

HOUSE CS FOR CS FOR SENATE BILL NO. 34(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/19/00

Referred: Rules

Sponsor(s): SENATOR ELLIS

REPRESENTATIVE Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to tattooing, body piercing, and ear piercing; relating to other
2 occupations regulated by the Board of Barbers and Hairdressers; relating to fees
3 charged by the Board of Barbers and Hairdressers; and providing for an effective
4 date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 08.01.065(c) is amended to read:

7 (c) Except as provided in (f) and (g) of this section, the department shall
8 establish fee levels under (a) of this section so that the total amount of fees collected
9 for an occupation approximately equals the actual regulatory costs for the occupation.
10 The department shall annually review each fee level to determine whether the
11 regulatory costs of each occupation are approximately equal to fee collections related
12 to that occupation. If the review indicates that an occupation's fee collections and
13 regulatory costs are not approximately equal, the department shall calculate fee
14 adjustments and adopt regulations under (a) of this section to implement the

1 adjustments. In January of each year, the department shall report on all fee levels and
2 revisions for the previous year under this subsection to the office of management and
3 budget. If a board regulates an occupation covered by this chapter, the department
4 shall consider the board's recommendations concerning the occupation's fee levels and
5 regulatory costs before revising fee schedules to comply with this subsection. In this
6 subsection, "regulatory costs" means costs of the department that are attributable to
7 regulation of an occupation plus

12 * Sec. 2. AS 08.01.065 is amended by adding a new subsection to read:

28 * Sec. 3. AS 08.13.010 is amended to read:

8 * Sec. 4. AS 08.13.030 is amended to read:

13 (b) The board shall

14 (1) examine applicants and approve the issuance of licenses and permits
15 to practice;

16 (2) authorize the issuance of licenses for schools of barbering,
17 hairdressing, manicuring, and esthetics;

21 (c) The board may

22 (1) suspend or revoke a license or permit;

29 (3) adopt regulations or do any act necessary to carry out the provisions
30 of this chapter.

31 * Sec. 5. AS 08.13.070 is amended to read:

1 **Sec. 08.13.070. License required.** A person may not

2 (1) practice barbering, hairdressing, [OR] esthetics, **body piercing, or**
3 **tattooing and permanent cosmetic coloring** without a license, temporary permit,
4 temporary license, or student permit unless exempted under AS 08.13.160(d);

5 (2) practice barbering, hairdressing, [OR] esthetics, **body piercing, or**
6 **tattooing and permanent cosmetic coloring** except in a shop or school licensed under
7 this chapter unless exempted under AS 08.13.160(d) or permitted under
8 AS 08.13.160(e);

9 (3) open or conduct a school of barbering, hairdressing, or esthetics
10 without a license;

11 (4) teach in a school of barbering, hairdressing, or esthetics, or
12 supervise an apprentice **in barbering, hairdressing, or esthetics** without an
13 instructor's license;

14 (5) operate a shop in violation of AS 08.13.120;

15 (6) permit an employee or other person being supervised who is not
16 exempted under AS 08.13.160(d) to practice barbering, hairdressing, [OR] esthetics,
17 **body piercing, or tattooing and permanent cosmetic coloring** without a license,
18 temporary permit, temporary license, or student permit;

19 (7) permit the use of the person's license, temporary permit, temporary
20 license, or student permit by another person;

21 (8) obtain or attempt to obtain a license, temporary permit, temporary
22 license, or student permit by fraudulent means.

23 * **Sec. 6.** AS 08.13.080 is amended by adding a new subsection to read:

24 (d) An applicant for a license to practice body piercing or a license to practice
25 tattooing and permanent cosmetic coloring shall

26 (1) satisfy the training requirement of AS 08.13.082(d);

27 (2) by passing a written examination approved by the board,
28 demonstrate to the board or the board's designee safety, sanitation, sterilization, and
29 aseptic techniques that indicate that the applicant has adequate knowledge of infection
30 control practices and requirements relating either to tattooing and permanent cosmetic
31 coloring or to body piercing, as applicable; this demonstration may, at the option of

1 the board, also include a practical examination in addition to the written examination;
2 and

3 (3) pay the appropriate fee.

4 * Sec. 7. AS 08.13.082 is amended by adding a new subsection to read:

9 (1) may only be received

10 (A) in a licensed shop in this state under a person who has a
11 practitioner's license under this chapter in the field in which the trainee seeks
12 training; or

13 (B) outside the state from a person approved by the board at a
14 site approved by the board;

15 (2) must include at least 12 hours of training in safety, sanitation,
16 sterilization, aseptic, and other practices necessary to prevent transmission of diseases
17 and infection;

18 (3) shall be completed in not more than 12 months from the date of its
19 commencement; and

20 (4) shall be documented by certification from the trainer that the
21 training was successfully completed by the trainee.

