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As Engrossed: S4/12/21

## A Bill

SENATE BILL 625

By: Senators K. Hammer, B. Davis

By: Representative M. Gray

### For An Act To Be Entitled

AN ACT TO AMEND THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE TO INCLUDE MEMBERS FROM THE PERMANENT AND SEMIPERMANENT COSMETIC INDUSTRY AND THE BODY ART INDUSTRY; TO ESTABLISH PROCEDURES FOR LICENSURE AND REGULATIONS OF PERMANENT COSMETICS AND SEMIPERMANENT COSMETICS PROCEDURES; AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE; AND TO ESTABLISH PROCEDURES FOR LICENSURE AND REGULATIONS OF PERMANENT COSMETICS AND SEMIPERMANENT COSMETICS PROCEDURES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-3-102(h), concerning licensing restrictions based on criminal records, is amended to read as follows:

(h) This section does not apply to licensure or certification:

(1) Of professions not governed by this title;

(2) Of polygraph examiners and voice stress analysis examiners under § 17-39-101 et seq.; ~~or~~

(3) Of private investigators and private security agencies under the Private Security Agency, Private Investigator, and School Security Licensing and Credentialing Act, § 17-40-101 et seq.; or

(4) Of body artists under § 17-26-601 et seq.



SECTION 2. Arkansas Code § 17-26-201(b) and (c), concerning the creation and members of the Cosmetology Technical Advisory Committee, are amended to read as follows:

(b)(1) The committee shall consist of ~~seven (7)~~ nine (9) members appointed by the State Board of Health to two-year terms.

(2) A member may be removed from the committee by the board for cause.

(3) A member shall not serve more than ten (10) years on the committee.

(c) The committee shall be composed of the following representatives from within the cosmetology industry who are at least twenty-five (25) years of age:

(1) One (1) member shall be a licensed cosmetologist actively engaged in practicing the art of cosmetology for at least five (5) years at the time of appointment;

(2) One (1) member shall be a licensed nail technician;

(3) One (1) member shall be an owner of a licensed school of cosmetology or shall be a director of cosmetology at a state-supported school;

(4) One (1) member shall be a licensed aesthetician; ~~and~~

(5) Three (3) members shall represent the cosmetology industry at large or a related field;

(6) One (1) member shall represent the permanent and semipermanent cosmetic industry; and

(7) One (1) member shall represent the body art industry.

SECTION 3. Arkansas Code Title 17, Chapter 26, is amended to add additional subchapters to read as follows:

Subchapter 6 – Body Art

17-25-601. Definitions.

As used in this subchapter:

(1) “Artist” means any person other than a licensed physician who performs body art on a human;

(2) “Artist in training” means a person who:

(A) Is in training under the supervision of an artist trainer or a physician; and

(B) Shall not perform body art independently;

(3) "Artist trainer" means an artist who:

(A) Has been licensed by the Department of Health as an artist for at least five (5) years in the specified field of body art in which he or she will offer training;

(B) Has worked in a body art establishment licensed by the department for at least five (5) years and been in compliance with department rules governing body artists;

(C) Has completed the course required under § 17-26-606;  
and

(D) Is a registered instructor for the specified field of body art with the department;

(4) "Body art" means procedures that include:

(A) Tattooing;

(B) Body piercing;

(C) Branding; or

(D) Scarification;

(5)(A) "Body piercing" and "body piercing procedure" mean the puncturing of a part of a live human being to create a hole for ornamentation or decoration or a single-point perforation of a body part to insert an anchor with a single stud protruding or flush with the skin.

(B) "Body piercing" or "body piercing procedure" shall not include piercing an earlobe with a presterilized, disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the earlobe;

(6) "Branding" means a permanent mark made on human tissue by burning with a hot iron or other instrument;

(7) "Critical item" means an aspect of operation or condition of a facility or equipment that constitutes the greatest hazard to health and safety, including imminent health hazards;

(8) "Establishment" means any place or facility:

(A) Where body art is performed; and

(B) That has a body artist licensed in Arkansas on staff;

(9) "Guest artist" means an artist from a state other than

Arkansas or a country other than the United States who:

(A) Holds a license from the body art regulatory board or agency, if in existence, in that state or country; or

(B) If an artist license is not available in the guest artist's state or country, can submit to the department evidence of professional experience, employment, and education including:

(i) Proof of blood-borne pathogen certification; and

(ii) Proof of employment in a licensed body art facility for at least two (2) years;

(10) "Instrument" means equipment used during body art, including without limitation:

(A) Forceps;

(B) Hemostats;

(C) Needles;

(D) Receiving tubes; and

(E) Tattoo barrels and tubes;

(11) "Scarification" means injury of the skin involving scratching, etching, or cutting of designs to produce a scar on a human being for ornamentation or decoration;

(12) "Sponsor" means an individual or business entity, including an event coordinator or manager, responsible for the organization of a convention, trade show, or other temporary event that includes a body art demonstration booth;

(13) "Subdermal implanting" means the insertion of an object under the skin of a live human being for ornamentation or decoration; and

(14)(A) "Tattooing" and "tattoo procedure" mean any method of placing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin by introducing pigments or by the production of scars to form indelible marks with the aid of needles or other instruments.

(B) "Tattooing" and "tattoo procedure" do not include permanent cosmetics.

17-26-602. Unlawful to perform body art on person under 18 years of age – Documentation and consent.

(a)(1) A person under eighteen (18) years of age shall not undergo body art unless:

(A) Written consent is given by the person's parent or legal guardian;

(B) The parent or legal guardian is present during the procedure;

(C) The person to undergo body art and the parent or legal guardian each provide a valid government-issued form of identification that includes a name, date of birth, and photo; and

(D) The parent or legal guardian presents proof of guardianship that matches the identification given, including without limitation a birth certificate or a court or state record for adoption, legal guardianship, emancipation, or a marriage license.

(2) The artist shall retain for at least two (2) years a copy of a photo identification and a proof of guardianship presented under subdivision (a)(1) of this section.

(b) A person shall not perform body art on a person under sixteen (16) years of age, regardless of parental consent, except when piercing the earlobe.

(c) It is unlawful to perform body art on the nipple or genitalia of a person under eighteen (18) years of age regardless of parental consent.

(d) It is unlawful to perform branding on a person under eighteen (18) years of age regardless of parental consent.

(e) Regardless of age, the person receiving the body art shall attest to the fact that he or she is not under the influence of drugs or alcohol.

(f) Printed and verbal instructions on the care of the skin and the body art shall be given to each person after the procedure, and a copy of the instructions shall be posted in a conspicuous place in the body art establishment.

(g)(1)(A) In addition to the attestations required in subsections (a) and (e) of this section, records shall be kept of all persons receiving body art and of the parents or guardians giving consent under the rules promulgated by the State Board of Health to implement this subchapter.

(B) If the person to undergo body art is under eighteen (18) years of age, the record shall include the printed legal name and signature of the parent or legal guardian.

(2) All records shall be retained for at least two (2) years from the last date recorded in the bound book.

(3) All required signatures shall be in ink, and required records shall be available at a reasonable time for examination by the Department of Health and by local health officials.

(h)(1) Except as provided in subsections (a)-(c) of this section, it is unlawful to perform body art on a person under eighteen (18) years of age, and any person who pleads guilty or nolo contendere to or is found guilty of a violation of this subdivision (h)(1) is guilty of a Class A misdemeanor.

(2) Any person who falsely claims to be the minor's parent or legal guardian for the purpose of obtaining body art for a person under eighteen (18) years of age shall be guilty of a Class D felony.

(3) It is not a defense to a criminal prosecution under subdivision (h)(1) of this section that at the time of the offense the person who received the body art possessed a letter of consent from the person's parent or legal guardian if the letter was forged or if a person falsely assumed the identity of the minor's parent or legal guardian.

(i)(1) It is unlawful to perform body art in any unlicensed facility.

(2) A person who pleads guilty or nolo contendere to or is found guilty of a violation of subdivision (i)(1) of this section is guilty of a Class D felony.

(3) A fine collected under this section, less court fees, shall be allocated as follows:

(A) Fifty percent (50%) to the State of Arkansas;

(B) Twenty-five percent (25%) to the city or county that levied and collected the fine; and

(C) Twenty-five percent (25%) to be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for the Body Art Program of the department.

