
SENATE BILL 5741

State of Washington

54th Legislature

1995 Regular Session

By Senators Roach, Winsley, Rasmussen, Schow, Pelz, Long, Johnson and Quigley

Read first time 02/03/95. Referred to Committee on Labor, Commerce & Trade.

1 AN ACT Relating to the regulation of permanent color technicians
2 and tattoo artists; reenacting and amending RCW 18.130.040; adding a
3 new chapter to Title 18 RCW; providing an effective date; and declaring
4 an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds it necessary to
7 regulate the activities of permanent color technicians and tattoo
8 artists in order to protect the public health and safety. It is the
9 legislature's intent that only individuals who meet and maintain
10 minimum standards of competence and conduct may provide these services
11 to the public.

12 NEW SECTION. **Sec. 2.** In this chapter, unless the context
13 otherwise requires, the following meanings shall apply:

14 (1) "Committee" means the Washington state permanent color
15 technician and tattoo artist advisory committee.

16 (2) "Certified permanent color technician and tattoo artist" means
17 a person certified under the provisions of this chapter to practice
18 tattooing.

1 (3) "Department" means the department of health.

2 (4) "Permanent color technician and tattoo artist" means a person
3 who practices tattooing pursuant to this chapter.

4 (5) "Physician" means a person licensed to practice in this state
5 under chapter 18.57 or 18.71 RCW.

6 (6) "Secretary" means the secretary of health or the secretary's
7 designee.

8 (7) "Tattoo" means the indelible mark, figure, or decorative design
9 introduced by insertion of nontoxic dyes or pigments into or under the
10 subcutaneous portion of the skin upon the body of a live human being.

11 (8) "Tattooing" means the process by which the skin is marked or
12 colored by insertion of nontoxic dyes or pigments into or under the
13 subcutaneous portion of the skin so as to form indelible marks for
14 cosmetic, medical, or figurative purposes.

15 (9) "Tattoo facility" means a room or space, or any part thereof,
16 where tattooing is practiced or where the business of tattooing is
17 conducted.

18 NEW SECTION. **Sec. 3.** The Washington state permanent color
19 technician and tattoo artist advisory committee is created. The
20 committee shall consist of four members who shall be appointed by the
21 governor for a term of four years each. Two members shall represent
22 permanent color technicians and two members shall represent tattoo
23 artists. Members shall be residents of this state and shall have not
24 less than three years experience in the practice of permanent color
25 techniques or tattooing immediately preceding their appointment and
26 shall be certified under this chapter and actively engaged in the
27 practice of permanent color techniques or tattooing during their
28 incumbency.

29 In addition to the members specified in this section, the governor
30 shall appoint two consumer members of the committee, who shall serve
31 for a term of four years. The consumer members of the committee shall
32 be individuals who do not derive their livelihood by providing
33 permanent color technician or tattoo artist services and are not
34 certified health professionals. Consumer members shall not be
35 employees of the state nor a present or former member of another
36 licensing entity.

37 In the event that a member cannot complete his or her term of
38 office, another appointment shall be made by the governor in accordance

1 with the procedures stated in this section to fill the remainder of the
2 term. No member may serve more than two successive terms whether full
3 or partial. The governor may remove any member of the committee for
4 neglect of duty, incompetence, or unprofessional or disorderly conduct
5 as determined under chapter 18.130 RCW.

6 Members of the committee shall be compensated in accordance with
7 RCW 43.03.240. Members shall be reimbursed for travel expenses
8 incurred in the actual performance of their duties, as provided in RCW
9 43.03.050 and 43.03.060.

10 The committee may annually elect a chair to direct the meetings of
11 the committee. The committee shall meet as called by the chair or the
12 secretary, but at least once each year. Three members of the committee
13 shall constitute a quorum of the committee.

14 NEW SECTION. **Sec. 4.** In addition to any other authority provided
15 by law, the secretary may:

16 (1) Adopt rules in accordance with chapter 34.05 RCW necessary to
17 implement this chapter;

18 (2) Define, evaluate, approve, and designate those schools,
19 programs, and apprenticeship programs including all current and
20 proposed curriculum, faculty, and health, sanitation, and facility
21 standards from which graduation will be accepted as proof of an
22 applicant's eligibility to take the examination;

23 (3) Review approved schools and programs periodically;

24 (4) Prepare, grade, administer, and supervise the grading and
25 administration of, examinations for applicants for certification;

26 (5) Determine which states have educational and regulatory
27 requirements equivalent to those of this state; and

28 (6) Seek advice and recommendations from the committee.

29 The secretary shall establish by rule the standards and procedures
30 for approving courses of study and may contract with individuals or
31 organizations having expertise in the profession or in education to
32 assist in evaluating courses of study. The standards and procedures
33 set shall apply equally to schools and training within the United
34 States of America and those in foreign jurisdictions.

