

HOUSE RESEARCH

Bill Summary

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Authors: Bunn
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Analyst: Lynn F. Aves, 651.296.8079

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Overview

This bill creates chapter 146B which licenses body art establishments and body art technicians. These entities and individuals are not currently regulated by the state. Currently there are criminal penalties for individuals who tattoo or provide a piercing to an individual under 18 without parental consent.

Section

1 **Definitions.** Creates § 146B.01. Lists definitions as applied to this chapter: “aftercare,” “antiseptic,” “body art,” “body art establishment,” “body piercing,” “branding,” “commissioner,” “contaminated waste,” “department,” “equipment,” “guest artist,” “hand sink,” “hot water,” “jewelry,” “liquid chemical germicide,” “microdermal,” “micropigmentation or cosmetic tattooing,” “operator,” “procedure area,” “procedure surface,” “scarification,” “sharps,” “sharps container,” “single use,” “sterilization,” “subdermal implantation,” “supervision,” “suspension,” “tattooing,” “technician,” “temporary body art establishment, and “tongue bifurcation.”

2 **Establishment license procedures.** Creates § 146B.02.

Subd. 1. General. Requires any body art establishment to be licensed by the commissioner beginning January 1, 2011.

Subd. 2. Requirements. Paragraph (a) lists the information that must be contained on the application form for an initial license and license renewal. Requires that the licensing fee be submitted with the application.

Paragraph (b) instructs the commissioner to issue a provisional license until the commissioner performs an inspection and determines the establishment meets the requirements of this chapter. Provides that upon approval, a license shall be issued and will be valid for three years.

Subd. 3. Inspection. Paragraph (a) instructs the commissioner to inspect the

establishment during the period of the provisional license and at least once during each three year license period. Allows the commissioner to review necessary records to ensure the establishment meets standards required by this chapter.

Paragraph (b) provides the commissioner with the authority to enter the establishment to make inspections. Refusal to permit access is grounds for license denial or revocation.

Paragraph (c) requires the establishment to meet local building and zoning codes if it is newly constructed or if the building is remodeled.

Subd. 4. Location restricted. Limits performing body art procedures to licensed establishments, except as permitted by subdivisions 8 and 9.

Subd. 5. Transfer and display of license. Prohibits transfer of an establishment license. Requires onsite display of the license.

Subd. 6. Establishment information. Lists the information that must be kept on file for three years on the premises of the establishment. Requires that this information be made available for inspection upon the request of the commissioner.

Subd. 7. Establishments located in a private residence. Requires the area where body art procedures are performed to:

- be totally partitioned off from the residential living, eating, and bathroom areas of the residence;
- be exclusively for body art procedures;
- have an entrance separate from the entrance to the residential area;
- be available for inspection by the commissioner; and
- meet the standards of this chapter.

Subd. 8. Temporary events permit. Paragraph (a) requires the owner or operator of a temporary body art establishment to submit an application for a temporary permit to the commissioner, specifying the days and hours of operation.

Paragraph (b) states that the permit must be displayed at the location.

Paragraph (c) limits validity of the permit to 21 days. Days and hours of operation must be specified on the permit.

Subd. 9. Exception. Paragraph (a) provides that an establishment located in a county or municipal jurisdiction with an ordinance that establishes licensure for body art establishments is exempt from this chapter if the provisions of the ordinance meet or exceed the provisions of this chapter. Allows the county or municipal jurisdiction to limit the types of body art procedures that can be performed.

Paragraph (b) clarifies that an individual who performs body art procedures in an establishment that meets an exception under this subdivision must be licensed as a body art technician.

3 **Licensure for body art technicians.** Creates § 146B.03.

Subd. 1. Licensure required. Effective January 1, 2011, requires any person who performs tattooing to hold a valid tattooing license, any person who performs body piercing to have a valid body piercing license, and any person who performs both tattooing and body piercing to have a valid dual license. Provides that persons can perform tattooing or body piercing if exempted by subdivision 3.