17-26-603. Department of Health to license, regulate, and inspect for health hazards.

(a)(1) Body art establishments in which body art is performed and artists who perform body art shall be licensed by the Department of Health.

(2) A body art training facility shall be licensed by the department as an establishment and as an approved body art training facility.

(3) An artist from a state other than Arkansas or a country outside of the United States who holds a license from the body art regulatory

board or agency in that state or country may submit an application for qualifications review by the department to determine eligibility for a body art license based upon criteria established by the department.

(4) The business premises, equipment, procedures, techniques, and conditions of those businesses shall be subject to at least one (1) inspection by the department.

(b)(1) The department may adopt appropriate rules regarding the artists, premises, equipment, procedures, techniques, and conditions of establishments which perform procedures subject to this subchapter to assure that the premises, equipment, procedures, techniques, and conditions are aseptic and do not constitute a health hazard.

(2) Any rule affecting body art establishments shall remain in effect until the State Board of Health adopts rules under this subchapter.

(c) Applicants for a license shall file applications upon forms prescribed by the department.

(d) A license shall be issued only for the premises and persons in the application and shall not be transferable.

(e)(1)(A) The department shall levy and collect an annual fee of one hundred fifty dollars (\$150) per establishment for issuance of a license to an establishment in which body art is performed.

(B) The department shall levy and collect an annual fee of one hundred dollars (\$100) per artist for issuance of a license to an artist who performs body art.

(2)(A) The department shall collect a one-time fee of five hundred dollars (\$500) per artist licensed in a state other than Arkansas or a country other than the United States who applies for qualifications review by the department.

(B) The fee for written and practical examinations under § 17-26-608 is not required for an applicant under subdivision (e)(2)(A) of this section for examinations taken to complete requirements established by the department.

(C) Upon satisfactory completion of the requirements by the applicant and approval of qualifications established by the department, a body artist license shall be issued to an applicant under subdivision (e)(2)(A) of this section.

(D) The department shall collect the annual artist fee of

one hundred dollars (\$100) after the issuance of a license under subdivision (e)(2)(C) of this section.

(3) The annual fee for an artist or for an establishment shall be based upon the calendar year, January 1 through December 31, with fees for any given year due by December 31 of the previous year.

(4) If the annual fee for a licensed establishment has not been paid by March 1 of the calendar year, the establishment shall be closed until a new license has been issued by the department and the annual fee has been paid.

(5)(A) If the annual fee for a licensed artist has not been paid by March 1 of the calendar year, the artist shall have his or her license suspended for ninety (90) days.

(B) If an artist has his or her license suspended, he or she shall before a license may be reissued within ninety (90) days after the suspension:

(i) Pay a reinstatement fee of one hundred dollars (\$100) and pay all overdue licensing fees;

(ii) Complete a written exam with the department and a practical exam in the studio in which the artist is licensed; and

(iii) Meet current requirements established by the department for artists.

(C) If an artist whose license is suspended has not met the requirements under subdivision (e)(5)(B) of this section within ninety (90) days after the suspension, the artist may apply for qualification review.

(6) In addition to the penalty provisions found in this subsection, any studio or business owner operating without a current license commits a Class D felony.

(f) All fees levied and collected under this subchapter are declared to be special revenues and shall be deposited into the State Treasury, there to be credited to the Public Health Fund to be used exclusively for the Body Art Program of the department.

(g) Subject to any rules that may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the department may transfer all unexpended funds relative to the health facility services that pertain to fees collected under this subchapter, as certified by the Chief Fiscal

Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

17-26-604. Local health officials.

(a) Any city or county department of health may periodically inspect body art establishments on the basis of compliance with state, city, or county sanitary regulations.

(b) The governing body of any municipality or county may adopt by ordinance local sanitary regulations of body art establishments.

17-6-605. No criminal liability.

This subchapter does not create any liability, criminal or otherwise, for a person under eighteen (18) years of age for undergoing body art.

17-6-606. Blood-borne pathogens course.

(a)(1) Each artist, artist trainer, and artist in training shall complete United States Occupational Safety and Health Administration blood-borne pathogens training approved by the Department of Health.

(2) An approved online course may be used to satisfy the requirement under subdivision (a)(1) of this section.

(b) Each artist trainer shall complete the course before training any artist in training.

(c) Each artist in training shall complete the course before applying for the examination required under § 17-26-608.

(d)(1) After completion of a first United States Occupational Safety and Health Administration blood-borne pathogens training approved by the department, an artist, an artist trainer, and an artist in training shall renew the training annually.

(2) A copy of each annual certification under subdivision (d)(1) of this section shall be submitted to the department with the license renewal.

17-26-607. Education of artist in training.

(a) An artist trainer shall be a registered instructor in a school licensed by the Department of Health.

(b) The department shall develop standards to determine:

(1) The maximum number of artists in training in a training facility at any time; and

(2) The length of the program in hours and across a range of months.

(c)(1)(A) During the artist training in the fields of tattooing, body piercing, or permanent cosmetics, each artist in training shall complete not less than three hundred seventy-five (375) clock hours of supervised body art work and classroom instruction in a period not less than six (6) months or more than twenty-four (24) months in an establishment licensed under § 17-26-603 and § 6-51-601 et seq.

(B) During the artist training in the field of branding, each artist in training shall complete not less than three hundred seventy-five (375) clock hours of supervised body art work and classroom instruction in a period not less than six (6) months or more than twenty-four (24) months in an establishment licensed under § 17-26-603 and § 6-51-601 et seq.

(C) Additional fields of body art training may be added by completing not less than two hundred fifty (250) clock hours of technical and procedural training in each of the other fields of body art in which an artist in training is to be licensed.

(D) An artist in training studying multiple fields of body art at the same time shall complete the total clock hours of all fields in not less than twelve (12) months or more than twenty-four (24) months.

(2)(A) The artist trainer shall maintain a training log of the clock hours completed by the artist in training on forms approved by the department.

(B) The training log shall include without limitation a record of:

(i) Hours of both theory and practical education;

(ii) The procedures observed and completed; and

(iii) A list of resources used for training.

(C) The artist in training shall keep available for inspection a bound record book that is separate from the record book of another artist or artist in training.

(D) The completed training log shall be submitted to the department at the time of the practical examination under § 17-26-608.

(d) An artist trainer may offer training only in the area in which the

artist trainer holds a current license from the department.

(e) The department shall adopt a minimum curriculum for each area of body art training that shall be followed by all artist trainers, artists in training, and body art training facilities.

17-26-608. Examination – Fee.

(a)(1)(A) Each artist in training seeking licensure as an artist under the rules of the Department of Health shall take a written examination prepared or approved by the department before beginning training.

(B) Upon completion of the hours required under § 17-26-607, a practical examination shall be conducted by the department in each field of training for which the artist in training is seeking licensure.

(2) Until an artist in training receives a passing grade on the practical examination, no artist in training may:

(A) Be licensed as an artist;

(B) Hold himself or herself out as a licensed artist; or

(C) Independently perform a body art procedure without the supervision of a body art trainer.

(b) The department shall levy and collect a nonrefundable fee of fifty dollars (\$50.00) from each artist in training who applies to take the written and practical examinations required under this section for licensure as an artist.

(c) A fee collected under this section shall be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for the Body Art Program of the department.

17-26-609. Temporary demonstration license.

(a) The Department of Health may issue a temporary demonstration license to an artist or establishment or to a supplier of materials for body art for:

(1) Educational purposes where body art is performed;

(2) Trade shows where body art is performed;

(3) Demonstrations of body art products or procedures; and

(4) An appearance as a guest artist.

(b) A temporary demonstration license shall be valid for no more than fourteen (14) consecutive calendar days.

(c)(1) The sponsor of a body art event for an educational purpose, a trade show, a demonstration, or a combination of an educational purpose, a trade show, and a demonstration of body art procedures where body art is performed shall obtain the necessary permits to conduct business in the jurisdiction in which the event will be held, including without limitation a permit issued by the department.

(2) The department shall collect a nonrefundable sponsor fee of fifty dollars (\$50.00) per artist who performs body art at an event, not to exceed two thousand dollars (\$2,000) per event.