22 * Sec. 8. AS 08.13.100(a) is amended to read:

28 * Sec. 9. AS 08.13.100(b) is amended to read:

29 (b) A practitioner license must state the areas of practice (barbering,
30 hairdressing, manicuring, esthetics, **tattooing and permanent cosmetic coloring, or**
31 **body piercing** [OR ANY COMBINATION]) that the practitioner is qualified to

1 perform.

2 * Sec. 10. AS 08.13.100(d) is amended to read:

(d) A person who holds [HOLDING] a current valid license from a board of barbering, hairdressing, manicuring, or esthetics in another state or who is licensed by another state to practice tattooing and permanent cosmetic coloring or to practice body piercing is entitled to a license or endorsement under this chapter without examination or a new period of training in this state. An application must include

(1) proof of a valid license issued by another licensing jurisdiction; and

(2) proof of completed training, testing, and working experience that the board finds to meet the minimum requirements of this [THE] state.

11 * Sec. 11. AS 08.13.100(e) is amended to read:

19 * Sec. 12. AS 08.13.120 is amended to read:

31 * **Sec. 13.** AS 08.13.120 is amended by adding a new subsection to read:

(b) The regulations adopted under (a) of this section must include provisions under which the board may issue a temporary shop license to a person who has a license or temporary permit under this chapter to practice tattooing and permanent cosmetic coloring or to practice body piercing. The temporary shop license authorized under this subsection may only be issued to cover a site where the practitioner intends to hold a workshop or to demonstrate techniques as part of a convention or other special event, as defined by the board, that includes other practitioners of tattooing and permanent cosmetic coloring or body piercing. Each practitioner of tattooing and permanent cosmetic coloring or body piercing who holds a workshop or demonstrates techniques at a convention or special event shall have a separate temporary shop license and a license or temporary permit under this chapter to practice tattooing and permanent cosmetic coloring or body piercing. The board shall issue a temporary shop license upon receipt of an application from a practitioner demonstrating compliance with the regulations adopted under this section and payment of the appropriate fee; however, the temporary shop license may be summarily revoked, without refunding of the fee, if the Department of Environmental Conservation determines after an inspection that the cleanliness or sanitation conditions at the site covered by the temporary license pose a clear and immediate danger to the public health or safety. A licensee may appeal a summary revocation under this subsection to the superior court.

21 * Sec. 14. AS 08.13.150 is amended to read:

22 Sec. 08.13.150. Disciplinary sanctions and grounds [GROUNDS] for refusal
23 [, SUSPENSION, OR REVOCATION] of a license or permit. The board may, in
24 addition to the actions authorized under AS 08.01.075, refuse, suspend, or revoke
25 a license, student permit, temporary license, or temporary permit for failure to comply
26 with this chapter, with a regulation adopted under this chapter, with a regulation
27 adopted by the Department of Environmental Conservation under AS 44.46.020,
28 or with an order of the board.

29 * Sec. 15. AS 08.13.160(d) is amended to read:

30 (d) The licensing and permit provisions of this chapter do not apply to
31 (1) a person practicing barbering, hairdressing, manicuring, or esthetics

1 in a community having a population of less than 1,000 people that is not within 25
 2 miles of a community of more than 1,000 people and who uses only chemicals
 3 available to the general public;

4 (2) the practice of manicuring by a student as part of instruction in a
 5 12-hour course approved under AS 08.13.110(b);

6 (3) a shampoo person;

7 (4) a licensed health care professional;

8 (5) a person licensed by another licensing jurisdiction in a field of
 9 practice licensed by this chapter while demonstrating techniques or products to persons
 10 holding licenses or permits under this chapter;

11 **(6) a person practicing tattooing and permanent cosmetic coloring**
 12 **or body piercing solely on the person's own body.**

13 * **Sec. 16.** AS 08.13.160(e) is amended to read:

14 (e) The board shall adopt regulations to permit a person licensed under this
 15 chapter to practice **barbering, hairdressing, or esthetics** outside a licensed shop or
 16 school for limited purposes including

17 (1) care of clients confined to an institution or health care facility;

18 (2) care of clients with limited mobility;

19 (3) participation in charitable events; and

20 (4) participation in workshops or demonstrations of techniques or
 21 products.

22 * **Sec. 17.** AS 08.13.170 is amended to read:

23 **Sec. 08.13.170. Temporary permits.** The department shall issue a temporary
 24 permit to an applicant for licensing who holds a license to practice **barbering,**
 25 **hairdressing, manicuring, esthetics, tattooing and permanent cosmetic coloring,**
 26 **or body piercing** [AS A BARBER, HAIRDRESSER, MANICURIST, OR
 27 ESTHETICIAN] in another state. The permit is valid until the board either issues a
 28 permanent license or rejects the application. The board shall act on an application
 29 within six months.

