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SENATE BILL 5074

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By Senators Murray, Kohl-Welles, Rockefeller, Haugen, Keiser, Regala, Prentice, Hobbs, and Parlette

Read first time 01/12/11. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to body art, body piercing, and tattooing; amending  
2 RCW 18.300.010, 18.300.020, 18.300.030, 18.300.050, 18.300.060,  
3 18.300.070, 18.300.090, and 18.300.130; and adding new sections to  
4 chapter 18.300 RCW.

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

6 **Sec. 1.** RCW 18.300.010 and 2009 c 412 s 2 are each amended to read  
7 as follows:

8 The definitions in this section apply throughout this chapter and  
9 RCW 5.40.050 and 70.54.340 unless the context clearly requires  
10 otherwise.

11 (1) "Body art" means the practice of invasive cosmetic adornment  
12 including the use of branding and scarification. "Body art" also  
13 includes the intentional production of scars upon the body. "Body art"  
14 does not include any health-related procedures performed by licensed  
15 health care practitioners under their scope of practice.

16 (2) "Body piercing" means the process of penetrating the skin or  
17 mucous membrane to insert an object, including jewelry, for cosmetic  
18 purposes. "Body piercing" also includes any scar tissue resulting from  
19 or relating to the piercing. "Body piercing" does not include the use

1 of stud and clasp piercing systems to pierce the earlobe in accordance  
2 with the manufacturer's directions and applicable United States food  
3 and drug administration requirements. "Body piercing" does not include  
4 any health-related procedures performed by licensed health care  
5 practitioners under their scope of practice, nor does anything in  
6 (~~chapter 412, Laws of 2009~~) this chapter authorize a person  
7 registered to engage in the business of body piercing to implant or  
8 embed foreign objects into the human body or otherwise engage in the  
9 practice of medicine.

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

11 (4) "Director" means the director of the department of licensing or  
12 his or her designee.

13 (~~(4)~~) (5) "Individual operator license" means a license issued to  
14 a person to perform body art, body piercing, or (~~tattoo practitioner~~  
15 ~~license issued~~) tattooing under this chapter.

16 (~~(5)~~) (6) "Location license" means a license issued to a shop or  
17 business under this chapter (~~for a shop or business~~).

18 (~~(6)~~) (7) "Shop or business" means a body art, body piercing, or  
19 tattooing shop or business.

20 (~~(7)~~) ~~"Tattoo artist" means a person who pierces or punctures the~~  
21 ~~human skin with a needle or other instrument for the purpose of~~  
22 ~~implanting an indelible mark, or pigment, into the skin for a fee.)~~

23 (8) "Tattooing" means to pierce or puncture the human skin with a  
24 needle or other instrument for the purpose of implanting an indelible  
25 mark, or pigment, into the skin.

26 **Sec. 2.** RCW 18.300.020 and 2009 c 412 s 3 are each amended to read  
27 as follows:

28 (~~In addition to any other duties imposed by law, including RCW~~  
29 ~~18.235.030 and 18.235.040, the director has the following powers and~~  
30 ~~duties~~) The director must:

31 (1) (~~To~~) Set all license, examination, and renewal fees in  
32 accordance with RCW 43.24.086 and 18.300.050;

33 (2) (~~To~~) Adopt rules necessary to implement this chapter;

34 (3) (~~To~~) Prepare and administer or approve the preparation and  
35 administration of licensing;

36 (4) (~~To~~) Establish minimum safety and sanitation standards for

1 practitioners of body art, body piercing, or tattooing as determined by  
2 the department of health;

3 (5) ~~((Tø))~~ Maintain the official department record of applicants  
4 and licensees;

5 (6) ~~((Tø))~~ Set license expiration dates and renewal periods for all  
6 licenses consistent with this chapter;

7 (7) ~~((Tø))~~ Ensure that all informational notices produced and  
8 mailed by the department regarding statutory and regulatory changes  
9 affecting any particular class of licensees are mailed to each licensee  
10 in good standing in the affected class whose mailing address on record  
11 with the department has not resulted in mail being returned as  
12 undeliverable for any reason; and

13 (8) ~~((Tø))~~ Make information available to the department of revenue  
14 to assist in collecting taxes from persons and businesses required to  
15 be licensed under this chapter.