(3) In addition to the penalties under § 17-26-602, a sponsor who violates this subsection is subject to closure of the temporary body art event and a penalty not to exceed three (3) times the cost of the permit.

(d) The department shall levy and collect a nonrefundable fee of fifty dollars (\$50.00) from a guest artist for a temporary demonstration license.

(e)(1) An application for a temporary demonstration license shall be submitted to the department not less than forty-five (45) days before the event for educational purposes, trade show, or demonstration of body art products and procedures where body art is performed.

(2) An application for a temporary demonstration license shall be submitted to the department not less than seven (7) days before the appearance of a guest artist.

(3) An artist shall provide evidence of completion of United States Occupational Safety and Health Administration blood-borne pathogens training with the application.

(f)(1) A person applying for a temporary demonstration license to appear as a guest artist shall provide documentation of licensure as an artist in another state or country or employment history in a studio licensed by the regulatory board or agency in another state or country before the temporary demonstration license may be granted.

(2) The establishment where the guest artist is appearing shall have a licensed body artist on its staff.

(3) A guest artist may be issued a temporary demonstration license to appear as a guest artist no more than one (1) time every three (3) months.

(g) A fee levied and collected under this section is special revenue and shall be deposited into the State Treasury, to be credited to the Public

Health Fund to be used exclusively for the Body Art Program of the department.

17-26-610. Critical items for closure of body art establishment.

(a)(1) The Department of Health shall create and publish a list of critical items for closure of an establishment.

(2) The department shall list the prohibitions under § 17-26-611 as critical items for closure.

(b)(1) An establishment that violates a critical item from the list established under subsection (a) of this section is subject to immediate closure by the department.

(2) An establishment closed under subdivision (b)(1) of this section shall remain closed until:

(A) Fines or penalties, or both, that are assessed under this subchapter have been paid; and

(B) Upon inspection by the department, the establishment is no longer in violation of a critical item.

17-26-611. Prohibitions.

(a) Body art is prohibited:

(1) On a person who is inebriated or appears to be incapacitated by the use of alcohol or drugs;

(2) On a person who shows signs of recent intravenous drug use;

(3) On an area with sunburn, open lesions, rashes, or wounds;

(4) With the use of a product or ink banned or restricted by the United States Food and Drug Administration;

(5) In a procedure area that is not physically and permanently separated from beauty facilities, such as hair and nail services; and

(6) On an animal in a facility licensed for the application of body art on human beings.

(b) A piercing gun shall be used only to pierce an earlobe.

(c) A person shall not:

(1) Perform a piercing with a manually loaded spring-operated piercing device;

(2) Pierce an earlobe with a piercing gun that does not use a presterilized encapsulated stud and clasp system; or

(3)(A) An artist shall not use jewelry for initial piercing that is not certified by ASTM International or the International Organization for Standardization, or both, as an implant-grade material except for specified types of glass, gold, and niobium as approved by the rules established by the Department of Health.

(B) An artist shall maintain on file for inspection a Mill Test Certificate confirming certification by ASTM International or the International Organization for Standardization, or both, for steel and titanium jewelry for initial piercing.

(d)(1) A person shall not sell a body piercing needle, tattoo needle, or body art instrument, or a combination of these, including without limitation tattoo ink, barrel, drip, and a tattoo machine to a person within this state who is not licensed as an artist by the department.

(2)(A) A violation of subdivision (d)(1) of this section is a Class A misdemeanor.

(B) Each violation of subdivision (d)(1) of this section is a separate offense.

(e)(1) Possession of a body piercing needle, tattoo needle, or body art instrument, or a combination of these, including without limitation tattoo ink, barrel, drip, and a tattoo machine by a person within this state who is not licensed as an artist by the department is prohibited.

(2)(A) A violation of subdivision (e)(1) of this section is a Class A misdemeanor.

(B) Each violation of subdivision (e)(1) of this section is a separate offense.

(f) A fine collected under this section, less court fees, shall be allocated as follows:

(1) Fifty percent (50%) to the State of Arkansas;

(2) Twenty-five percent (25%) to the city or county that levied and collected the fine; and

(3) Twenty-five percent (25%) to be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for the Body Art Program of the department.

17-26-612. Penalties.

(a) An artist who violates this subchapter or rules adopted by the

State Board of Health pertaining to body art commits a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) for each offense.

(b) After notice of a violation has been given, each violation of this subchapter constitutes a separate offense unless another penalty is specifically provided in this subchapter.

17-26-613. Prohibited practice.

An artist licensed by the Department of Health shall not perform or attempt to perform the insertion of a subdermal implant.

Subchapter 7 – Permanent Cosmetics and Semipermanent Cosmetics

17-26-701. Definitions.

As used in this subchapter:

(1) "Artist" means any person other than a licensed physician who performs permanent cosmetics or semipermanent cosmetics on a human and is licensed in this state;

(2) "Critical item" means an aspect of operation or condition of a facility or equipment that constitutes the greatest hazard to health and safety, including imminent health hazards;

(3) "Establishment" means any place or facility:

(A) Where permanent cosmetics or semipermanent cosmetics is performed; and

(B) That has an artist licensed in Arkansas on staff;

(4) "Guest artist" means an artist from a state other than Arkansas or a country other than the United States who:

(A) Holds a license from the permanent cosmetics or semipermanent cosmetics regulatory board or agency, if in existence, in that state or country; or

(B) If an artist license is not available in the guest artist's state or country, can submit to the department evidence of professional experience, employment, and education including:

(i) Proof of blood-borne pathogen certification; and

(ii) Proof of employment in an establishment for at least two (2) years;

(5) "Institution" means an establishment that is owned by an artist and licensed by the department to offer post-secondary education to students in the field of permanent cosmetics and semipermanent cosmetics;

(6) "Paramedical tattooing" means procedures that involve repigmentation, including without limitation:

- (A) 3D nipple and areola;
- (B) Scar camouflaging;
- (C) Scalp micropigmentation;
- (D) Microblading;
- (E) Makeup application; and
- (F) Pigment lightening;

(7) "Permanent cosmetics" means the application of pigment placed in the skin by needle or other instruments to beautify the body including without limitation:

- (A) Permanent eyebrows;
- (B) Permanent eyeliner; and
- (C) Permanent lip liner or color;

(8) "Repigmentation" means recoloration of the skin, including through the use of dermabrasion or chemical peels, sought due to:

- (A) Birthmarks, vitiligo, or other skin conditions that result in the loss of melanin to the skin;
- (B) Scarring caused by surgical procedures, including without limitation face lifts, mole or wart removal, cauterization, and other similar procedures;
- (C) Mastectomy, including recreation of an areola or nipple; or
- (D) Blotchy pigmentation;

(9) "Semipermanent cosmetics" means the application of cosmetic products in or on the body to beautify the body, including without limitation:

- (A) Repigmentation;
- (B) Microneedling;
- (C) Eyelash extensions;
- (D) Makeup application; and
- (E) Removal of hair through products or instruments which do not include waves, rays, or lasers;

(10) "Sponsor" means an individual or business entity, including an event coordinator or manager, responsible for the organization of a convention, trade show, or other temporary event that includes a permanent cosmetics or semipermanent cosmetics demonstration booth;

(11) "Sponsor educator" means an individual who:

(A) Has been certified by the Department of Health as an instructor of permanent cosmetics and semipermanent cosmetics on or before the effective date of this subchapter; or

(B) On and after the effective date of this subchapter, meets the following requirements:

(i) Has completed the education required under § 17-26-707; and

(ii) Is a registered instructor for permanent cosmetics or semipermanent cosmetics with the department; and

(12) "Student" means any person who is enrolled and engaged in learning or acquiring knowledge of permanent cosmetics and semipermanent cosmetics in an institution under a sponsor educator.

17-26-702. Unlawful to perform permanent cosmetics or semipermanent cosmetics on person under 18 years of age – Documentation and consent.

(a)(1) A person under eighteen (18) years of age shall not undergo permanent cosmetics or semipermanent cosmetics unless:

(A) Written consent is given by the person's parent or legal guardian;

(B) The parent or legal guardian is present during the procedure;

(C) The person to undergo permanent cosmetics and semipermanent cosmetics and the parent or legal guardian each provide a valid government-issued form of identification that includes a name, date of birth, and photo; and

(D) The parent or legal guardian presents proof of guardianship that matches the identification given, including without limitation a birth certificate or a court or state record for adoption, legal guardianship, emancipation, or a marriage license.

