

SSB 5391 - H COMM AMD  
By Committee on Ways & Means

ADOPTED 04/13/2009

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds and declares that the  
4 practices of body piercing, tattooing, and other forms of body art  
5 involve an invasive procedure with the use of needles, sharps,  
6 instruments, and jewelry. These practices may be dangerous when  
7 improper sterilization techniques are used, presenting a risk of  
8 infecting the client with bloodborne pathogens including, but not  
9 limited to, HIV, hepatitis B, and hepatitis C. It is in the interests  
10 of the public health, safety, and welfare to establish requirements in  
11 the commercial practice of these activities in this state.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply  
13 throughout this chapter and RCW 5.40.050 and 70.54.340 unless the  
14 context clearly requires otherwise.

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

20 (2) "Body piercing" means the process of penetrating the skin or  
21 mucous membrane to insert an object, including jewelry, for cosmetic  
22 purposes. "Body piercing" also includes any scar tissue resulting from  
23 or relating to the piercing. "Body piercing" does not include the use  
24 of stud and clasp piercing systems to pierce the earlobe in accordance  
25 with the manufacturer's directions and applicable United States food  
26 and drug administration requirements. "Body piercing" does not include  
27 any health-related procedures performed by licensed health care  
28 practitioners under their scope of practice, nor does anything in this

1 act authorize a person registered to engage in the business of body  
2 piercing to implant or embed foreign objects into the human body or  
3 otherwise engage in the practice of medicine.

4 (3) "Director" means the director of the department of licensing.

5 (4) "Individual license" means a body art, body piercing, or tattoo  
6 practitioner license issued under this chapter.

7 (5) "Location license" means a license issued under this chapter  
8 for a shop or business.

9 (6) "Shop or business" means a body art, body piercing, or  
10 tattooing shop or business.

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

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

17 NEW SECTION. **Sec. 3.** In addition to any other duties imposed by  
18 law, including RCW 18.235.030 and 18.235.040, the director has the  
19 following powers and duties:

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

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

23 (3) To prepare and administer or approve the preparation and  
24 administration of licensing;

25 (4) To establish minimum safety and sanitation standards for  
26 practitioners of body art, body piercing, or tattooing as determined by  
27 the department of health;

28 (5) To maintain the official department record of applicants and  
29 licensees;

30 (6) To set license expiration dates and renewal periods for all  
31 licenses consistent with this chapter;

32 (7) To ensure that all informational notices produced and mailed by  
33 the department regarding statutory and regulatory changes affecting any  
34 particular class of licensees are mailed to each licensee in good  
35 standing in the affected class whose mailing address on record with the  
36 department has not resulted in mail being returned as undeliverable for  
37 any reason; and

1 (8) To make information available to the department of revenue to  
2 assist in collecting taxes from persons and businesses required to be  
3 licensed under this chapter.

4 NEW SECTION. **Sec. 4.** (1) It is unlawful for any person to engage  
5 in a practice listed in subsection (2) of this section unless the  
6 person has a license in good standing as required by this chapter. A  
7 license issued under this chapter is considered to be "in good  
8 standing" except when:

9 (a) The license has expired or has been canceled and has not been  
10 renewed in accordance with section 6 of this act;

11 (b) The license has been denied, revoked, or suspended under  
12 section 12 or 14 of this act, and has not been reinstated; or

13 (c) The license is held by a person who has not fully complied with  
14 an order of the director issued under section 12 of this act requiring  
15 the licensee to pay restitution or a fine, or to acquire additional  
16 training.

17 (2) The director may take action under RCW 18.235.150 and  
18 18.235.160 against any person who does any of the following without  
19 first obtaining, and maintaining in good standing, the license required  
20 by this chapter:

21 (a) Engages in the practice of body art, body piercing, or  
22 tattooing; or

23 (b) Operates a shop or business.

24 NEW SECTION. **Sec. 5.** Upon completion of an application approved  
25 by the department and payment of the proper fee, the director shall  
26 issue the appropriate location license to any person who completes an  
27 application approved by the department, provides certification of  
28 insurance, and provides payment of the proper fee.

29 NEW SECTION. **Sec. 6.** (1) The director shall issue the appropriate  
30 license to any applicant who meets the requirements as outlined in this  
31 chapter. The director has the authority to set appropriate licensing  
32 fees for body art, body piercing, and tattooing shops and businesses  
33 and body art, body piercing, and tattooing individual practitioners.  
34 Licensing fees for individual practitioners must be set in an amount  
35 less than licensing fees for shops and businesses.

