
SUBSTITUTE HOUSE BILL 1085

State of Washington 61st Legislature 2009 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Appleton, Green, and Dickerson)

READ FIRST TIME 02/10/09.

1 AN ACT Relating to preventing the spread of disease in body
2 piercing practices through standard universal precautions and
3 sterilization requirements; amending RCW 5.40.050; adding new sections
4 to chapter 70.54 RCW; creating a new section; and prescribing
5 penalties.

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

7 NEW SECTION. **Sec. 1.** The legislature finds and declares that the
8 practices of body piercing and body art involve an invasive procedure
9 with the use of needles, single-use disposable sharps, reusable sharps,
10 instruments, and jewelry. These practices may be dangerous when
11 improperly sterilized, presenting a risk of infecting the client with
12 bloodborne pathogens including, but not limited to, HIV, hepatitis B,
13 and hepatitis C. It is in the interests of the public health, safety,
14 and welfare to establish requirements in the commercial practice of
15 body piercing in this state.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.54 RCW
17 to read as follows:

1 The definitions in this section apply throughout sections 1, 3, and
2 4 of this act and RCW 5.40.050 unless the context clearly requires
3 otherwise.

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

9 (2) "Body piercing" means the process of penetrating the skin or
10 mucous membrane for the purpose of insertion of an object, including
11 jewelry, for cosmetic purposes. "Body piercing" also includes any scar
12 tissue resulting from or relating to the piercing. "Body piercing"
13 does not include the use of stud and clasp piercing systems to pierce
14 the earlobe in accordance with the manufacturer's directions and
15 applicable United States food and drug administration requirements.
16 "Body piercing" does not include any health-related procedures
17 performed by licensed health practitioners under their scope of
18 practice.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.54 RCW
20 to read as follows:

21 The secretary of health shall adopt by rule requirements for
22 standard universal precautions, as recommended by the United States
23 centers for disease control and prevention, for preventing the spread
24 of disease and the sterilization of needles, single-use disposable
25 sharps, reusable sharps, instruments, and jewelry used by a person who
26 practices body piercing or body art.

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.54 RCW
28 to read as follows:

29 (1) A person who practices body piercing or body art must comply
30 with the rules adopted by the department of health under section 3 of
31 this act regardless of whether the person's client has agreed to waive
32 the person's compliance with the rules.

33 (2) A violation of this section is a misdemeanor.

34 **Sec. 5.** RCW 5.40.050 and 2001 c 194 s 5 are each amended to read
35 as follows:

1 A breach of a duty imposed by statute, ordinance, or administrative
2 rule shall not be considered negligence per se, but may be considered
3 by the trier of fact as evidence of negligence; however, any breach of
4 duty as provided by statute, ordinance, or administrative rule relating
5 to electrical fire safety, the use of smoke alarms, sterilization of
6 needles and instruments used in tattooing or electrology as required
7 under RCW 70.54.350, standard universal precautions for preventing the
8 spread of disease and sterilization of needles, single-use disposable
9 sharps, reusable sharps, instruments, and jewelry used in body piercing
10 or body art as required under section 3 of this act, or driving while
11 under the influence of intoxicating liquor or any drug, shall be
12 considered negligence per se.

13 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.54 RCW
14 to read as follows:

15 (1) Any exculpatory clause or liability waiver signed by the client
16 of a practitioner of body piercing or body art as a precondition for
17 the provision of those services violates public policy to the extent
18 that the clause or waiver exculpates the practitioner from, or waives
19 liability for, damages arising from a failure to comply with the rules
20 adopted by the secretary of health under section 3 of this act. Any
21 such exculpatory clause or liability waiver signed on or after the
22 effective date of this act is therefore void as it relates to damages
23 arising from a failure to comply with the rules adopted by the
24 secretary of health under section 3 of this act.

25 (2) The legislature finds that the practices covered by the rules
26 adopted under section 3 of this act are matters vitally affecting the
27 public interest for the purpose of applying the consumer protection
28 act, chapter 19.86 RCW. The failure to comply with the rules adopted
29 under section 3 of this act is not reasonable in relation to the
30 development and preservation of business and is an unfair or deceptive
31 act in trade or commerce and an unfair method of competition for the
32 purpose of applying the consumer protection act, chapter 19.86 RCW.

--- END ---