16 **Sec. 3.** RCW 18.300.030 and 2009 c 412 s 4 are each amended to read  
17 as follows:

18 (1) It is unlawful for any person to engage in a practice listed in  
19 subsection (2) of this section unless the person has a license in good  
20 standing as required by this chapter. A license issued under this  
21 chapter is considered to be "in good standing" except when:

22 (a) The license has expired ~~((or has been canceled))~~ and has not  
23 been renewed in accordance with RCW 18.300.050;

24 (b) The license has been denied, revoked, or suspended under RCW  
25 18.300.110 or 18.300.130, and has not been reinstated; or

26 (c) The license is held by a person who has not fully complied with  
27 an order of the director issued under RCW 18.300.110 requiring the  
28 licensee to pay restitution or a fine, or to acquire additional  
29 training.

30 (2) The director may take action under RCW 18.235.150 and  
31 18.235.160 against any person who does any of the following without  
32 first obtaining, and maintaining in good standing, the license required  
33 by this chapter:

34 (a) Engages in the practice of body art, body piercing, or  
35 tattooing; or

36 (b) Operates a shop or business.

1           **Sec. 4.** RCW 18.300.050 and 2009 c 412 s 6 are each amended to read  
2 as follows:

3           (1) The director shall issue ~~((the appropriate))~~ an individual  
4 operator license or a location license to any applicant who meets the  
5 requirements ~~((as outlined in))~~ of this chapter. The director ~~((has~~  
6 ~~the authority to))~~ may set appropriate ~~((licensing))~~ fees for ~~((body~~  
7 ~~art, body piercing, and tattooing shops and businesses and body art,~~  
8 ~~body piercing, and tattooing individual practitioners))~~ individual  
9 operator licenses and location licenses. Licensing fees for individual  
10 ~~((practitioners))~~ operator licenses must be set in an amount less than  
11 licensing fees for ~~((shops and businesses))~~ location licenses.

12           (2) Failure to renew a license by its expiration date subjects the  
13 holder to a penalty fee and payment of each year's renewal fee, at the  
14 current rate.

15           (3) ~~((A person whose license has not been renewed within one year~~  
16 ~~after its expiration date must have his or her license canceled and~~  
17 ~~must be required to submit an application, pay the license fee, meet~~  
18 ~~current licensing requirements, and pass any applicable examination or~~  
19 ~~examinations, in addition to the other requirements of this chapter,~~  
20 ~~before the license may be reinstated.~~

21           ~~(4))~~ Nothing in this section authorizes a person whose license has  
22 expired to engage in a practice prohibited under RCW 18.300.030 until  
23 the license is renewed or reinstated.

24           ~~((+5))~~ (4) Upon request and payment of an additional fee to be  
25 established by rule by the director, the director shall issue a  
26 duplicate license to an applicant.

27           NEW SECTION. **Sec. 5.** A new section is added to chapter 18.300 RCW  
28 to read as follows:

29           (1) Before July 1, 2013, a person qualifies for an individual  
30 operator license if he or she:

31           (a) Completes an application and pays a licensing fee established  
32 by the department;

33           (b) Is at least eighteen years old;

34           (c) Provides the department proof of bloodborne pathogen training;  
35 and

36           (d) Meets all applicable industry specific requirements as defined  
37 by the department.

1 (2) Beginning July 1, 2013, a person qualifies for an individual  
2 operator license if he or she:

3 (a) Completes an application and pays a licensing fee established  
4 by the department of licensing;

5 (b) Is at least eighteen years old;

6 (c) Provides the department proof of bloodborne pathogen training;

7 (d) During the three years before the date of the application,  
8 completes an internship program under section 6 of this act; and

9 (e) Meets all applicable industry specific requirements as defined  
10 by the department.

11 (3) The department may issue a guest artist license to a  
12 nonresident of Washington state who intends to engage in the practice  
13 of body art, body piercing, or tattooing in this state. Guest artists  
14 must meet the requirements of subsection (1) of this section, practice  
15 in accordance with department rules, and are subject to this chapter.  
16 Guest artist licenses may be issued for a period of up to thirty days.  
17 The department may adopt rules relating to renewal or reissuance of  
18 guest artist licenses.

19 (4) The department may issue an individual operator license to a  
20 nonresident of Washington state if the applicant can demonstrate at  
21 least three consecutive years of documented experience practicing in  
22 the profession of body art, body piercing, or tattooing and that this  
23 experience occurred within the five-year period before the date of the  
24 application.

25 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.300 RCW  
26 to read as follows:

27 Beginning July 1, 2013, applicants for an individual operator  
28 license must demonstrate completion of an internship program. The  
29 internship program must consist of at least twelve consecutive months  
30 of training in the profession of body art, body piercing, or tattooing  
31 that are completed in accordance with department rules. A person in an  
32 internship program must be trained by an individual operator licensee  
33 who has seven consecutive years of documented experience in the  
34 profession of body art, body piercing, or tattooing.