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

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

10 (4) Nothing in this section authorizes a person whose license has  
11 expired to engage in a practice prohibited under section 4 of this act  
12 until the license is renewed or reinstated.

13 (5) Upon request and payment of an additional fee to be established  
14 by rule by the director, the director shall issue a duplicate license  
15 to an applicant.

16 NEW SECTION. **Sec. 7.** (1) Subject to subsection (2) of this  
17 section, licenses issued under this chapter expire as follows:

18 (a) A body art, body piercing, or tattooing shop or business  
19 location license expires one year from issuance or when the insurance  
20 required by section 8(1)(g) of this act expires, whichever occurs  
21 first; and

22 (b) Body art, body piercing, or tattooing practitioner individual  
23 licenses expire one year from issuance.

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

27 NEW SECTION. **Sec. 8.** (1) A body art, body piercing, or tattooing  
28 shop or business shall meet the following minimum requirements:

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

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

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

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

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

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

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

10 (2) The director may by rule determine other requirements that are  
11 necessary for safety and sanitation of shops or businesses. The  
12 director may consult with the state board of health and the department  
13 of labor and industries in establishing minimum shop and business  
14 safety requirements.

15 (3) Upon receipt of a written complaint that a shop or business has  
16 violated any provisions of this chapter, chapter 18.235 RCW, or the  
17 rules adopted under either chapter, or at least once every two years  
18 for an existing shop or business, the director or the director's  
19 designee shall inspect each shop or business. If the director  
20 determines that any shop or business is not in compliance with this  
21 chapter, the director shall send written notice to the shop or  
22 business. A shop or business which fails to correct the conditions to  
23 the satisfaction of the director within a reasonable time is, upon due  
24 notice, subject to the penalties imposed by the director under RCW  
25 18.235.110. The director may enter any shop or business during  
26 business hours for the purpose of inspection. The director may  
27 contract with health authorities of local governments to conduct the  
28 inspections under this subsection.

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

31 (5) Shop or business location licenses issued by the department  
32 must be posted in the shop or business's reception area.

33 (6) Body art, body piercing, and tattooing practitioner individual  
34 licenses issued by the department must be posted at the licensed  
35 person's work station.

36 NEW SECTION. **Sec. 9.** The director shall prepare and provide to  
37 all licensed shops or businesses a notice to consumers. At a minimum,

1 the notice must state that body art, body piercing, and tattooing shops  
2 or businesses are required to be licensed, that shops or businesses are  
3 required to maintain minimum safety and sanitation standards, that  
4 customer complaints regarding shops or businesses may be reported to  
5 the department, and a telephone number and address where complaints may  
6 be made.

7 NEW SECTION. **Sec. 10.** It is a violation of this chapter for any  
8 person to engage in the commercial practice of body art, body piercing,  
9 or tattooing except in a licensed shop or business with the appropriate  
10 individual body art, body piercing, or tattooing license.

11 NEW SECTION. **Sec. 11.** In addition to the unprofessional conduct  
12 described in RCW 18.235.130, the director may take disciplinary action  
13 against any applicant or licensee under this chapter if the licensee or  
14 applicant:

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

17 (2) Has engaged in a practice prohibited under section 4 of this  
18 act without first obtaining, and maintaining in good standing, the  
19 license required by this chapter;

20 (3) Has failed to display licenses required in this chapter; or

21 (4) Has violated any provision of this chapter or any rule adopted  
22 under it.

23 NEW SECTION. **Sec. 12.** If, following a hearing, the director finds  
24 that any person or an applicant or licensee has violated any provision  
25 of this chapter or any rule adopted under it, the director may impose  
26 one or more of the following penalties:

27 (1) Denial of a license or renewal;

28 (2) Revocation or suspension of a license;

29 (3) A fine of not more than five hundred dollars per violation;

30 (4) Issuance of a reprimand or letter of censure;

31 (5) Placement of the licensee on probation for a fixed period of  
32 time;

33 (6) Restriction of the licensee's authorized scope of practice;

34 (7) Requiring the licensee to make restitution or a refund as

1 determined by the director to any individual injured by the violation;  
2 or

3 (8) Requiring the licensee to obtain additional training or  
4 instruction.