30 * **Sec. 18.** AS 08.13.180 is amended to read:

31 **Sec. 08.13.180. Student permits.** A person attending a licensed school of

1 barbering, hairdressing, or esthetics and a person apprenticed to a licensed instructor
 2 in a shop approved by the board or receiving training from a practitioner of
 3 tattooing and permanent cosmetic coloring or body piercing shall obtain a student
 4 permit. A student permit to practice barbering or hairdressing is valid for two years.
 5 A student permit to practice esthetics, tattooing and permanent cosmetic coloring,
 6 or body piercing is valid for one year. A student permit may not be renewed, but,
 7 upon application, the board may issue a new permit to the same person or extend an
 8 expired permit to the date of the next scheduled examination. Credit earned under an
 9 expired student permit may be transferred to a new permit as determined by the board.

10 * **Sec. 19.** AS 08.13.185(a) is amended to read:

11 (a) The Department of Community and Economic Development shall set fees
 12 under AS 08.01.065 for initial licenses, endorsements, and renewals for the following:

13 (1) schools;
 14 (2) school owners;
 15 (3) instructor;
 16 (4) shop owner;
 17 (5) practitioner of barbering;
 18 (6) practitioner of hairdressing;
 19 (7) practitioner of manicuring;
 20 (8) practitioner of esthetics;
 21 (9) endorsement for advanced manicurist;
 22 (10) practitioner of tattooing and permanent cosmetic coloring;
 23 (11) practitioner of body piercing;
 24 (12) temporary shop license;
 25 (13) temporary permit;
 26 (14) [(11)] temporary license;
 27 (15) [(12)] student permit.

28 * **Sec. 20.** AS 08.13.190(a) is amended to read:

29 (a) A person who practices barbering, hairdressing, [OR] esthetics, tattooing
 30 and permanent cosmetic coloring, or body piercing, or operates a shop, or operates
 31 a school of barbering, hairdressing, or esthetics, or teaches in a school of barbering,

1 hairdressing, or esthetics, without a license, temporary permit, temporary license, or
 2 student permit and who is not exempt under AS 08.13.120 or under AS 08.13.160(d)
 3 is guilty of a class B misdemeanor.

4 * **Sec. 21.** AS 08.13 is amended by adding a new section to article 2 to read:

5 **Sec. 08.13.195. Civil penalty.** (a) In addition to any other provision of law,
 6 if a person violates AS 08.13.070 or 08.13.217, the board may enter an order levying
 7 a civil penalty.

8 (b) A civil penalty levied under this section may not exceed \$5,000 for each
 9 offense. In levying a civil penalty, the board shall set the amount of the penalty
 10 imposed under this section after taking into account appropriate factors, including the
 11 seriousness of the violation, the economic benefit resulting from the violation, the
 12 history of violations, and other matters the board considers appropriate.

13 (c) Before issuing an order under this section, the board shall provide the
 14 person written notice and the opportunity to request, within 30 days of issuance of
 15 notice by the board, a hearing on the record.

16 (d) In connection with proceedings under (a) and (b) of this section, the board
 17 may issue subpoenas to compel the attendance and testimony of witnesses and the
 18 disclosure of evidence, and may request the attorney general to bring an action to
 19 enforce a subpoena.

20 (e) A person aggrieved by the levy of a civil penalty under this section may
 21 file an appeal with the superior court for judicial review of the penalty under
 22 AS 44.62.560.

23 (f) If a person fails to pay a civil penalty within 30 days after entry of an order
 24 under (a) of this section, or if the order is stayed pending an appeal, within 10 days
 25 after the court enters a final judgment in favor of the board of an order appealed under
 26 (e) of this section, the board shall notify the attorney general. The attorney general
 27 may commence a civil action to recover the amount of the penalty.

28 (g) An action to enforce an order under this section may be combined with an
 29 action for an injunction under AS 08.01.087.

30 * **Sec. 22.** AS 08.13.210 is amended to read:

31 **Sec. 08.13.210. Health and sanitary conditions.** Health and sanitary

1 conditions in shops and schools of barbering, hairdressing, manicuring, [AND]
 2 esthetics, **tattooing and permanent cosmetic coloring, and body piercing** shall be
 3 supervised by the Department of Environmental Conservation.