(2) The artist shall retain for at least two (2) years a copy of a photo identification and a proof of guardianship presented under

subdivision (a)(1) of this section.

(b) A person shall not perform permanent cosmetics and paramedical tattooing on a person under thirteen (13) years of age, regardless of parental consent, except when authorized or prescribed by a physician's statement.

(c) Regardless of age, the person receiving the permanent cosmetics and semipermanent cosmetics shall attest to the fact that he or she is not under the influence of drugs or alcohol.

(d) Printed and verbal instructions on the care of the skin and the permanent cosmetics and semipermanent cosmetics shall be given to each person after the procedure, and a copy of the instructions shall be posted in a conspicuous place in the establishment.

(e)(1)(A) In addition to the attestations required in subsections (a) and (c) of this section, records shall be kept of all persons receiving permanent cosmetics and semipermanent cosmetics and of the parents or legal guardians giving consent under the rules promulgated by the Department of Health to implement this subchapter.

(B) If the person to undergo permanent cosmetics and semi-permanent cosmetics is under eighteen (18) years of age, the record shall include the printed legal name and signature of the parent or legal guardian.

(2) All records shall be retained for at least two (2) years from the last date recorded in the bound book.

(3) All required signatures shall be in ink or digital form, and required records shall be available at a reasonable time for examination by the department and by local health officials.

(f)(1) Except as provided in subsections (a)-(c) of this section, it is unlawful to perform permanent cosmetics and semipermanent cosmetics on a person under eighteen (18) years of age, and any person who pleads guilty or nolo contendere to or is found guilty of a violation of this subdivision (f)(1) is guilty of a Class A misdemeanor.

(2) Any person who falsely claims to be the minor's parent or legal guardian for the purpose of obtaining permanent cosmetics and semipermanent cosmetics for a person under eighteen (18) years of age shall be guilty of a Class D felony.

(3) It is not a defense to a criminal prosecution under subdivision (f)(1) of this section that at the time of the offense the person

who received the permanent cosmetics or semipermanent cosmetics possessed a letter of consent from the person's parent or legal guardian if the letter was forged or if a person falsely assumed the identity of the minor's parent or legal guardian.

(g)(1) It is unlawful to perform permanent cosmetics or semipermanent cosmetics in any unlicensed establishment.

(2) A person who pleads guilty or nolo contendere to or is found guilty of a violation of subdivision (g)(1) of this section is guilty of a Class D felony.

(3) A fine collected under this section, less court fees, shall be allocated as follows:

(A) Fifty percent (50%) to the State of Arkansas;

(B) Twenty-five percent (25%) to the city or county that levied and collected the fine; and

(C) Twenty-five percent (25%) to be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for the permanent cosmetics and semipermanent cosmetics.

17-26-703. Licensure, regulation, and inspection for health hazards.

(a)(1) An artist who performs permanent cosmetics or semipermanent cosmetics shall be licensed by the Department of Health.

(2) An establishment where artists who perform permanent cosmetics or semipermanent cosmetics shall be licensed by the department.

(3) An institution shall be licensed by the department as an establishment.

(4) An artist from a state other than Arkansas or a country outside of the United States who holds a license from the permanent cosmetics and semipermanent cosmetics regulatory board or agency in that state or country may submit an application for qualifications review by the department to determine eligibility for a permanent cosmetics and semipermanent cosmetics license based upon criteria established by the department.

(5) The business premises, equipment, procedures, techniques, and conditions of those businesses shall be subject to at least one (1) inspection by the department.

(b)(1) The department may adopt appropriate rules regarding the artists, premises, equipment, procedures, techniques, and conditions of

establishments which perform procedures subject to this subchapter to assure that the premises, equipment, procedures, techniques, and conditions are aseptic and do not constitute a health hazard.

(2) Any rule affecting establishments in effect on January 1, 2021, shall remain in effect until the department adopts rules under this subchapter.

(c) Applicants for a license shall file applications upon forms prescribed by the department.

(d) A license shall be issued only for the premises and persons in the application and shall not be transferable.

(e)(1) The department shall levy and collect an annual fee of:

(A) One hundred fifty dollars (\$150) per facility for issuance of a license to an establishment; and

(B) One hundred dollars (\$100) per artist for issuance of a license to an artist.

(2)(A) The department shall collect a one-time fee of five hundred dollars (\$500) per artist licensed in a state other than Arkansas or a country other than the United States who applies for qualifications review by the department.

(B) The fee for written and practical exams under § 17-26-707 is not required for an applicant under subdivision (e)(2)(A) of this section for exams taken to complete requirements established by the department.

(C) Upon satisfactory completion of the requirements by the applicant and approval of qualifications established by the department, a license for an artist shall be issued to an applicant under subdivision (e)(2)(A) of this section.

(D) The department shall collect the annual artist fee of one hundred dollars (\$100) after the issuance of a license under subdivision (e)(2)(C) of this section.

(3) The annual fee for an artist or for an establishment shall be based upon the calendar year, January 1 through December 31, with fees for any given year due by December 31 of the previous year.

(4) If the annual fee for an establishment has not been paid by March 1 of the calendar year, the establishment shall be closed until a new license has been issued by the department and the annual fee has been paid.

(5)(A) If the annual fee for an artist has not been paid by March 1 of the calendar year, the artist shall have his or her license suspended for ninety (90) days.

(B) If an artist has his or her license suspended, he or she shall before a license may be reissued within ninety (90) days after the suspension:

(i) Pay a reinstatement fee of one hundred dollars (\$100) and pay all overdue licensing fees;

(ii) Complete a written exam with the department and a practical exam in the establishment in which the artist is licensed; and

(iii) Meet current requirements established by the department for artists.

(C) If an artist whose license is suspended has not met the requirements under subdivision (e)(5)(B) of this section within ninety (90) days after the suspension, the artist may apply for qualification review.

(6) In addition to the penalty provisions found in this subsection, any owner of an establishment or institution operating without a current license commits a Class D felony.

(f) An artist shall complete not less than eight (8) clock hours of continuing education at an institution licensed by the board in order to renew his or her license each year.

(g) All fees levied and collected under this subchapter are declared to be special revenues and shall be deposited into the State Treasury, and be used exclusively for permanent cosmetics and semipermanent cosmetics.

(h) Subject to any rules as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the department may transfer all unexpended funds that pertain to fees collected under this subchapter, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

17-26-704. Local health officials.

(a) Any city or county department of health may periodically inspect establishments on the basis of compliance with state, city, or county sanitary regulations.

(b) The governing body of any municipality or county may adopt by ordinance local sanitary regulations of establishments.

17-26-705. No criminal liability.

This subchapter does not creates any liability, criminal or otherwise, for a person under eighteen (18) years of age for undergoing permanent cosmetics or semipermanent cosmetics.

17-26-706. Blood-borne pathogens course.

(a)(1) Each artist, instructor, and student shall complete United States Occupational Safety and Health Administration blood-borne pathogens training approved by the Department of Health on or before December 1, 2022.

(2) An approved online course may be used to satisfy the requirement under subdivision (a)(1) of this section.

(b) Each instructor shall complete the course before training any student.

(c) Each student shall complete the course before applying for the examination required under § 17-26-709.

(d)(1) After completion of a first United States Occupational Safety and Health Administration blood-borne pathogens training approved by the department, an artist, instructor, and student shall renew the training annually.

(2) A copy of each annual certification under subdivision (d)(1) of this section shall be submitted to the department with the license renewal.

17-26-707. Education of student.

(a) A sponsor educator shall be a registered sponsor educator at an institution licensed by the Department of Health.

(b) The department shall develop standards to determine:

(1) The maximum number of students in an institution at one (1) time; and

(2) The length of the program in hours and across a range of months.

(c)(1)(A) During the education of the student in permanent cosmetics, each student shall complete not less than four hundred (400) clock hours of

supervised permanent cosmetics education, including not less than one hundred fifty (150) hours of supervised on-site work and not less than two hundred (200) hours of classroom instruction, in a period not less than six (6) months or more than twenty-four (24) months in an establishment licensed under § 17-26-709.

