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HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMITTEE ON HEALTH CARE LICENSING & REGULATION
ANALYSIS

BILL #: HB 489

RELATING TO: Body-Piercing Salons

SPONSOR(S): Representative Valdes

COMPANION BILL(S): SB 980(I)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) HEALTH CARE LICENSING & REGULATION YEAS 9 NAYS 2
(2) BUSINESS REGULATION & CONSUMER AFFAIRS
(3) GOVERNMENTAL RULES & REGULATIONS
(4) HEALTH & HUMAN SERVICES APPROPRIATIONS
(5)

I. SUMMARY:

HB 489 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 practitioners 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.

It is estimated that there will be 205 permanent salons @ $150, and 55 temporary salons @ $75 that would be licensed the first year. Monies collected would be deposited into the County Health Department Trust Fund and are designated to be used for costs associated with licensure and facility inspections.

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 inspection 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.

For the past three legislative sessions, this bill has been introduced, passed in the House and died in the Senate each year.

B. EFFECT OF PROPOSED CHANGES:

This bill provides for the regulation of body-piercing salons and required the Department of Health to adopt rules to regulate the facilities. The department is requires 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 this 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 the County Health Department Trust Fund.

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 permit holders to conduct unbiased trained or skilled inspections, and to enforce regulation 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?

Not Applicable.

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?

Yes. Body-piercing salons will pay a fee to be licensed and regulated. Body-piercing salons may increase 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?

      This 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?

      Parents of minors will be given control to determine whether to allow the minor to have their body pierced.

      (2) service providers?

      Not Applicable.

(3) government employees/agencies?

Not Applicable.

D. STATUTE(S) AFFECTED:

Section 381.0075, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 381.0075, F.S., establishing legislative intent, definitions, exemptions, licensure requirements, fees, restrictions on body-piercing of a minor, penalties, enforcement, and rule requirements. This section 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, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Expenditures:	FY 1999-00
Department of Health	
Rule promulgation	$2.215
Development of training curriculum	1,970
Total Expenditures	$4,186
County Health Department Trust Fund	

2. Recurring Effects:

Revenues:	FY 1999-00	2000-01
Department of Health		
205 permanent salons @ $150	$30,750	
55 temporary salons @ $75	4,125	
Total Revenues (10%)	$34,875	$35,921
County Health Department Trust Fund		
Expenditures:		
Department of Health		
Initial notification to establishments	$ 1,236	$ 1,273
Annual training	1,970	2,030
Travel costs	6,160	6,344
Inspections	18,309	18,858
Re-inspections	1,373	1,414
Complaints	414	424
Total Expenditures (3% increase annually)	$29,462	$31,616
County Health Department Trust Fund		

County Health Departments will benefit from the receipt of licensure fees and disciplinary fines.

3. Long Run Effects Other Than Normal Growth:

Unknown.

4. Total Revenues and Expenditures:

	1999-00	2000-01
Revenues: Department of Health County Health Department Trust Fund	$34,875	$35,921
Expenditures: Department of Health County Health Department Trust Fund	$33,648	$31,616

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Not Applicable

2. Recurring Effects:

Not Applicable

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:

It is possible, that as a result of licensure, a very small number of body-piercing salons may discontinue business due to the costs associated with this bill. Also, salons presently operating that may not meet the standards established in the bill will not be allowed to operate, thereby reducing the number of facilities providing services. This would result in increased business for the remaining establishments This bill should not present a hardship for the majority of existing salons nor should it deter new ones.

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 the County Health Department Trust Fund 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 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 revenue 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:

The Department of Health indicated that the bill has some inconsistencies and omissions and therefore provided the following comments to support the proposed amendments:

1. Section 381.0075(2)(l), F.S., authorizes the department to issue stop-use orders to "remove a piece of equipment" when certain conditions exist. This could be interpreted to mean remove a piece of equipment from the premises of the establishment. It would be clearer if it said to remove a piece of equipment from use, service, or operation.

2. Section 381.0075(4)(f), F.S., requires operators of temporary establishments to contact the department at least 7 days prior to commencement of their operation (for the purpose of receiving an inspection from the department and being evaluated for licensing). Seven days does not allow sufficient time in all instances for the department to do an inspection and complete the licensing process. A minimum 14-day time frame is recommended.

3. Section 381.0075(6)(b), F.S., could be clearer as to when an applicant has to pay a full or prorated fee.

4. Section 381.0075(9)(d), F.S., seemingly says the department may issue a stop-use order...to enforce any provision of this section. Nothing is mentioned about violations of rules adopted under this section. This seems to conflict with the language in s. 381.0075(2)(l), F.S., in two respects. First s. 381.0075(2)(1), F.S., limits the issuance of a stop-use order to specific violations of this section. Second, s. 381.0075(2)(l), F.S., authorizes the issuance of a stop-use notice for violations of any rule adopted under this section.

5. Section 381.0075(10), F.S., gives the department the authority to write rules that address limited aspects of a salon's operation. The section omits other operational aspects that have great public health significance, such as personnel training, health and hygiene certain infection or disease control measures, and equipment standards.

6. Section 381.0075(11)(a)5., F.S., requires the use of jewelry that is of implant grade high-quality stainless steel, dense, or low-porosity plastic. However, the bill does

not define the terms high-quality, dense, or low-porosity. The bill does not give the department specific authority to write rules to define these terms or to prescribe standards relating to the terms.

7. Section 381.0075(11)(a)8., F.S., requires establishments to report any complaint of injury to the department. A time frame should be included to ensure that this is done in a timely manner to prevent additional injuries from occurring to other patrons. It is recommended that the department be allowed to establish a response time in rule.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

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