35 **Sec. 7.** RCW 18.300.060 and 2009 c 412 s 7 are each amended to read  
36 as follows:

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

3 (a) A (~~body art, body piercing, or tattooing shop or business~~)  
4 location license expires one year from issuance or when the insurance  
5 required by RCW 18.300.070(1)(g) expires, whichever occurs first; and

6 (b) (~~Body art, body piercing, or tattooing practitioner~~)  
7 Individual operator licenses expire one year from issuance.

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

11 **Sec. 8.** RCW 18.300.070 and 2009 c 412 s 8 are each amended to read  
12 as follows:

13 (1) A (~~body art, body piercing, or tattooing shop or business~~)  
14 location license holder shall meet the following minimum requirements  
15 for the licensed shop or business:

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

18 (b) Provide and maintain for the use of its customers adequate  
19 toilet facilities located within or adjacent to the shop or business;

20 (c) Any room used wholly or in part as a shop or business may not  
21 be used for residential purposes, except that toilet facilities may be  
22 used for both residential and business purposes;

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

25 (e) Provide for safe storage and labeling of equipment and  
26 substances used in the practices under this chapter;

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

28 (g) Certify that the shop or business is covered by a public  
29 liability insurance policy in an amount not less than one hundred  
30 thousand dollars for combined bodily injury and property damage  
31 liability.

32 (2) The (~~director~~) department may by rule determine other  
33 requirements that are necessary for safety and sanitation of shops or  
34 businesses. The (~~director~~) department may consult with the state  
35 board of health and the department of labor and industries in  
36 establishing minimum shop and business safety requirements.

1 (3) Upon receipt of a written complaint that a shop or business has  
2 violated any provisions of this chapter, chapter 18.235 RCW, or the  
3 rules adopted under either chapter, or at least once every two years  
4 for an existing shop or business, the ~~((director or the director's  
5 designee shall))~~ department must inspect each shop or business. If the  
6 ~~((director))~~ department determines that any shop or business is not in  
7 compliance with this chapter, the ~~((director shall))~~ department must  
8 send written notice to the shop or business. A shop or business which  
9 fails to correct the conditions to the satisfaction of the ~~((director))~~  
10 department within a reasonable time is, upon due notice, subject to the  
11 penalties imposed by the ~~((director))~~ department under RCW 18.235.110.  
12 The ~~((director))~~ department may enter any shop or business during  
13 business hours for the purpose of inspection. The ~~((director))~~  
14 department may contract with health authorities of local governments to  
15 conduct the inspections under this subsection.

16 (4) A shop or business shall obtain a certificate of registration  
17 from the department of revenue.

18 (5) ~~((Shop or business))~~ Location licenses issued by the department  
19 must be posted in the shop or business's reception area.

20 (6) ~~((Body art, body piercing, and tattooing practitioner))~~  
21 Individual operator licenses issued by the department must be posted at  
22 the licensed person's work station.

23 **Sec. 9.** RCW 18.300.090 and 2009 c 412 s 10 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 body art, body piercing, or tattooing except in  
27 a licensed shop or business with the appropriate ~~((individual))~~ body  
28 art, body piercing, or tattooing individual operator license.

29 **Sec. 10.** RCW 18.300.130 and 2009 c 412 s 14 are each amended to  
30 read as follows:

31 The department shall immediately suspend the license of a person  
32 who has been certified under RCW ~~((74.20A.320))~~ 74.20A.324 by the  
33 department of social and health services as a person who is not in  
34 compliance with a support order. If the person has continued to meet  
35 all other requirements for reinstatement during the suspension,

1 reissuance of the license is automatic upon the department's receipt of  
2 a release issued by the department of social and health services  
3 stating that the licensee is in compliance with the order.

4 NEW SECTION. **Sec. 11.** A new section is added to chapter 18.300  
5 RCW to read as follows:

6 The department shall suspend the license of any person who has been  
7 certified by a lending agency and reported to the department for  
8 nonpayment or default on a federally or state-guaranteed educational  
9 loan or service-conditional scholarship. Prior to the suspension, the  
10 department must provide the person an opportunity for a brief  
11 adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue  
12 a finding of nonpayment or default on a federally or state-guaranteed  
13 educational loan or service-conditional scholarship. The person's  
14 license may not be reissued until the person provides the department a  
15 written release issued by the lending agency stating that the person is  
16 making payments on the loan in accordance with a repayment agreement  
17 approved by the lending agency. If the person has continued to meet  
18 all other requirements for licensure during the suspension,  
19 reinstatement is automatic upon receipt of the notice and payment of  
20 any reinstatement fee the department may impose.

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