Subd. 2. Designation. Restricts the titles “tattooist,” “tattoo artist,” “body piercer,” “body piercing artist,” “body art practitioner,” “body art technician,” and any other letters or titles that represent the person is engaged in tattooing or body piercing, unless the person is licensed under this chapter.

Subd. 3. Exceptions. Paragraph (a) lists the licensed or registered professionals who may perform body art within their scope of practice: physicians, nurses, chiropractors, acupuncturists, physician assistants, or dental professional.

Paragraph (b) permits a guest artist under section 146B.04 to perform body art procedures according to the requirements of that section.

Subd. 4. Licensure requirements. Paragraph (a) lists the information an applicant must submit to the commissioner:

- proof the applicant is over age 18;
- type of application applied for;
- fees required under section 146B.10;
- proof of completion of a minimum of 200 hours of supervised experience;
- proof of completion of a course on bloodborne pathogens, prevention of disease transmission, infection control, CPR, first aid, and aseptic technique; and
- any other information requested by the commissioner.

Subd. 5. Action on licensure applications. Requires the commissioner to provide a written explanation to the applicant of the action taken on the application. If the application is denied, the applicant must be informed of the reasons and the right to file a written request within 30 days for a hearing. After the hearing, the commissioner must provide written notice to the applicant of the decision.

Subd. 6. Licensure term; renewal. Provides that a license is valid for two years and may be renewed upon payment of the renewal fee. Requires that proof of compliance with continuing education is to be submitted at the time of license renewal.

Subd. 7. Temporary license. Paragraph (a) allows the commissioner to issue a temporary license to an applicant who submits the information listed in this paragraph.

Paragraph (b) provides that when the temporary licensee submits proof of completion of supervised experience and the required fee, the commissioner shall issue a new license.

Paragraph (c) states that a temporary license is valid for one year and may be renewed for one additional year.

Subd. 8. License by reciprocity. Requires the commissioner to issue a license to

a credentialed practitioner from another jurisdiction if the commissioner determines the standards for that credential meet or exceed the requirements of this chapter. Requires the credentialing jurisdiction to submit a letter stating the practitioner is in good standing.

Subd. 9. Transfer and display of license. States that the license is nontransferable. Requires the license to be kept at the site and available to the public upon request.

Subd. 10. Transition period. Requires the commissioner to waive the supervised experience requirement until January 1, 2012, for practitioners who submit evidence that they have performed body art procedures for 2,080 hours within the past five years.

4 Temporary licensure for guest artists. Creates § 146B.04.

Subd. 1. General. Requires an individual to make application to the commissioner to receive a temporary license as a guest artist, and prohibits practice until the license is received. Lists the information that must be submitted to the commissioner by the prospective guest artist.

Subd. 2. Guest artists. Limits a guest artist to no more than 30 days of practice per calendar year. If the guest artist exceeds this time limit, then the artist must apply for a technician's license.

5 Grounds for denial of an establishment license or emergency closure. Creates § 146B.05.

Subd. 1. General. Lists the conditions under which the commission can order the owner or operator of a body art establishment to cease all operations or can refuse to grant or renew, suspend, or revoke a license.

Subd. 2. Licensure or reopening requirements. Requires the owner or operator of the establishment to submit proof to the commissioner that the condition causing the need for closure has been remedied. Requires the owner or operator to receive written approval of the commissioner before the establishment can be reopened.

6 Health and safety standards. Creates § 146B.06.

Subd. 1. Establishment standards. Paragraph (a) states that the establishment must meet the standards in this subdivision, except as permitted in subdivision 2, before a licensed technician can conduct procedures at the establishment.

Paragraph (b) requires that the procedure area be separated from specified areas that may cause contamination of work surfaces.

Paragraph (c) states that if a client requests privacy, a divider, curtain, or partition must be provided.

Paragraph (d) requires surfaces to be smooth, nonabsorbent, and easy to clean.

Paragraph (e) requires a hand sink that has liquid hand soap; single use paper towels; and a garbage can with a foot operated lid or with no lid and a removable liner.

