

STORAGE NAME: h0069s1.hcr

DATE: March 10, 1998

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
HEALTH CARE STANDARDS AND REGULATORY REFORM
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/CS/HB 69

RELATING TO: Department of Health/Body-Piercing

SPONSOR(S): Committee on Health Care Standards & Regulatory Reform and Rep. Valdes

COMPANION BILL(S): N/A

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE STANDARDS & REGULATORY REFORM YEAS 5 NAYS 0
 - (2) FINANCE & TAXATION (W/D)
 - (3) HEALTH CARE STANDARDS AND REGULATORY REFORM YEAS 9 NAYS 0
 - (4)
 - (5)
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I. SUMMARY:

HB 69 requires the Department of Health (department) to license body- piercing salons and to adopt rules to regulate such facilities. Definitions are provided for “body-piercing”, “sanitize”, and “sterilization”.

Licensing procedures and fees are established, in addition to provisions for penalties, rulemaking authority, and enforcement. Exemptions are provided for any health care practitioner licensed under chapters 458 (medical), 459 (osteopathic), 460 (chiropractic), 461 (podiatry), 466 (dentistry), and 486 (physical therapy). Specific requirements are provided for body-piercing salons, and the department is required to conduct an annual inspection of salons.

The bill prohibits the body-piercing of a minor without the notarized consent of a parent or legal guardian, and the body-piercing of a minor under the age of sixteen (16) may not be performed unless the minor is accompanied by a parent or guardian.

The provisions of the bill would be fee-supported, with no general revenue funds or other appropriations needed. Monies collected would be deposited into county public health unit (CPHU) trust funds and are designated to be used for costs associated with licensure and facility inspections.

This bill was carried over to the 1998 Session pursuant to House Rule 96, placed on and withdrawn from the House Consent Calendar, and referred to the Committee on Health Care Standards and Regulatory Reform.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently, there is no regulation of body-piercing salons. They are permitted and inspected as biomedical waste generators, with inspections occurring once every three years to ensure that biomedical waste is packaged and disposed of properly.

The Department of Health indicates that there is no "official" count on the number of body-piercing salons in the State of Florida. Many body-piercers operate on the streets, in cosmetology facilities, and elsewhere, but since there are no regulations in place, statistics or information relating to specific locations have not been compiled.

Additionally, there are no current regulations specifying an appropriate method for body-piercing equipment to be sterilized or sanitized.

With the recent surge of enthusiasm for body-piercing (also known as "body art"), lawmakers in several states have become interested in the subject as a public health issue. According to the National Conference of State Legislatures, as of August 31, 1996, nine states require registration or certification for body-piercing establishments, and one additional state requires the consent of a parent or guardian prior to the piercing of a minor's body.

During the 1996 Legislative Session, a bill was introduced (CS/HB 1899) which provided for the regulation of body-piercing and tattooing. The bill passed the House and died in the Senate.

B. EFFECT OF PROPOSED CHANGES:

The bill provides for regulation of body piercing salons and requires the Department of Health to adopt rules to regulate the facilities. The department is required to inspect the facilities at least once annually to ensure that they meet and operate according to specific and established standards.

Health care practitioners licensed under chapters 458 (medical), 459 (osteopathic), 460 (chiropractic), 461 (podiatry), 466 (dentistry), and 486 (physical therapy) would be exempt from the regulatory provisions of the bill.

Requirements for licensure and fee structures are established, penalties are provided, and enforcement practices are included, as well as citation authority.

Fines and permit fees collected by the department are to be deposited into county public health unit trust funds.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. The Department of Health is given the authority to adopt rules regulating body-piercing salons.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. Body-piercing salons must comply with the requirements set forth in the bill to ensure that sanitary conditions and practices are maintained, staff is properly trained in infection control, and biomedical waste is disposed of according to standards developed by the department.

(3) any entitlement to a government service or benefit?

Not Applicable.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not Applicable (new program).

(2) what is the cost of such responsibility at the new level/agency?

The department anticipates approximately \$10,000 in start up costs for the purpose of conducting rules workshops, print forms and rules, purchase a computer and printer, and other costs associated with regulatory start-up procedures. It is not yet known how long it will take to implement all of the aforementioned.

(3) how is the new agency accountable to the people governed?

The agency is accountable to the permitholders to conduct unbiased trained or skilled inspections, and to enforce regulations in an even-handed manner.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

Yes. A new fee of \$150 per year for body-piercing salons is established to pay for the cost of regulation.

- c. Does the bill reduce total taxes, both rates and revenues?

The bill does not address tax rates or tax revenues.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Not Applicable.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Body-piercing salons may increase their charges to customers to pay for costs associated with regulation.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

The bill states that a person may not pierce any body part of a minor without notarized consent by a parent or legal guardian. A parent or legal guardian must accompany a minor under the age of 16.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes; however, customers will be assured that body-piercing salons are required to meet sanitary conditions and that staff is trained in infection control.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not Applicable.

- (2) Who makes the decisions?

Not Applicable.

- (3) Are private alternatives permitted?

Not Applicable.

- (4) Are families required to participate in a program?

Not Applicable.

- (5) Are families penalized for not participating in a program?

Not Applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

Parents are given control over the actions of minors for the purpose of approving body-piercing. No person under age 18 would be able to undergo body-piercing without parental approval.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not Applicable.

(2) service providers?

Not Applicable.

(3) government employees/agencies?

Not Applicable.

STATUTE(S) AFFECTED: Section 381.0075, F.S.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

Section 1. Creates s. 381.0075, F.S., establishing legislative intent, definitions, exemptions, licensure requirements, fees, restrictions on the body-piercing of a minor, penalties, enforcement, and rule requirements. Provides specific requirements for the operation of body-piercing salons and for sterilization and sanitation procedures.

Section 2. Provides an effective date of October 1, 1997.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The department indicates that rule workshops, printing of forms, rules, purchase of a computer, a printer, and other costs as needed are estimated to be approximately \$10,000 the first year.

2. Recurring Effects:

The department indicates that an estimated 250 licensees at \$150 per establishment is a total fiscal impact of \$30,000 annually.

3. Long Run Effects Other Than Normal Growth:

Unknown.

4. Total Revenues and Expenditures:

The department estimates \$10,000 in first year start up costs and \$30,000 annually (approximately) from establishment license fees. As a result, the department feels they will be able to recoup the \$10,000 from the 10% (of fees and fines collected) that will be returned to them from the county public health units to be used for administrative purposes.

It is a standing policy of the Office of Environmental Health Programs within the Department of Health that 10% of fees on any permit issued be returned for administrative purposes.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

County public health units will benefit from the receipt of licensure fees and disciplinary fines. All monies, minus a 10% portion returned directly to the Department of Health for administrative use, will remain in the county public health unit trust funds.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The body-piercing industry will be required to obtain an annual license at a cost of \$150 per establishment. The department estimates the total fiscal impact would be approximately \$30,000 annually.

2. Direct Private Sector Benefits:

The public will benefit from knowing that minimum standards are in place for sanitation and sterilization procedures.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The department indicates that the program as proposed will be entirely fee-supported, with no general revenue funds or other appropriations needed. The monies collected will be deposited into CPHU trust funds and will cover costs associated with licensure and facility inspections.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The difference between the original bill and the committee substitute is that one technical amendment was added to emphasize the performing of body-piercing services on minors.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE STANDARDS & REGULATORY REFORM

Prepared by:

Legislative Research Director:

Terri L. Paddon

Robert W. Coggins

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PAGE 9

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