5 NEW SECTION. **Sec. 13.** Any person aggrieved by the refusal of the  
6 director to issue any license provided for in this chapter, or to renew  
7 the same, or by the revocation or suspension of any license issued  
8 under this chapter or by the application of any penalty under section  
9 12 of this act has the right to appeal the decision of the director to  
10 the superior court of the county in which the person maintains his or  
11 her place of business. The appeal must be filed within thirty days of  
12 the director's decision.

13 NEW SECTION. **Sec. 14.** The department shall immediately suspend  
14 the license of a person who has been certified under RCW 74.20A.320 by  
15 the department of social and health services as a person who is not in  
16 compliance with a support order. If the person has continued to meet  
17 all other requirements for reinstatement during the suspension,  
18 reissuance of the license is automatic upon the department's receipt of  
19 a release issued by the department of social and health services  
20 stating that the licensee is in compliance with the order.

21 NEW SECTION. **Sec. 15.** The legislature finds that the practices  
22 covered by this chapter are matters vitally affecting the public  
23 interest for the purpose of applying the consumer protection act,  
24 chapter 19.86 RCW. A violation of this chapter is not reasonable in  
25 relation to the development and preservation of business and is an  
26 unfair or deceptive act in trade or commerce and an unfair method of  
27 competition for the purpose of applying the consumer protection act,  
28 chapter 19.86 RCW.

29 NEW SECTION. **Sec. 16.** The uniform regulation of business and  
30 professions act, chapter 18.235 RCW, governs unlicensed practice, the  
31 issuance and denial of licenses, and the discipline of licensees under  
32 this chapter.

1        NEW SECTION.    **Sec. 17.** This act shall be known and may be cited as  
2 the "Washington body art, body piercing, and tattooing act."

3        NEW SECTION.    **Sec. 18.** If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

7        **Sec. 19.** RCW 70.54.340 and 2001 c 194 s 3 are each amended to read  
8 as follows:

9        The secretary of health shall adopt by rule requirements, in  
10 accordance with nationally recognized professional standards, for  
11 precautions against the spread of disease, including the sterilization  
12 of needles and other instruments, including sharps and jewelry,  
13 employed by electrologists, persons engaged in the practice of body  
14 art, body piercing, and tattoo artists (~~(in accordance with nationally~~  
15 ~~recognized professional standards)~~). The secretary shall consider the  
16 (~~(universal)~~) standard precautions for infection control, as  
17 recommended by the United States centers for disease control, and  
18 guidelines for infection control, as recommended by (~~(the national~~  
19 ~~environmental health association and the alliance of professional~~  
20 ~~tattooists,~~) national industry standards in the adoption of these  
21 sterilization requirements.

22        **Sec. 20.** RCW 5.40.050 and 2001 c 194 s 5 are each amended to read  
23 as follows:

24        A breach of a duty imposed by statute, ordinance, or administrative  
25 rule shall not be considered negligence per se, but may be considered  
26 by the trier of fact as evidence of negligence; however, any breach of  
27 duty as provided by statute, ordinance, or administrative rule relating  
28 to: (1) Electrical fire safety, (2) the use of smoke alarms, (3)  
29 sterilization of needles and instruments used by persons engaged in the  
30 practice of body art, body piercing, tattooing, or electrology, or  
31 other precaution against the spread of disease, as required under RCW  
32 70.54.350, or (4) driving while under the influence of intoxicating  
33 liquor or any drug, shall be considered negligence per se.



1           **Sec. 21.** RCW 43.24.150 and 2008 c 119 s 22 are each amended to  
2 read as follows:

3           (1) The business and professions account is created in the state  
4 treasury. All receipts from business or professional licenses,  
5 registrations, certifications, renewals, examinations, or civil  
6 penalties assessed and collected by the department from the following  
7 chapters must be deposited into the account:

8           (a) Chapter 18.11 RCW, auctioneers;

9           (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;

10          (c) Chapter 18.96 RCW, landscape architects;

11          (d) Chapter 18.145 RCW, court reporters;

12          (e) Chapter 18.165 RCW, private investigators;

13          (f) Chapter 18.170 RCW, security guards;

14          (g) Chapter 18.185 RCW, bail bond agents;

15          (h) Chapter 18.280 RCW, home inspectors;

16          (i) Chapter 19.16 RCW, collection agencies;

17          (j) Chapter 19.31 RCW, employment agencies;

18          (k) Chapter 19.105 RCW, camping resorts;

19          (l) Chapter 19.138 RCW, sellers of travel;

20          (m) Chapter 42.44 RCW, notaries public; (~~and~~)

21          (n) Chapter 64.36 RCW, timeshares; and

22          (o) Chapter 18.-- RCW (the new chapter created in section 24 of  
23 this act).