Paragraph (f) requires the ceilings to be in good condition.

Paragraph (g) states that walls and floors must be free of holes or cracks. Prohibits carpeting in areas used for body art procedures.

Paragraph (h) requires all facilities to be maintained in a clean and sanitary condition and good working order.

Paragraph (i) prohibits animals during a body art procedure, unless it is a service animal.

Subd. 2. Standards for equipment, instruments, and supplies. Paragraph (a) states that the establishment must meet the standards in this subdivision before a licensed technician can conduct procedures at the establishment.

Paragraph (b) lists the required composition of the body piercing jewelry.

Paragraph (c) requires sterilization of body piercing jewelry and provides that the jewelry must be free of nicks, scratches, or irregular surfaces.

Paragraph (d) requires reusable instruments to be washed, rinsed, and sterilized before and after use.

Paragraph (e) states that technicians must use single-use needles that are sterilized before use.

Paragraph (f) provides that sterilization must be by steam heat or chemical vapor.

Paragraph (g) requires steam heat sterilization equipment to be used according to manufacturer's instructions.

Paragraph (h) requires at least monthly spore tests on each sterilizer. If the test is positive, the sterilizer cannot be used until a negative test is obtained.

Paragraph (i) states that inks and pigments must be specifically manufactured for tattoo procedures.

Paragraph (j) provides that the amount of ink that is to be used in a tattoo procedure must be transferred to a disposable paper cup immediately before the procedure. The paper cup and its contents must be discarded after the procedure is completed.

Paragraph (k) provides that all surfaces that may be exposed to blood or body fluids during a procedure must be sanitized after each client with a liquid chemical germicide.

Paragraph (l) requires single use paper towels be provided to the client.

Paragraph (m) states that all bandages and surgical dressing must be sterile or bulk packaged clean and stored in a clean, closed container.

Paragraph (n) requires all equipment to be clean and sanitary and in good working order.

Paragraph (o) states that all instruments and supplies must be clean and dry and stored in covered containers.

Paragraph (p) provides that single use disposable barriers or chemical germicide must be used on all equipment that cannot be sterilized i.e., spray bottles, procedure light fixture handles, or tattoo machines.

Subd. 3. Standards for body art procedures. Paragraph (a) requires body art procedures to comply with the standards in this subdivision.

Paragraph (b) lists the requirements for cleaning the skin before a procedure.

Paragraph (c) requires a new disposable razor or a stainless steel straight edge to be used if it is necessary to shave the skin. Requires the disposable razor to be discarded after use and the straight edge to be sterilized before use on another client.

Paragraph (d) prohibits any procedure from being performed on any area where is an evident infection, irritation, or open wound.

Paragraph (e) requires that single use disposable gloves be used for touching clients, handling sterile instruments, or handling blood or body fluids. States that hands and wrists must be washed before putting on a clean pair of gloves and after removing the gloves.

Subd. 4. Standards for technicians. Paragraph (a) requires technicians to comply with the standards of this subdivision.

Paragraph (b) describes the required hand washing techniques for technicians.

Paragraph (c) prohibits smoking, eating, or drinking by the technician while performing procedures.

Paragraph (d) provides that a technician cannot perform body art procedures if the technician has any sores that are visible or that may come in contact with the client.

Subd. 5. Contamination standards. Paragraph (a) sets out the requirements for disposal of infectious waste and sharps.

Paragraph (b) sets out the requirements for disposal of contaminated waste that may release dried blood or body fluids.

Paragraph (c) permits normal approved disposal methods for contaminated waste that will not release dried blood or body fluids.

Paragraph (d) limits the length of time contaminated waste can be stored onsite.

7 Professional standards. Creates § 146B.07.

Subd. 1. Standard practice. Paragraph (a) requires a technician to verify a client's age before beginning any procedure. Lists documents that can be accepted as verification.

Paragraph (b) requires the technician to provide the client a disclosure and

authorization form and to request the client sign and date the form. This form is to contain a list of medical conditions that could cause complications during the procedure or the recovery process; the client is to identify whether the client has been diagnosed with any of these conditions.

