
**Consumer Protection & Business
Committee**

HB 2109

Brief Description: Regulating permanent cosmetics.

Sponsors: Representatives Ryu, Eslick, Reed and Reeves.

Brief Summary of Bill

- Creates new professional licenses for the practices of permanent cosmetics and enhanced permanent cosmetics administered by the Department of Licensing under the Cosmetologists, Hair Designers, Barbers, Manicurists, and Estheticians Act (Cosmetology Act).
- Establishes criminal penalties for practicing enhanced or permanent cosmetics on a person under the age of 18.

Hearing Date: 1/16/24

Staff: Michelle Rusk (786-7153).

Background:

Body Art, Body Piercing, and Tattooing.

The Department of Licensing (DOL) regulates body art, body piercing, and tattooing licenses under the Washington Body Art, Body Piercing, and Tattooing Act (Tattooing Act). It is unlawful for any person to engage in these practices or operate a shop doing the same without a license. Body art is the practice of invasive cosmetic adornment, including use of branding and scarification; body piercing is the penetration of skin or mucous membrane to insert an object for cosmetic purposes; and tattooing is the piercing or puncturing of the human skin with a needle for purposes of implanting an indelible mark or pigment.

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

The DOL sets licensing fees for individual licenses, and location licenses for shops. An applicant for an individual license must complete an application, complete blood-borne pathogen training, and pay a licensing fee. Practitioner licenses must be posted in each practitioner's work station. Individual licenses expire one year from issuance, and if a license has not been renewed within one year after its expiration date, the license must be cancelled. The person must submit an application, pay the license fee, and meet any other established licensing requirements to have the license reinstated.

Applicants for a location license for a body art, body piercing, and/or tattooing shop must complete an application, pay a licensing fee, carry public liability insurance policies, comply with zoning and fire codes, and meet safety and sanitation standards. Location licenses for shops must be posted in a reception area. Shop licenses expire one year from issuance or when the shop's insurance expires, whichever comes first.

The DOL may take action against a person who engages in body art, body piercing, or tattooing, or operates a shop without a license or with a license that is not in good standing.

The DOL must establish safety and sanitation standards for body art, body piercing, or tattooing practitioners as determined by the Department of Health. The DOL must also provide all businesses with a notice to customers stating that all body art, body piercing, and tattoo businesses must be licensed, comply with safety and sanitation standards, and customer complaints can be made to the DOL.

Summary of Bill:

Permanent Cosmetics and Enhanced Permanent Cosmetics Licenses Established.

Licenses are established and required for the practice of permanent cosmetics and the practice of enhanced permanent cosmetics administered by the DOL under the Cosmetology Act:

- The practice of permanent cosmetics includes the piercing or puncturing of the human skin with a needle or other instrument to apply permanent eyebrows, hair follicles, or scar camouflage for purposes of improving or restoring a person's appearance. A practitioner is a permanent cosmetics artist.
- The practice of enhanced permanent cosmetics includes the scope of practice for permanent cosmetics but also includes the piercing or puncturing of mucous membranes and areas adjacent to mucous membranes for applying eyeliner, lip liner, and lip color. Practitioners are enhanced permanent cosmetics artists.

It is prohibited under the Cosmetology Act to practice enhanced or permanent cosmetics on any person under the age of 18.

Individual Licenses.

New and separate licensing requirements are established for the practice of enhanced or

permanent cosmetics. An applicant for either individual license must complete an application, pay proper licensing fees and:

- be 18 years of age;
- have graduated from a school, including a licensed permanent cosmetics program, in a curriculum approved by the director;
- obtain a bloodborne pathogen certification; and
- receive a passing grade on an applicable exam.

Schools include "permanent cosmetics programs," which are any programs exclusively offering curriculum of instruction in enhanced and/or permanent cosmetics and are licensed under the Cosmetology Act. The required school curriculum must include: (1) 100 hours for permanent cosmetics; and (2) 200 hours for enhanced permanent cosmetics artists, or 300 hours for a scope of practice that includes performance of corrective procedures.

Licenses expire two years from issuance. Persons licensed in good standing in a different state or jurisdiction of the United States are eligible for examination in Washington if the applicant submits the requisite application and fee, and provides proof to the DOL Director of their license in good standing in that jurisdiction.