(B) During the education of a student in semi-permanent cosmetics, each student shall complete not less than two hundred (200) clock hours of supervised semipermanent cosmetics, including not less than one hundred (100) hours of supervised on-site work and not less than fifty (50) hours of classroom instruction, in a period not less than six (6) months or more than twenty-four (24) months in an establishment licensed under § 17-26-709.

(C) Additional modalities of paramedical tattooing may be added by completing not less than sixteen (16) clock hours of technical and procedural training in each of the fields of paramedical tattooing in which the student is to be licensed.

(D) A student studying multiple fields of permanent cosmetics and semipermanent cosmetics at the same time shall complete a total of six hundred (600) clock hours of all fields in not less than six (6) months or more than twenty-four (24) months.

(2)(A) The sponsor educator shall maintain a training log of the clock hours completed by the student on forms approved by the board.

(B) The training log shall include without limitation a record of:

- (i) Hours of both theory and practical education;
- (ii) The procedures observed and completed;
- (iii) A list of resources used for training;
- (iv) The name, address, phone number, email address, and date of birth of the client on whom the procedure is performed;
- (v) The date of the procedure;
- (vi) The name, phone number, and signature of the student; and
- (vii) The name and signature of the sponsor educator and one (1) administrative member of the institution.

(C) The student shall keep available for inspection a bound record book that is separate from the record book of another artist or

artist in training.

(D) The completed training log shall be submitted to the board at the time of the practical examination under § 17-26-709.

(3) In order to graduate from an institution, a student shall complete three (3) procedures in each area of the face by using the equipment.

(d)(1) During the education of an artist to become a sponsor educator, each artist shall complete not less than six-hundred (600) clock hours of supervised instructor program, including not less than one hundred (100) hours of teaching observation, two hundred (200) hours of theory, one hundred-fifty (150) hours of procedure observation, and one hundred-fifty (150) hours of practice teaching.

(2) A person shall not identify as a sponsor educator until licensed or certified under this subchapter.

(3) A licensure or certification of a sponsor educator is only valid at the institution in which the licensure or certification is received.

(4) A sponsor educator may offer training only in the area in which the sponsor educator holds a current license from the department.

(e) The department shall adopt a minimum curriculum for each area of permanent cosmetics and semipermanent cosmetics training that shall be followed by all sponsor educators, students, and institutions.

#### 17-26-708. Institutions.

(a) The Department of Health may grant licensure to an institution if the owner of the institution submits:

- (1) The address and phone number of the institution;
- (2) Proof of accreditation within the previous six (6) months;
- (3) The floor plan of the institution to ensure adequate space for fundamental teaching and hands-on laboratory instruction;
- (4) The name, contact information, work experience, and license information for all sponsor educators teaching at the institution;
- (5) The background and resume of the owner;
- (6) Proof of registration and good standing with the Secretary of State under the name of the institution;
- (7) Proof of malpractice or liability insurance;
- (8) A detailed curriculum to be approved by the department; and

(9) A licensure fee of eight hundred fifty dollars (\$850).

(b) Once licensed by the department, the institution shall:

(1) Maintain daily records of the student's time which shall be accessible by the student and the department;

(2) Ensure that hours on the transcript are transferable with all institutions within this state;

(3) Provide:

(A)(i) A certified transcript to a student or the department upon request.

(ii) The institution may charge a student no more than twenty-five dollars (\$25.00) per copy and shall provide the copy within two (2) business days; and

(B)(i) A copy of the enrollment agreement between the institution and the student to the department.

(ii) The enrollment agreement may be adjusted at any time with a thirty (30) day written notice and supporting documentation submitted to the department; and

(4) Submits a renewal fee of one hundred dollars (\$100).

(c) An institution that does not comply with this section is subject to:

(1) A fine not to exceed one thousand dollars (\$1,000) per violation;

(2) Reimbursement or refund to a student of no less than fifty percent (50%) of tuition per student; or

(3) Permanent closure of the institution.

(d) An institution that does not comply with or breaches the enrollment agreement between the institution and the student is subject to:

(1) A fine not to exceed five hundred dollars (\$500) per violation;

(2) Reimbursement or refund to a student of no less than fifty percent (50%) of tuition per student; or

(3) Permanent closure of the institution.

(e)(1) An institution that proposes to offer distance learning shall provide a detailed curriculum of the course of study with supporting materials and digital testing methods.

(2) The department shall not license an institution for distance

learning if the institution is unable to administratively support off-campus education.

(3) A student may take a permanent cosmetics and semipermanent cosmetics kit or machine, or both, home to be able to practice remotely through institutions approved for distance learning.

(f)(1) An institution may utilize guest artists and guest educators for courses.

(2) A guest artist shall:

(A) Pay a fee of five hundred dollars (\$500) to perform billable services in this state; and

(B) Apply for a license in this state that has to be valid for no more than fourteen (14) consecutive days.

(3) A guest educator shall not perform billable services and shall be regulated under the authority of the institution.

(g)(1) An institution in operation on the effective date of this subchapter shall submit all documentation indicated in this section to the department and comply with all laws and rules within ninety (90) days to remain in operation.

(2) An institution that does not become compliant within ninety (90) days is subject to immediate closure until the institution comes in compliance.

17-26-709. Examination – Fee.

(a)(1)(A) Each student seeking licensure as an artist under the rules of the Department of Health shall take a written and practical examination prepared or approved by the department after completion of education requirements.

(B) Upon completion of the hours required under § 17-26-707, a practical examination shall be conducted by the department in each field of training for which the student is seeking licensure.

(2) Until a student receives a passing grade on the written and practical examination, a student shall not:

(A) Be licensed as an artist;

(B) Hold himself or herself out as a licensed artist; or

(C) Independently perform a permanent cosmetics or semi-permanent cosmetics procedure without the supervision of a sponsor educator.

(b) The department shall levy and collect a nonrefundable fee of fifty dollars (\$50.00) from each student who applies to take the written and practical examinations required under this section for licensure as an artist.

(c) A fee collected under this section shall be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for permanent cosmetics and semipermanent cosmetics.

17-26-710. Temporary demonstration license.

(a) The Department of Health may issue a temporary demonstration license to an artist or establishment or to a supplier of materials for permanent cosmetics and semipermanent cosmetics for:

(1) Educational purposes where permanent cosmetics and semipermanent cosmetics is performed;

(2) Trade shows where permanent cosmetics and semipermanent cosmetics is performed;

(3) Demonstrations of permanent cosmetics and semipermanent cosmetics products or procedures; and

(4) An appearance as a guest artist.

(b) A temporary demonstration license shall be valid for no more than fourteen (14) consecutive calendar days.

(c)(1) The sponsor of a permanent cosmetics and semipermanent cosmetics event for an educational purpose, a trade show, a demonstration, or a combination of an educational purpose, a trade show, and a demonstration of permanent cosmetics or semipermanent cosmetics procedures where permanent cosmetics and semipermanent cosmetics is performed shall obtain the necessary permits to conduct business in the jurisdiction in which the event will be held, including without limitation a permit issued by the department.

(2) The department shall collect a nonrefundable fee of fifty dollars (\$50.00) per artist who performs permanent cosmetics and semipermanent cosmetics at an event, not to exceed two thousand dollars (\$2,000) per event.

(3) In addition to the penalties under § 17-26-702, a sponsor who violates this subsection is subject to closure of the temporary permanent cosmetics and semipermanent cosmetics event and a penalty not to exceed three (3) times the cost of the permit.

(d) The department shall levy and collect a nonrefundable fee of fifty dollars (\$50.00) from a guest artist for a temporary demonstration license.

(e)(1) An application for a temporary demonstration license shall be submitted to the department not less than forty-five (45) days before the event for educational purposes, trade show, or demonstration of permanent cosmetics and semipermanent cosmetics products and procedures where permanent cosmetics and semipermanent cosmetics is performed.

(2) An application for a temporary demonstration license shall be submitted to the department not less than seven (7) days before the appearance of a guest artist.

(3) An artist shall provide evidence of completion of United States Occupational Safety and Health Administration blood-borne pathogens training with the application.

