H-3928.1

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**SUBSTITUTE HOUSE BILL 2369**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** House Business & Financial Services (originally sponsored by Representatives Ryu and Appleton)

AN ACT Relating to regulation of permanent cosmetics under the Washington body art, body piercing, and tattooing act; amending RCW 18.300.005, 18.300.010, 18.300.020, 18.300.030, 18.300.040, 18.300.050, 18.300.060, 18.300.070, 18.300.080, 18.300.090, and 18.300.900; and providing an effective date.

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

**Sec.**  RCW 18.300.005 and 2009 c 412 s 1 are each amended to read as follows:

The legislature finds and declares that the practices of body piercing, tattooing, permanent cosmetics, and other forms of body art involve an invasive procedure with the use of needles, sharps, instruments, and jewelry. These practices may be dangerous when improper sterilization techniques are used, presenting a risk of infecting the client with blood-borne pathogens including, but not limited to, HIV, hepatitis B, and hepatitis C. It is in the interests of the public health, safety, and welfare to establish requirements in the commercial practice of these activities in this state.

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

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

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

(2) "Body piercing" means the process of penetrating the skin or mucous membrane to insert an object, including jewelry, for cosmetic purposes. "Body piercing" also includes any scar tissue resulting from or relating to the piercing. "Body piercing" does not include the use of stud and clasp piercing systems to pierce the earlobe in accordance with the manufacturer's directions and applicable United States food and drug administration requirements. "Body piercing" does not include any health-related procedures performed by licensed health care practitioners under their scope of practice, nor does anything in chapter 412, Laws of 2009 authorize a person registered to engage in the business of body piercing to implant or embed foreign objects into the human body or otherwise engage in the practice of medicine.

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

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

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

(6) "Permanent cosmetics" means 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. "Permanent cosmetics" 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. "Permanent cosmetics" is a form of tattooing.

(7) "Permanent cosmetics artist" means 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.

(8) "Permanent cosmetics curriculum" means training required pursuant to rules adopted by the director that includes a minimum of one hundred hours of training on permanent cosmetics taught by a permanent cosmetics trainer who is approved by the director.

(9) "Permanent cosmetics trainer" means a person who:

(a) Provides training on permanent cosmetics to an individual in a permanent cosmetics curriculum approved by the director;

(b) Holds a current license as a permanent cosmetics artist; and

(c) Has held the permanent cosmetics artist license for at least five consecutive years.

(10) "Shop or business" means a body art, body piercing, ((~~or~~)) tattooing, or permanent cosmetics shop or business.

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

((~~(8)~~)) (12) "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.

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

In addition to any other duties imposed by law, including RCW 18.235.030 and 18.235.040, the director has the following powers and duties:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Engages in the practice of body art, body piercing, ((~~or~~)) tattooing, or permanent cosmetics; or

(b) Operates a shop or business.

**Sec.**  RCW 18.300.040 and 2009 c 412 s 5 are each amended to read as follows:

Upon completion of an application approved by the department and payment of the proper fee, the director shall:

(1) Issue the appropriate location license to any person who completes an application approved by the department((~~,~~)) and provides certification of insurance((~~, and provides payment of the proper fee~~));

(2) Issue the appropriate individual body art, body piercing, or tattoo practitioner license to any person who is age eighteen or older and provides proof the person holds a blood-borne pathogens certification from a training course with standards in compliance with 29 C.F.R. Sec. 1910.1030 (2017); and

(3) Issue an individual permanent cosmetics license to any person who: (a) Is age eighteen or older; (b) provides proof the person holds a blood-borne pathogens certification from a training course with standards in compliance with 29 C.F.R. Sec. 1910.1030 (2017); and (c) completes a permanent cosmetics curriculum. However, a person with a license or endorsement to perform permanent cosmetics issued by the department, that is in good standing on the effective date of this section, is not required to complete a permanent cosmetics curriculum in order to be issued a license under this subsection (3) or to renew such a license.

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

(1) The director shall issue the appropriate license to any applicant who meets the requirements as outlined in this chapter. The director has the authority to set appropriate licensing fees for body art, body piercing, ((~~and~~)) tattooing, and permanent cosmetics shops and businesses and body art, body piercing, ((~~and~~)) tattooing, and permanent cosmetics individual practitioners. Licensing fees for individual practitioners must be set in an amount less than licensing fees for shops and businesses.

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

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

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

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

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

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

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

(b) Body art, body piercing, ((~~or~~)) tattooing, or permanent cosmetics practitioner individual licenses expire one year from issuance.

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

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

(1) A body art, body piercing, ((~~or~~)) tattooing, or permanent cosmetics shop or business shall meet the following minimum requirements:

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

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

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

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 18.300.080 and 2009 c 412 s 9 are each amended to read as follows:

The director shall prepare and provide to all licensed shops or businesses a notice to consumers. At a minimum, the notice must state that body art, body piercing, ((~~and~~)) tattooing, and permanent cosmetics shops or businesses are required to be licensed, that shops or businesses are required to maintain minimum safety and sanitation standards, that customer complaints regarding shops or businesses may be reported to the department, and a telephone number and address where complaints may be made.

**Sec.**  RCW 18.300.090 and 2009 c 412 s 10 are each amended to read as follows:

It is a violation of this chapter for any person to engage in the commercial practice of body art, body piercing, ((~~or~~)) tattooing, or permanent cosmetics except in a licensed shop or business with the appropriate individual body art, body piercing, ((~~or~~)) tattooing, or permanent cosmetics license.

**Sec.**  RCW 18.300.900 and 2009 c 412 s 17 are each amended to read as follows:

This act shall be known and may be cited as the "Washington body art, body piercing, ((~~and~~)) tattooing, and permanent cosmetics act.

NEW SECTION. **Sec.**  This act takes effect January 1, 2019.

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