35 NEW SECTION. **Sec. 5.** (1) No person may practice or represent
36 himself or herself as a permanent color technician or tattoo artist

1 without first applying for and receiving from the department a
2 certification to practice.

3 (2) This section does not prevent or affect the use of tattooing by
4 a physician, a person under the control and supervision of a physician,
5 or any other person specifically permitted to use tattooing by law.

6 NEW SECTION. **Sec. 6.** All certifications issued under the
7 provisions of this chapter, unless otherwise provided shall expire on
8 the annual anniversary date of the individual's date of birth.

9 The secretary shall prorate the fee based on one-twelfth of the
10 annual fee for each full calendar month between the issue date and the
11 next anniversary of the applicant's birth date, a date used as the
12 expiration date of such certificate.

13 Every applicant for a certificate shall pay an examination fee
14 determined by the secretary as provided in RCW 43.70.250, which fee
15 shall accompany their application. Applications for certification
16 shall be submitted on forms provided by the secretary.

17 Applicants granted a certificate under this chapter shall pay to
18 the secretary a fee determined by the secretary as provided in RCW
19 43.70.250, prior to the issuance of their certificate, and an annual
20 renewal fee determined by the secretary as provided in RCW 43.70.250.
21 Failure to renew shall invalidate the certificate and all privileges
22 granted to the certificated practitioner, but such certificate may be
23 reinstated upon written application to the secretary and payment to the
24 state of all delinquent fees and penalties as determined by the
25 secretary. In the event a certificate has lapsed for a period longer
26 than three years, the certificated practitioner shall demonstrate
27 competence to the satisfaction of the secretary by proof of continuing
28 education or other standard determined by the secretary with the advice
29 of the committee.

30 NEW SECTION. **Sec. 7.** The secretary shall issue a permanent color
31 technician's or tattoo artist's certification to an applicant who
32 demonstrates to the secretary's satisfaction that the following
33 requirements have been met:

34 (1) Has complied with the provisions of this chapter and the
35 applicable rules of the department;

36 (2) Is not less than eighteen years of age;

37 (3) Has a high school diploma or equivalent education;

1 (4) Has submitted evidence of completion of education or training,
2 prescribed and approved by the secretary, under the direct supervision
3 of a certified permanent color technician and tattoo artist; and

4 (5) Has passed an examination approved, administered, or recognized
5 by the committee.

6 In addition, applicants shall be subject to the grounds for denial
7 or issuance of a conditional certificate under chapter 18.130 RCW.

8 The secretary may require any information and documentation that
9 reasonably relates to the need to determine whether the applicant meets
10 the criteria for certification provided for in this chapter and chapter
11 18.130 RCW. The secretary shall establish by rule what constitutes
12 adequate proof of meeting the criteria. The secretary shall give an
13 appropriate alternate form of examination for persons who cannot read
14 or speak English to determine equivalent competency.

15 NEW SECTION. **Sec. 8.** (1) A person who holds a certificate shall
16 notify the department in writing of the regular address of the place or
17 places where the person performs or intends to perform tattooing and
18 shall keep the certificate conspicuously posted in the place of
19 business at all times.

20 (2) The department shall keep a record of the place or places of
21 business of each person who holds a certificate.

22 (3) Any notice required to be given by the department to a person
23 who holds a certificate may be given by mailing the notice to the
24 address of the last place of business of which the person has notified
25 the department.

26 (4) The department shall issue to each qualified applicant a
27 certificate to operate a tattoo facility and to advertise permanent
28 makeup or tattooing services for which the facility is certified.

29 NEW SECTION. **Sec. 9.** All permanent color technicians and tattoo
30 artists must participate in continuing education, with guidelines and
31 requirements to be established by rule of the secretary.

32 NEW SECTION. **Sec. 10.** Certified practicing permanent color
33 technicians and tattoo artists shall meet the following standards and
34 any others the secretary may adopt by rule:

35 (1) Tattooing instruments shall be sterilized in accordance with
36 methods approved by the rules of the department;

- 1 (2) Practicing permanent color technicians and tattoo artists shall
2 be equipped with appropriate sterilizing equipment, with availability
3 of hot and cold running water and a covered waste receptacle; and
4 (3) Case history cards shall be kept for each client.