(f)(1) A person applying for a temporary demonstration license to appear as a guest artist shall provide documentation of licensure as an artist in another state or country or employment history in an establishment licensed by the regulatory board or agency in another state or country before the temporary demonstration license may be granted.

(2) The establishment where the guest artist is appearing shall have a licensed artist on its staff.

(3) A guest artist may be issued a temporary demonstration license to appear as a guest artist no more than one (1) time every three (3) months.

(g) A fee levied and collected under this section is special revenue and shall be deposited into the State Treasury, to be credited to the Public Health Fund to be used exclusively for permanent cosmetics and semipermanent cosmetics.

17-26-711. Critical items for closure of establishment.

(a) The Department of Health shall create and publish a list of critical items for closure of an establishment.

(b)(1) An establishment that violates a critical item from the list established under subsection (a) of this section is subject to immediate closure by the department.

(2) An establishment closed under subdivision (b)(1) of this section shall remain closed until:

(A) Fines or penalties, or both, are assessed under this subchapter have been paid; and

(B) Upon inspection by the department, the establishment is no longer in violation of a critical item.

17-26-712. Prohibitions.

(a) Permanent cosmetics and semipermanent cosmetics are prohibited:

(1) On a person who is inebriated or appears to be incapacitated by the use of alcohol or drugs;

(2) On a person who shows signs of recent intravenous drug use;

(3) On an area with sunburn, open lesions, rashes, or wounds;

(4) With the use of a product or ink banned or restricted by the United States Food and Drug Administration; and

(5) On an animal in a facility licensed for the application of permanent cosmetics or semipermanent cosmetics on human beings.

(b)(1) A person shall not sell an instrument of permanent cosmetics or semipermanent cosmetics to a person within this state who is not licensed as an artist by the Department of Health.

(2)(A) A violation of subdivision (b)(1) of this section is a Class A misdemeanor.

(B) Each violation of subdivision (b)(1) of this section is a separate offense.

(c)(1) Possession of an instrument of permanent cosmetics or semipermanent cosmetics by a person within this state who is not licensed as an artist or registered student by the department is prohibited.

(2)(A) A violation of subdivision (c)(1) of this section is a Class A misdemeanor.

(B) Each violation of subdivision (c)(1) of this section is a separate offense.

(d) A fine collected under this section, less court fees, shall be allocated as follows:

(1) Fifty percent (50%) to the State of Arkansas;

(2) Twenty-five percent (25%) to the city or county that levied and collected the fine; and

(3) Twenty-five percent (25%) to be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for

permanent cosmetics and semipermanent cosmetics.

17-26-713. Penalties.

(a) An artist who violates this subchapter or rules adopted by the Department of Health pertaining to permanent cosmetics or semipermanent cosmetics commits a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) for each offense.

(b) After notice of a violation has been given, each violation of this subchapter constitutes a separate offense unless another penalty is specifically provided in this subchapter.

SECTION 4. Arkansas Code Title 20, Chapter 27, Subchapter 15, is repealed.

~~Subchapter 15—Body Piercing, Branding, and Tattooing~~

~~20-27-1501. Definitions.~~

~~As used in this subchapter:~~

~~(1) “Artist” means any person other than a licensed physician who performs body art on a human;~~

~~(2) “Artist in training” means a person who:~~

~~(A) Is in training under the supervision of an artist trainer or a physician; and~~

~~(B) Shall not perform body art independently;~~

~~(3) “Artist trainer” means an artist who:~~

~~(A) Has been licensed by the Department of Health as an artist for at least five (5) years in the specified field of body art in which he or she will offer training;~~

~~(B) Has worked in a body art establishment licensed by the department for at least five (5) years and been in compliance with department rules governing body artists;~~

~~(C) Has completed the course required under § 20-27-1506;~~

~~and~~

~~(D) Is a registered instructor for the specified field of body art with the department;~~

~~(4) “Body art” means procedures that include:~~

- ~~(A) —Tattooing;~~
- ~~(B) —Body piercing;~~
- ~~(C) —Branding;~~
- ~~(D) —Permanent cosmetics; or~~
- ~~(E) —Scarification;~~

~~(5)(A) —“Body piercing” and “body piercing procedure” mean the puncturing of a part of a live human being to create a hole for ornamentation or decoration or a single point perforation of a body part to insert an anchor with a single stud protruding or flush with the skin.~~

~~(B) —“Body piercing” or “body piercing procedure” shall not include piercing an earlobe with a presterilized, disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the earlobe;~~

~~(6) —“Branding” means a permanent mark made on human tissue by burning with a hot iron or other instrument;~~

~~(7) —“Critical item” means an aspect of operation or condition of a facility or equipment that constitutes the greatest hazard to health and safety, including imminent health hazards;~~

~~(8) —“Establishment” means any place or facility:~~

- ~~(A) —Where body art is performed; and~~
- ~~(B) —That has a body artist licensed in Arkansas on staff;~~

~~(9) —“Guest artist” means an artist from a state other than Arkansas or a country other than the United States who:~~

~~(A) —Holds a license from the body art regulatory board or agency, if in existence, in that state or country; or~~

~~(B) —If an artist license is not available in the guest artist’s state or country, can submit to the department evidence of professional experience, employment, and education including:~~

- ~~(i) —Proof of blood-borne pathogen certification; and~~
- ~~(ii) —Proof of employment in a licensed body art facility for at least two (2) years;~~

~~(10) —“Instrument” means equipment used during body art, including without limitation:~~

- ~~(A) —Forceps;~~
- ~~(B) —Hemostats;~~
- ~~(C) —Needles;~~

~~(D) Permanent cosmetic needles and tips;~~

~~(E) Receiving tubes; and~~

~~(F) Tattoo barrels and tubes;~~

~~(11) "Permanent cosmetics" and "permanent cosmetic procedure" mean the application of permanent or semipermanent pigmentation by the penetration of the skin with a needle or instrument to:~~

~~(A) The face for cosmetic purposes; or~~

~~(B) Any part of the body for scar coverage or other corrective purposes;~~

~~(12) "Repigmentation" means recoloration of the skin, including through the use of dermabrasion or chemical peels, sought due to:~~

~~(A) Birthmarks, vitiligo, or other skin conditions that result in the loss of melanin to the skin;~~

~~(B) Scarring caused by surgical procedures, including without limitation face lifts, mole or wart removal, cauterization, and other similar procedures;~~

~~(C) Mastectomy, including recreation of an areola or nipple; or~~

~~(D) Blotchy pigmentation;~~

~~(13) "Scarification" means injury of the skin involving scratching, etching, or cutting of designs to produce a scar on a human being for ornamentation or decoration;~~

~~(14) "Sponsor" means an individual or business entity, including an event coordinator or manager, responsible for the organization of a convention, trade show, or other temporary event that includes a body art demonstration booth;~~

~~(15) "Subdermal implanting" means the insertion of an object under the skin of a live human being for ornamentation or decoration; and~~

~~(16)(A) "Tattooing" and "tattoo procedure" mean any method of placing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin by introducing pigments or by the production of scars to form indelible marks with the aid of needles or other instruments.~~

~~(B) "Tattooing" and "tattoo procedure" do not include permanent cosmetics.~~

~~20-27-1502. Unlawful to perform body art on person under eighteen~~

~~years of age—Documentation and consent.~~

~~(a)(1) A person under eighteen (18) years of age shall not undergo body art unless:~~

~~(A) Written consent is given by the person's parent or legal guardian;~~

~~(B) The parent or legal guardian is present during the procedure;~~

~~(C) The person to undergo body art and the parent or legal guardian each provide a valid government issued form of identification that includes a name, date of birth, and photo; and~~

~~(D) The parent or legal guardian presents proof of guardianship that matches the identification given, including without limitation a birth certificate or a court or state record for adoption, legal guardianship, emancipation, or a marriage license.~~

~~(2) The artist shall retain for at least two (2) years a copy of a photo identification and a proof of guardianship presented under subdivision (a)(1) of this section.~~

~~(b) A person shall not perform body art on a person under sixteen (16) years of age, regardless of parental consent, except:~~

~~(1) When authorized or prescribed by a physician's statement exclusively for repigmentation; or~~