24          Moneys in the account may be spent only after appropriation.  
25 Expenditures from the account may be used only for expenses incurred in  
26 carrying out these business and professions licensing activities of the  
27 department. Any residue in the account shall be accumulated and shall  
28 not revert to the general fund at the end of the biennium.

29          (2) The director shall biennially prepare a budget request based on  
30 the anticipated costs of administering the business and professions  
31 licensing activities listed in subsection (1) of this section, which  
32 shall include the estimated income from these business and professions  
33 fees.

34           **Sec. 22.** RCW 18.235.020 and 2008 c 119 s 21 are each amended to  
35 read as follows:

36          (1) This chapter applies only to the director and the boards and  
37 commissions having jurisdiction in relation to the businesses and

1 professions licensed under the chapters specified in this section.  
2 This chapter does not apply to any business or profession not licensed  
3 under the chapters specified in this section.

4 (2)(a) The director has authority under this chapter in relation to  
5 the following businesses and professions:

6 (i) Auctioneers under chapter 18.11 RCW;

7 (ii) Bail bond agents and bail bond recovery agents under chapter  
8 18.185 RCW;

9 (iii) Camping resorts' operators and salespersons under chapter  
10 19.105 RCW;

11 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

12 (v) Cosmetologists, barbers, manicurists, and estheticians under  
13 chapter 18.16 RCW;

14 (vi) Court reporters under chapter 18.145 RCW;

15 (vii) Driver training schools and instructors under chapter 46.82  
16 RCW;

17 (viii) Employment agencies under chapter 19.31 RCW;

18 (ix) For hire vehicle operators under chapter 46.72 RCW;

19 (x) Limousines under chapter 46.72A RCW;

20 (xi) Notaries public under chapter 42.44 RCW;

21 (xii) Private investigators under chapter 18.165 RCW;

22 (xiii) Professional boxing, martial arts, and wrestling under  
23 chapter 67.08 RCW;

24 (xiv) Real estate appraisers under chapter 18.140 RCW;

25 (xv) Real estate brokers and salespersons under chapters 18.85 and  
26 18.86 RCW;

27 (xvi) Security guards under chapter 18.170 RCW;

28 (xvii) Sellers of travel under chapter 19.138 RCW;

29 (xviii) Timeshares and timeshare salespersons under chapter 64.36  
30 RCW;

31 (xix) Whitewater river outfitters under chapter 79A.60 RCW; and

32 (xx) Home inspectors under chapter 18.280 RCW; and

33 (xxi) Body artists, body piercers, and tattoo artists, and body  
34 art, body piercing, and tattooing shops and businesses, under chapter  
35 18.-- RCW (the new chapter created in section 24 of this act).

36 (b) The boards and commissions having authority under this chapter  
37 are as follows:

1 (i) The state board of registration for architects established in  
2 chapter 18.08 RCW;

3 (ii) The cemetery board established in chapter 68.05 RCW;

4 (iii) The Washington state collection agency board established in  
5 chapter 19.16 RCW;

6 (iv) The state board of registration for professional engineers and  
7 land surveyors established in chapter 18.43 RCW governing licenses  
8 issued under chapters 18.43 and 18.210 RCW;

9 (v) The state board of funeral directors and embalmers established  
10 in chapter 18.39 RCW;

11 (vi) The state board of registration for landscape architects  
12 established in chapter 18.96 RCW; and

13 (vii) The state geologist licensing board established in chapter  
14 18.220 RCW.

15 (3) In addition to the authority to discipline license holders, the  
16 disciplinary authority may grant or deny licenses based on the  
17 conditions and criteria established in this chapter and the chapters  
18 specified in subsection (2) of this section. This chapter also governs  
19 any investigation, hearing, or proceeding relating to denial of  
20 licensure or issuance of a license conditioned on the applicant's  
21 compliance with an order entered under RCW 18.235.110 by the  
22 disciplinary authority.

23 NEW SECTION. **Sec. 23.** The director of licensing and the  
24 department of health, beginning on the effective date of this section,  
25 may take such steps as are necessary to ensure that this act is  
26 implemented July 1, 2010.

27 NEW SECTION. **Sec. 24.** Sections 1 through 18 of this act  
28 constitute a new chapter in Title 18 RCW.

29 NEW SECTION. **Sec. 25.** Sections 1 through 21 of this act take  
30 effect July 1, 2010."

31 Correct the title.

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