5 NEW SECTION. **Sec. 11.** The department may revoke, suspend, refuse
6 to issue a certificate or renewal, or place on probation any certified
7 practitioner upon proof that a person or certified practitioner:

8 (1) Has been convicted of a violation under this chapter;

9 (2) Has been convicted in this or any other state of a crime
10 related to the practice of tattooing;

11 (3) Has knowingly misrepresented, misstated, or failed to disclose
12 personal qualifications or other information necessary to practice
13 tattooing in any communication to the department;

14 (4) Has used, caused, or promoted the use of any advertising
15 matter, promotional literature, warranty, label, insignia, or any other
16 representation, however disseminated or published, that is false,
17 misleading, or deceptive;

18 (5) Has knowingly deceived the public by acting in a manner as to
19 mislead clients as to the person's professional status;

20 (6) Has employed directly or indirectly any suspended or
21 uncertified person to perform any tattooing covered by this chapter;

22 (7) Has permitted another person to use the certificate;

23 (8) Has practiced tattooing under a false, misleading, or deceptive
24 name;

25 (9) Has failed, if a certified permanent color technician and
26 tattoo artist, to maintain a business address and telephone number at
27 which the certificated practitioner may be reached during business
28 hours;

29 (10) Has failed, if a nonpracticing permanent color technician and
30 tattoo artist, to provide the department with a home address and
31 telephone number;

32 (11) Has failed to properly and reasonably accept responsibility
33 for the actions of employees;

34 (12) Has practiced tattooing with a mental or physical illness that
35 affects ability to perform or endangers the public;

36 (13) Has demonstrated gross incompetence in performing tattooing;
37 or

1 (14) Has violated any of the provisions of this chapter or rules
2 adopted pursuant to this chapter.

3 NEW SECTION. **Sec. 12.** The powers and duties of the department are
4 as follows:

5 (1) To certify persons who apply to the department and who have
6 qualified to practice tattooing;

7 (2) To adopt rules that are necessary to carry out the provisions
8 of this chapter;

9 (3) To carry out the periodic inspection of facilities of persons
10 who practice tattooing; and

11 (4) To issue a tattoo facility certificate to qualified applicants
12 upon compliance with this chapter.

13 NEW SECTION. **Sec. 13.** (1) The secretary shall adopt rules to
14 prescribe education and training standards for the practice of
15 tattooing.

16 (2) An applicant seeking certification as a permanent color
17 technician and tattoo artist shall be required to demonstrate safety,
18 sanitation, and sterilization techniques by means of an inspection
19 conducted by the regulatory authority to test the applicant's knowledge
20 of infection control practices and requirements.

21 NEW SECTION. **Sec. 14.** The uniform disciplinary act, chapter
22 18.130 RCW, governs unlicensed practice, the issuance and denial of
23 certificates, and the discipline of certified practitioners under this
24 chapter.

25 NEW SECTION. **Sec. 15.** (1) In addition to any other authority
26 provided by law, the secretary may:

27 (a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to
28 implement this chapter;

29 (b) Set all certification, examination, and renewal fees in
30 accordance with RCW 43.70.250;

31 (c) Establish forms and procedures necessary to administer this
32 chapter;

33 (d) Issue a certificate to any applicant who has met the education,
34 training, and examination requirements for certification; and

1 (e) Hire clerical, administrative, and investigative staff as
2 necessary to implement this chapter, and hire individuals certificated
3 under this chapter to serve as examiners for any practical
4 examinations.

5 (2) The uniform disciplinary act, chapter 18.130 RCW, governs the
6 issuance and denial of certificates and the disciplining of persons
7 under this chapter. The secretary shall be the disciplining authority
8 under this chapter.

9 (3) The secretary shall keep an official record of all proceedings
10 under this chapter, a part of which record shall consist of a register
11 of all applicants for certification under this chapter, with the result
12 of each application.

13 NEW SECTION. **Sec. 16.** An applicant holding a certificate in
14 another state or foreign jurisdiction may be granted a Washington
15 certificate without examination, if, in the opinion of the secretary,
16 the other state's or foreign jurisdiction's examination and educational
17 requirements are substantially equivalent to Washington's: PROVIDED,
18 That the applicant demonstrates to the satisfaction of the secretary a
19 working knowledge of Washington law pertaining to the practice of
20 permanent color technicians or tattoo artists. The applicant shall
21 provide proof in a manner approved by the department that the
22 examination and requirements are equivalent to Washington's.

23 NEW SECTION. **Sec. 17.** The provisions of this chapter relating to
24 the certification of any person shall not be exclusive, and any
25 political subdivision of the state of Washington within whose
26 jurisdiction the practice of permanent color technicians or tattoo
27 artists is performed may require additional registrations or licenses,
28 regulating the practice of permanent color technicians or tattoo
29 artists, and charge any fee for the same or similar purpose.

30 NEW SECTION. **Sec. 18.** State and local law enforcement personnel
31 shall have the authority to inspect the premises at any time including
32 business hours.