~~(2) When piercing the earlobe.~~

~~(c) It is unlawful to perform body art on the nipple or genitalia of a person under eighteen (18) years of age regardless of parental consent, except when authorized or prescribed by a physician's statement exclusively for repigmentation.~~

~~(d) It is unlawful to perform branding on a person under eighteen (18) years of age regardless of parental consent.~~

~~(e) Regardless of age, the person receiving the body art shall attest to the fact that he or she is not under the influence of drugs or alcohol.~~

~~(f) Printed and verbal instructions on the care of the skin and the body art shall be given to each person after the procedure, and a copy of the instructions shall be posted in a conspicuous place in the body art establishment.~~

~~(g)(1)(A) In addition to the attestations required in subsections (a) and (e) of this section, records shall be kept of all persons receiving body~~

~~art and of the parents or guardians giving consent under the rules promulgated by the State Board of Health to implement this subchapter.~~

~~(B) If the person to undergo body art is under eighteen (18) years of age, the record shall include the printed legal name and signature of the parent or legal guardian.~~

~~(2) All records shall be retained for at least two (2) years from the last date recorded in the bound book.~~

~~(3) All required signatures shall be in ink, and required records shall be available at a reasonable time for examination by the Department of Health and by local health officials.~~

~~(h)(1) Except as provided in subsections (a)-(c) of this section, it is unlawful to perform body art on a person under eighteen (18) years of age, and any person who pleads guilty or nolo contendere to or is found guilty of a violation of this subdivision (h)(1) is guilty of a Class A misdemeanor.~~

~~(2) Any person who falsely claims to be the minor's parent or legal guardian for the purpose of obtaining body art for a person under eighteen (18) years of age shall be guilty of a Class D felony.~~

~~(3) It is not a defense to a criminal prosecution under subdivision (h)(1) of this section that at the time of the offense the person who received the body art possessed a letter of consent from the person's parent or legal guardian if the letter was forged or if a person falsely assumed the identity of the minor's parent or legal guardian.~~

~~(i)(1) It is unlawful to perform body art in any unlicensed facility.~~

~~(2) A person who pleads guilty or nolo contendere to or is found guilty of a violation of subdivision (i)(1) of this section is guilty of a Class D felony.~~

~~(3) A fine collected under this section, less court fees, shall be allocated as follows:~~

~~(A) Fifty percent (50%) to the State of Arkansas;~~

~~(B) Twenty five percent (25%) to the city or county that levied and collected the fine; and~~

~~(C) Twenty five percent (25%) to be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for the Body Art Program of the department.~~

~~20-27-1503. Department of Health to license, regulate, and inspect for~~

~~health hazards.~~

~~(a)(1) Body art establishments which and artists who perform body art shall be licensed by the Department of Health.~~

~~(2) A body art training facility shall be licensed by the department as an establishment and as an approved body art training facility.~~

~~(3) An artist from a state other than Arkansas or a country outside of the United States who holds a license from the body art regulatory board or agency in that state or country may submit an application for qualifications review by the department to determine eligibility for a body art license based upon criteria established by the department.~~

~~(4) The business premises, equipment, procedures, techniques, and conditions of those businesses shall be subject to at least one (1) inspection by the department.~~

~~(b)(1) The department may adopt appropriate rules regarding the artists, premises, equipment, procedures, techniques, and conditions of establishments which perform procedures subject to this subchapter to assure that the premises, equipment, procedures, techniques, and conditions are aseptic and do not constitute a health hazard.~~

~~(2) Any rule affecting body art establishments in effect on August 13, 2013, shall remain in effect until the State Board of Health adopts rules under this subchapter.~~

~~(c) Applicants for a license shall file applications upon forms prescribed by the department.~~

~~(d) A license shall be issued only for the premises and persons in the application and shall not be transferable.~~

~~(e)(1)(A) The department shall levy and collect an annual fee of one hundred fifty dollars (\$150) per facility for issuance of a license to an establishment that performs body art.~~

~~(B) The department shall levy and collect an annual fee of one hundred dollars (\$100) per artist for issuance of a license to an artist who performs body art.~~

~~(2)(A) The department shall collect a one-time fee of five hundred dollars (\$500) per artist licensed in a state other than Arkansas or a country other than the United States who applies for qualifications review by the department.~~

~~(B) The fee for written and practical exams under § 20-27-~~

~~1508 is not required for an applicant under subdivision (e)(2)(A) of this section for exams taken to complete requirements established by the department.~~

~~(C) Upon satisfactory completion of the requirements by the applicant and approval of qualifications established by the department, a body artist license shall be issued to an applicant under subdivision (e)(2)(A) of this section.~~

~~(D) The department shall collect the annual artist fee of one hundred dollars (\$100) after the issuance of a license under subdivision (e)(2)(C) of this section.~~

~~(3) The annual fee for an artist or for an establishment shall be based upon the calendar year, January 1 through December 31, with fees for any given year due by December 31 of the previous year.~~

~~(4) If the annual fee for a licensed establishment has not been paid by March 1 of the calendar year, the establishment shall be closed until a new license has been issued by the department and the annual fee has been paid.~~

~~(5)(A) If the annual fee for a licensed artist has not been paid by March 1 of the calendar year, the artist shall have his or her license suspended for ninety (90) days.~~

~~(B) If an artist has his or her license suspended, he or she shall before a license may be reissued within ninety (90) days after the suspension:~~

~~(i) Pay a reinstatement fee of one hundred dollars (\$100) and pay all overdue licensing fees;~~

~~(ii) Complete a written exam with the department and a practical exam in the studio in which the artist is licensed; and~~

~~(iii) Meet current requirements established by the department for artists.~~

~~(C) If an artist whose license is suspended has not met the requirements under subdivision (e)(5)(B) of this section within ninety (90) days after the suspension, the artist may apply for qualification review.~~

~~(6) In addition to the penalty provisions found in this subsection, any studio or business owner operating without a current license commits a Class D felony.~~

~~(f) All fees levied and collected under this subchapter are declared to be special revenues and shall be deposited into the State Treasury, there to be credited to the Public Health Fund to be used exclusively for the Body Art Program of the department.~~

~~(g) Subject to any rules as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the department may transfer all unexpended funds relative to the health facility services that pertain to fees collected under this subchapter, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.~~

~~20-27-1504. Local health officials.~~

~~(a) Any city or county department of health may periodically inspect body art establishments on the basis of compliance with state, city, or county sanitary regulations.~~

~~(b) The governing body of any municipality or county may adopt by ordinance local sanitary regulations of body art establishments.~~

~~20-27-1505. No criminal liability.~~

~~Nothing in this subchapter creates any liability, criminal or otherwise, for a person under eighteen (18) years of age for undergoing body art.~~

~~20-27-1506. Blood-borne pathogens course.~~

~~(a)(1) Each artist, artist trainer, and artist in training shall complete United States Occupational Safety and Health Administration blood-borne pathogens training approved by the Department of Health on or before December 1, 2014.~~

~~(2) An approved online course may be used to satisfy the requirement under subdivision (a)(1) of this section.~~

~~(b) Each artist trainer shall complete the course before training any artist in training.~~

~~(c) Each artist in training shall complete the course before applying for the examination required under § 20-27-1508.~~

~~(d)(1) After completion of a first United States Occupational Safety and Health Administration blood-borne pathogens training approved by the~~

~~department, an artist, an artist trainer, and an artist in training shall renew the training annually.~~

~~(2) A copy of each annual certification under subdivision (d)(1) of this section shall be submitted to the department with the license renewal.~~

~~20-27-1507. Education of artist in training.~~

~~(a) An artist trainer shall be a registered instructor in a school licensed by the Department of Health.~~

~~(b) The department shall develop standards to determine:~~

~~(1) The maximum number of artists in training in a training facility at one time; and~~

~~(2) The length of the program in hours and across a range of months.~~

~~(c)(1)(A) During the artist training in the fields of tattooing, body piercing, or permanent cosmetics, each artist in training shall complete not less than three hundred seventy five (375) clock hours of supervised body art work and classroom instruction in a period not less than six (6) months or more than twenty four (24) months in an establishment licensed under § 20-27-1503 and § 6-51-601 et seq.~~

~~(B) During the artist training in the field of branding, each artist in training shall complete not less than three hundred seventy five (375) clock hours of supervised body art work and classroom instruction in a period not less than six (6) months or more than twenty four (24) months in an establishment licensed under § 20-27-1503 and § 6-51-601 et seq.~~