Paragraph (c) requires the technician to ask the client to sign and date the disclosure form confirming the information the client provided is accurate.

Paragraph (d) provides that the technician is to offer draping to the client and make the draping available.

Subd. 1a. Prohibition. Paragraph (a) provides that body piercings can only be performed on an individual under age 18 if the individual's parent or legal guardian is present and signs the disclosure and authorization form in the technician's presence. Prohibits the technician from performing any of the piercings listed in paragraph (c) on an individual under age 18.

Paragraph (b) prohibits the tattooing of any individual under age 18 regardless of parental consent.

Paragraph (c) prohibits performing any of the following on an individual under age 18 regardless of parental consent: nipple or genital piercing, branding, scarification, suspension, subdermal implantation, microdermal, or tongue bifurcation.

Paragraph (d) prohibits a technician from performing any procedure on a person who appears to be under the influence of alcohol, controlled substances, or hazardous substances.

Paragraph (e) prohibits a technician from performing any procedure while under the influence of alcohol, a controlled substances, or hazardous substance.

Paragraph (f) prohibits a technician from administering anesthetic injections or other medications.

Subd. 2. Informed consent. Requires a client to sign and date an informed consent form. The form must disclose that a tattoo is permanent and may only be removed with a surgical procedure that may leave a scar, or that piercing may leave a scar.

Subd. 3. Client record maintenance. Lists the required client information that is to be retained by the body art establishment for three years. States the information must be available for inspection by the commissioner.

Subd. 4. Aftercare. Requires the technician to give verbal and written after care instructions to the client. The written instructions must advise the client to contact a health care professional if there is any sign of an infection.

Subd. 5. State and municipal public health regulations. Provides that establishments and technicians must comply with all public health requirements.

Subd. 6. Notification. Requires a body art establishment operator to immediately notify the commissioner or local health authority of any report of a potential

bloodborne pathogen transmission.

8 Investigation process and grounds for disciplinary action. Creates § 146B.08.

Subd. 1. Investigations of complaints. Permits the commissioner to conduct an investigation of an establishment or a technician upon receipt of a written communication that there has been a violation of this chapter or rules.

Subd. 2. Rights of applicants and licensees. Provides a licensee the opportunity for a contested case hearing before disciplinary action can be taken.

Subd. 3. Grounds for disciplinary action by commissioner. Lists the grounds for disciplinary action.

Subd. 4. Disciplinary actions. Lists the range of actions the commissioner can take against a technician or the operator of an establishment.

Subd. 5. Consequences of disciplinary actions. Provides that upon license suspension or revocation, a technician or establishment cannot perform body art procedures, use titles protected under this chapter, or represent to the public that the technician or establishment is licensed.

Subd. 6. Reinstatement requirements after disciplinary action. Permits a technician whose license has been suspended to petition the commissioner for reinstatement. The technician must comply with the requirements for license renewal before the license can be reinstated.

9 County or municipal regulation. Creates § 146B.09. States that nothing in this chapter supersedes or preempts any county or municipal ordinance related to land use, building and construction requirements, nuisance control, or licensing of commercial enterprises.

10 Fees. Creates § 146B.10.

Subd. 1. Biennial licensing fees. Specifies the fees that are required for an initial and biennial technician license, temporary technician license, temporary guest artist license, dual body art technician license, provisional establishment license, an establishment license, and a temporary body art establishment permit. Instructs the commissioner to prorate fees for an initial license based on the number of months of the initial license period.

Subd. 2. Penalty for late fees. Assesses a fee for late submission of a renewal application.

Subd. 3. Deposit. Requires the commissioner to deposit fees collected under this section into the state government special revenue account.

11 Appropriation. Appropriates \$190,000 for fiscal year 2011 from the special revenue fund to the commissioner of health for implementation of this chapter. Establishes base funding of \$101,000 for fiscal year 2012 and \$65,000 for fiscal year 2013.

12 Effective date. Provides an effective date of July 1, 2010.