Instructors.

New and separate requirements are established for instructors of enhanced or permanent cosmetics, who must:

- Provide classroom theory training on enhanced or permanent cosmetics, or both, to individuals in a curriculum approved by the Director.
- Hold a license as an enhanced or permanent cosmetics artist, or have held an equivalent license issued by the DOL under the Tattooing Act for the five consecutive years before this act; and
- Demonstrate five consecutive years of performing enhanced and/or permanent cosmetics procedures.

License Transition.

Procedures are established to allow for a transition from licensing under the Tattooing Act to a license under the Cosmetology Act:

- Prior to December 31, 2026, any person holding a license issued by the DOL under the Tattooing Act may be licensed as an enhanced or permanent cosmetics artist after paying the appropriate licensing fee and demonstrating that they have held their license in good standing for the prior three consecutive years; and
- Any enhanced or permanent cosmetics licensee wishing to renew a license granted under the foregoing authority must provide proof acceptable to the DOL of the person's certifications to perform the enhanced and/or permanent cosmetics procedures they perform. The DOL may establish rules for recognizing certifications.

Permanent Cosmetics Artist Shops.

New and separate requirements are established for permanent cosmetics shops, which are any

building or structure, other than a school, where the commercial practice of enhanced or permanent cosmetics is conducted. A permanent cosmetics shop must obtain a location license and:

- Maintain a separate outside entrance from any room used for sleeping or residential purposes.
- Provide and maintain adequate toilet facilities within or adjacent to the permanent cosmetics shop.
- Meet zoning and fire code requirements.
- Provide for safe storage and labeling of equipment and substances used.
- Certify that the shop is covered by a public liability insurance policy in an amount not less than \$100,000.
- Obtain a certificate of registration from the Department of Revenue.
- Make visible to the public the Permanent Cosmetics Shop location license and individual licenses at an artist's work station.

The DOL Director may inspect a shop upon written complaint that it is violating provisions of the Cosmetology Act and, if necessary, issue penalties for continued noncompliance after notice of the noncompliance. Licenses expire one year from issuance, or when the required insurance expires, whichever occurs first.

Department of Licensing Authority.

The DOL is given authority to establish minimum safety and sanitation requirements for schools, including permanent cosmetics programs, enhanced and permanent cosmetics artists, and permanent cosmetics shops. The practices of enhanced and permanent cosmetics are made subject to the Uniform Regulation of Business and Professions Act, and the DOL director has authority to take disciplinary action against individuals practicing enhanced and/or permanent cosmetics or operating a shop without a license, or performing the practices of enhanced or permanent cosmetics on an individual under the age of 18.

Additional Changes.

The Cosmetology Act is renamed as the Washington cosmetologists, hair designers, barbers, manicurists, estheticians, and permanent cosmetics act. The Advisory Board is renamed as the state cosmetology, hair design, barbering, esthetics, master esthetics, manicuring, permanent cosmetics, and enhanced permanent cosmetics advisory board. A representative from an approved permanent cosmetics shop and from the enhanced and permanent cosmetics industry are added to the membership of the board, and one of the six practicing licensee members must hold a permanent or enhanced permanent cosmetics license.

Other changes include:

- It is a misdemeanor to perform enhanced or permanent cosmetics on a minor, though it is a defense if a bona fide attempt was made to ascertain an individual's true age.
- The definition of "tattooing" in the Tattooing Act is modified to exclude the practice of permanent cosmetics and the practice of enhanced permanent cosmetics.
- A violation of enhanced or permanent cosmetics laws or rules constitutes negligence per

se.

- Enhanced and permanent cosmetics artists are made subject to the Secretary of Health of the Department of Health rules regarding precautions against the spread of disease, including sterilization of needles/instruments, and makes violations of the Secretary's rules a criminal misdemeanor.
- Permanent cosmetics shops are prohibited from accepting public assistance electronic benefits cards as payment for services .
- Enhanced and permanent cosmetics are added to the definition of "sale at retail" for purposes of applying the Business and Occupation (B&O) statute.

Appropriation: None.

Fiscal Note: Requested on January 9, 2024.

Effective Date: The bill takes effect on January 1, 2026.