~~(C) Additional fields of body art training may be added by completing not less than two hundred fifty (250) clock hours of technical and procedural training in each of the other fields of body art in which an artist in training is to be licensed.~~

~~(D) An artist in training studying multiple fields of body art at the same time shall complete the total clock hours of all fields in not less than twelve (12) months or more than twenty four (24) months.~~

~~(2)(A) The artist trainer shall maintain a training log of the clock hours completed by the artist in training on forms approved by the department.~~

~~(B) The training log shall include without limitation a~~

~~record of:~~

~~(i) Hours of both theory and practical education;~~

~~(ii) The procedures observed and completed; and~~

~~(iii) A list of resources used for training.~~

~~(C) The artist in training shall keep available for inspection a bound record book that is separate from the record book of another artist or artist in training.~~

~~(D) The completed training log shall be submitted to the department at the time of the practical examination under § 20-27-1508.~~

~~(d) An artist trainer may offer training only in the area in which the artist trainer holds a current license from the department.~~

~~(e) The department shall adopt a minimum curriculum for each area of body art training that shall be followed by all artist trainers, artists in training, and body art training facilities.~~

~~20-27-1508. Examination—Fee.~~

~~(a)(1)(A) Each artist in training seeking licensure as an artist under the rules of the Department of Health shall take a written examination prepared or approved by the department before beginning training.~~

~~(B) Upon completion of the hours required under § 20-27-1507, a practical examination shall be conducted by the department in each field of training for which the artist in training is seeking licensure.~~

~~(2) Until an artist in training receives a passing grade on the practical examination, no artist in training may:~~

~~(A) Be licensed as an artist;~~

~~(B) Hold himself or herself out as a licensed artist; or~~

~~(C) Independently perform a body art procedure without the supervision of a body art trainer.~~

~~(b) The department shall levy and collect a nonrefundable fee of fifty dollars (\$50.00) from each artist in training who applies to take the written and practical examinations required under this section for licensure as an artist.~~

~~(c) A fee collected under this section shall be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for the Body Art Program of the department.~~

~~20-27-1509. Temporary demonstration license.~~

~~(a) The Department of Health may issue a temporary demonstration license to an artist or establishment or to a supplier of materials for body art for:~~

- ~~(1) Educational purposes where body art is performed;~~
- ~~(2) Trade shows where body art is performed;~~
- ~~(3) Demonstrations of body art products or procedures; and~~
- ~~(4) An appearance as a guest artist.~~

~~(b) A temporary demonstration license shall be valid for no more than fourteen (14) consecutive calendar days.~~

~~(c)(1) The sponsor of a body art event for an educational purpose, a trade show, a demonstration, or a combination of an educational purpose, a trade show, and a demonstration of body art procedures where body art is performed shall obtain the necessary permits to conduct business in the jurisdiction in which the event will be held, including without limitation a permit issued by the department.~~

~~(2) The department shall collect a nonrefundable sponsor fee of fifty dollars (\$50.00) per artist who performs body art at an event, not to exceed two thousand dollars (\$2,000) per event.~~

~~(3) In addition to the penalties under § 20-27-1502, a sponsor who violates this subsection is subject to closure of the temporary body art event and a penalty not to exceed three (3) times the cost of the permit.~~

~~(d) The department shall levy and collect a nonrefundable fee of fifty dollars (\$50.00) from a guest artist for a temporary demonstration license.~~

~~(e)(1) An application for a temporary demonstration license shall be submitted to the department not less than forty five (45) days before the event for educational purposes, trade show, or demonstration of body art products and procedures where body art is performed.~~

~~(2) An application for a temporary demonstration license shall be submitted to the department not less than seven (7) days before the appearance of a guest artist.~~

~~(3) An artist shall provide evidence of completion of United States Occupational Safety and Health Administration blood-borne pathogens training with the application.~~

~~(f)(1) A person applying for a temporary demonstration license to appear as a guest artist shall provide documentation of licensure as an~~

~~artist in another state or country or employment history in a studio licensed by the regulatory board or agency in another state or country before the temporary demonstration license may be granted.~~

~~(2) The establishment where the guest artist is appearing shall have a licensed body artist on its staff.~~

~~(3) A guest artist may be issued a temporary demonstration license to appear as a guest artist no more than one (1) time every three (3) months.~~

~~(g) A fee levied and collected under this section is special revenue and shall be deposited into the State Treasury, to be credited to the Public Health Fund to be used exclusively for the Body Art Program of the department.~~

~~20-27-1510. Critical items for closure of body art establishment.~~

~~(a)(1) The Department of Health shall create and publish a list of critical items for closure of an establishment.~~

~~(2) The department shall list the prohibitions under § 20-27-1511 as critical items for closure.~~

~~(b)(1) An establishment that violates a critical item from the list established under subsection (a) of this section is subject to immediate closure by the department.~~

~~(2) An establishment closed under subdivision (b)(1) of this section shall remain closed until:~~

~~(A) Fines or penalties, or both, that are assessed under this subchapter have been paid; and~~

~~(B) Upon inspection by the department, the establishment is no longer in violation of a critical item.~~

~~20-27-1511. Prohibitions.~~

~~(a) Body art is prohibited:~~

~~(1) On a person who is inebriated or appears to be incapacitated by the use of alcohol or drugs;~~

~~(2) On a person who shows signs of recent intravenous drug use;~~

~~(3) On an area with sunburn, open lesions, rashes, or wounds;~~

~~(4) With the use of a product or ink banned or restricted by the United States Food and Drug Administration;~~

~~(5) In a procedure area that is not physically and permanently separated from beauty facilities, such as hair and nail services; and~~

~~(6) On an animal in a facility licensed for the application of body art on human beings.~~

~~(b) A piercing gun shall be used only to pierce an earlobe.~~

~~(c) A person shall not:~~

~~(1) Perform a piercing with a manually loaded spring-operated piercing device;~~

~~(2) Pierce an earlobe with a piercing gun that does not use a presterilized encapsulated stud and clasp system; or~~

~~(3)(A) An artist shall not use jewelry for initial piercing that is not certified by ASTM International or the International Organization for Standardization, or both, as an implant-grade material except for specified types of glass, gold, and niobium as approved by the rules established by the Department of Health.~~

~~(B) An artist shall maintain on file for inspection a Mill Test Certificate confirming certification by ASTM International or the International Organization for Standardization, or both, for steel and titanium jewelry for initial piercing.~~

~~(d)(1) A person shall not sell a body piercing needle, tattoo needle, or body art instrument, or a combination of these, including without limitation tattoo ink, barrel, drip, and a tattoo machine to a person within this state who is not licensed as an artist by the department.~~

~~(2)(A) A violation of subdivision (d)(1) of this section is a Class A misdemeanor.~~

~~(B) Each violation of subdivision (d)(1) of this section is a separate offense.~~

~~(e)(1) Possession of a body piercing needle, tattoo needle, or body art instrument, or a combination of these, including without limitation tattoo ink, barrel, drip, and a tattoo machine by a person within this state who is not licensed as an artist by the department is prohibited.~~

~~(2)(A) A violation of subdivision (e)(1) of this section is a Class A misdemeanor.~~

~~(B) Each violation of subdivision (e)(1) of this section is a separate offense.~~

~~(f) A fine collected under this section, less court fees, shall be~~

~~allocated as follows:~~

- ~~(1) Fifty percent (50%) to the State of Arkansas;~~
- ~~(2) Twenty five percent (25%) to the city or county that levied and collected the fine; and~~
- ~~(3) Twenty five percent (25%) to be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for the Body Art Program of the department.~~

~~20-27-1512. Penalties.~~

~~(a) An artist who violates this subchapter or rules adopted by the State Board of Health pertaining to body art commits a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) for each offense.~~

~~(b) After notice of a violation has been given, each violation of this subchapter constitutes a separate offense unless another penalty is specifically provided in this subchapter.~~

~~20-27-1513. Prohibited practice.~~

~~An artist licensed by the Department of Health shall not perform or attempt to perform the insertion of a subdermal implant.~~

*/s/K. Hammer*

**APPROVED: 4/25/21**