal of the DOL to issue any license or to renew a license, or by the revocation or suspension of a license, or by the application of any of the penalties listed above, may appeal the decision to superior court. An appeal must be filed within 30 days of the DOL's decision.

The DOL must immediately suspend any license issued under the Act if the DOL receives information that the license holder has not complied with the requirement to disable the ability of ATM and point-of-sale machines located on their business premises to accept electronic benefit cards. Also, the DOL must suspend the license of a person who has been certified by the Department of Social and Health Services as a person who is not in compliance with a support order.

A violation of the Act is considered a violation of the Consumer Protection Act.

An applicant with military training or experience satisfies the training or experience requirements of the Act unless the director determines the military training or experience is not substantially equivalent to the standards of this state.

The license application forms and regulations developed by the DOL include the practice of "permanent cosmetics" as a distinct type of tattooing, body art, or body piercing regulated under the Act.

Summary of Bill:

Permanent cosmetics is added to the Washington Body Art, Body Piercing, and Tattooing Act. The Act is renamed the Washington Body Art, Body Piercing, Tattooing, and Permanent Cosmetics Act (the Act).

Permanent cosmetics is defined as the process of using tattooing techniques to apply permanent eyebrows, eyeliner, lip liner, lip color, hair follicles, or scar camouflage, to improve or restore a person's appearance. It also includes the repigmentation of skin by a permanent cosmetics artist following an initial application of permanent eyebrows, eyeliner, lip liner, lip color, hair follicles, or scar camouflage through the use of tattooing techniques. It is established that permanent cosmetics is a form of tattooing.

A permanent cosmetics artist is a person who uses tattooing techniques to apply permanent eyebrows, eyeliner, lip liner, lip color, hair follicles, or scar camouflage, to improve or restore a person's appearance. All of the requirements applicable to tattoo, body art, and body piercing practitioners, and shops or businesses, are applicable to permanent cosmetics artists and shops or businesses. However, the additional requirement of completing a permanent cosmetics curriculum applies to applicants for a permanent cosmetics artist license.

A permanent cosmetics curriculum is defined as training required pursuant to rules adopted by the DOL, which must include a minimum of 100 hours of training on permanent cosmetics taught by a permanent cosmetics trainer who is approved by the DOL. To qualify as a permanent cosmetics trainer, a person must hold a current license as a permanent cosmetics artist and have held a permanent cosmetics artist license for at least five consecutive years.

The following license requirements for individual body art, body piercing, tattoo, and permanent cosmetics artists are moved from the DOL's rules to statute: (1) a person must be age 18 or over; and (2) a person must provide proof the person holds a blood-borne pathogens certification from a training course with standards in compliance with federal Occupational Health and Safety Administration rules.

Appropriation: None.

Fiscal Note: Requested on 1/5/18.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.