33 NEW SECTION. **Sec. 19.** The provisions of this chapter relating to
34 the certification of any permanent color technician or tattoo artist
35 business shall not be exclusive and any political subdivision of the

1 state of Washington within whose jurisdiction the permanent color
2 technician or tattoo artist business is located may require any
3 registrations or licenses, or charge any fee for the same or similar
4 purpose; and nothing herein shall limit or abridge the authority of any
5 political subdivision to levy and collect a general and
6 nondiscriminatory license fee levied upon all businesses, or to levy a
7 tax based upon gross business conducted by any firm within said
8 political subdivision.

9 **Sec. 20.** RCW 18.130.040 and 1995 c 1 s 19 (Initiative Measure No.
10 607), 1994 sp.s. c 9 s 603, and 1994 c 17 s 19 are each reenacted and
11 amended to read as follows:

12 (1) This chapter applies only to the secretary and the boards and
13 commissions having jurisdiction in relation to the professions licensed
14 under the chapters specified in this section. This chapter does not
15 apply to any business or profession not licensed under the chapters
16 specified in this section.

17 (2)(a) The secretary has authority under this chapter in relation
18 to the following professions:

- 19 (i) Dispensing opticians licensed under chapter 18.34 RCW;
20 (ii) Naturopaths licensed under chapter 18.36A RCW;
21 (iii) Midwives licensed under chapter 18.50 RCW;
22 (iv) Ocularists licensed under chapter 18.55 RCW;
23 (v) Massage operators and businesses licensed under chapter 18.108
24 RCW;
25 (vi) Dental hygienists licensed under chapter 18.29 RCW;
26 (vii) Acupuncturists certified under chapter 18.06 RCW;
27 (viii) Radiologic technologists certified and x-ray technicians
28 registered under chapter 18.84 RCW;
29 (ix) Respiratory care practitioners certified under chapter 18.89
30 RCW;
31 (x) Persons registered or certified under chapter 18.19 RCW;
32 (xi) Persons registered as nursing pool operators under chapter
33 18.52C RCW;
34 (xii) Nursing assistants registered or certified under chapter
35 18.79 RCW;
36 (xiii) Health care assistants certified under chapter 18.135 RCW;
37 (xiv) Dietitians and nutritionists certified under chapter 18.138
38 RCW;

1 (xv) Sex offender treatment providers certified under chapter
2 18.155 RCW; ((and))
3 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
4 18.71.205; and
5 (xvii) Persons certified under sections 1 through 19 of this act.
6 (b) The boards and commissions having authority under this chapter
7 are as follows:
8 (i) The podiatric medical board as established in chapter 18.22
9 RCW;
10 (ii) The chiropractic quality assurance commission as established
11 in chapter 18.25 RCW;
12 (iii) The dental quality assurance commission as established in
13 chapter 18.32 RCW;
14 (iv) The board on fitting and dispensing of hearing aids as
15 established in chapter 18.35 RCW;
16 (v) The board of examiners for nursing home administrators as
17 established in chapter 18.52 RCW;
18 (vi) The optometry board as established in chapter 18.54 RCW
19 governing licenses issued under chapter 18.53 RCW;
20 (vii) The board of osteopathic medicine and surgery as established
21 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
22 18.57A RCW;
23 (viii) The board of pharmacy as established in chapter 18.64 RCW
24 governing licenses issued under chapters 18.64 and 18.64A RCW;
25 (ix) The medical quality assurance commission as established in
26 chapter 18.71 RCW governing licenses and registrations issued under
27 chapters 18.71 and 18.71A RCW;
28 (x) The board of physical therapy as established in chapter 18.74
29 RCW;
30 (xi) The board of occupational therapy practice as established in
31 chapter 18.59 RCW;
32 (xii) The nursing care quality assurance commission as established
33 in chapter 18.79 RCW governing licenses issued under that chapter;
34 (xiii) The examining board of psychology and its disciplinary
35 committee as established in chapter 18.83 RCW;
36 (xiv) The veterinary board of governors as established in chapter
37 18.92 RCW; and
38 (xv) Denturists licensed under chapter 18.30 RCW.

1 (3) In addition to the authority to discipline license holders, the
2 disciplining authority has the authority to grant or deny licenses
3 based on the conditions and criteria established in this chapter and
4 the chapters specified in subsection (2) of this section. This chapter
5 also governs any investigation, hearing, or proceeding relating to
6 denial of licensure or issuance of a license conditioned on the
7 applicant's compliance with an order entered pursuant to RCW 18.130.160
8 by the disciplining authority.

9 NEW SECTION. **Sec. 21.** Sections 1 through 19 of this act shall
10 constitute a new chapter in Title 18 RCW.

11 NEW SECTION. **Sec. 22.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 23.** This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of the
17 state government and its existing public institutions, and shall take
18 effect July 1, 1995.

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