4 * **Sec. 23.** AS 08.13.210 is amended by adding a new subsection to read:

5 (b) The Department of Environmental Conservation shall conduct an annual
 6 inspection of each shop licensed for the practice of tattooing and permanent cosmetic
 7 coloring or for the practice of body piercing to ensure that the shop meets the
 8 department's standards of cleanliness and sanitation established under AS 44.46.020.
 9 If the Department of Environmental Conservation determines that the shop is not in
 10 compliance with a regulation of the department, the department shall report the
 11 violation to the board and take appropriate action under its own regulations.

12 * **Sec. 24.** AS 08.13 is amended by adding new sections to read:

13 **Sec. 08.13.215. Notification requirements for tattooing and permanent**
 14 **cosmetic coloring and for body piercing.** (a) Before performing a tattooing and
 15 permanent cosmetic coloring procedure or a body piercing procedure on a client, a
 16 practitioner shall give written educational information, approved by the board, to the
 17 client.

18 (b) After completing a tattooing and permanent cosmetic coloring procedure
 19 or a body piercing procedure on a client, the practitioner shall give written aftercare
 20 instructions, approved by the board, to the client. The written instructions

21 (1) must include advice to the client to consult a physician at the first
 22 sign of infection;

23 (2) must contain the name, address, and telephone number of the shop
 24 where the procedure was performed;

25 (3) shall be signed and dated by the client and the practitioner; the
 26 practitioner shall keep the original and provide a copy to the client.

27 (c) The owner of a shop for tattooing and permanent cosmetic coloring or for
 28 body piercing shall prominently display

29 (1) a copy of the statement provided by the board under
 30 AS 08.13.030(b) that advises the public of the health risks and possible consequences
 31 of tattooing and permanent cosmetic coloring or body piercing, as applicable;

6 Sec. 08.13.217. **Tattooing and permanent cosmetic coloring or body**
7 **piercing on a minor.** (a) A person may not practice tattooing and permanent
8 cosmetic coloring on a minor.

14 (c) A person who with criminal negligence violates this section is guilty of a
15 class B misdemeanor. In this subsection, "criminal negligence" has the meaning given
16 in AS 11.81.900.

17 * Sec. 25. AS 08.13.220(6) is amended to read:

18 (6) "instructor" means a person who teaches barbering, hairdressing,
19 manicuring, or esthetics in a school or who supervises an apprentice **in barbering,**
20 **hairdressing, or esthetics;**

21 * Sec. 26. AS 08.13.220(8) is amended to read:

(8) "practitioner" means a person licensed to practice barbering, hairdressing, manicuring, [OR] esthetics, **tattooing and permanent cosmetic coloring, or body piercing** under this chapter;

25 * Sec. 27. AS 08.13.220(10) is amended to read:

(10) "shop" is an establishment operated for the purpose of engaging in barbering, hairdressing, manicuring, [OR] esthetics, **tattooing and permanent cosmetic coloring, or body piercing.**

29 * **Sec. 28.** AS 08.13.220 is amended by adding new paragraphs to read:

30 (11) "body piercing" means puncturing the body of a person by aid of
31 needles or other instruments designed to be used to puncture the body for the purpose

1 of inserting jewelry or other objects in or through the human body, except that, for
2 purposes of this chapter, "body piercing" does not include puncturing the external part
3 of the human ear;

4 (12) "tattooing and permanent cosmetic coloring" means the process by
5 which the skin is marked or colored by insertion of nontoxic dyes or pigments into the
6 dermal layer of the skin so as to form indelible marks, figures, or decorative designs
7 for nonmedical purposes.

8 * Sec. 29. AS 44.46.020 is amended to read:

11 (1) have primary responsibility for coordination and development of
12 policies, programs, and planning related to the environment of the state and of the
13 various regions of the state;

14 (2) have primary responsibility for the adoption and enforcement of
15 regulations setting standards for the prevention and abatement of all water, land,
16 subsurface land, and air pollution, and other sources or potential sources of pollution
17 of the environment, including by way of example only, petroleum and natural gas
18 pipelines;

21 (4) take actions that are necessary and proper to further the policy
22 declared in AS 46.03.010;

23 (5) adopt regulations for

24 (A) the prevention and control of public health nuisances;

25 (B) the regulation of sanitation and sanitary practices in the
26 interest of public health;

27 (C) standards of cleanliness and sanitation in connection with
28 the construction, operation, and maintenance of a camp, cannery, food handling
29 establishment, food manufacturing plant, mattress manufacturing establishment,
30 industrial plant, school, barbershop, hairdressing, manicuring, [OR] esthetics,
31 **tattooing and permanent cosmetic coloring, body piercing, or ear piercing**

1 establishment, soft drink establishment, beer and wine dispensaries, and for
 2 other similar establishments in which lack of sanitation may create a condition
 3 that causes disease;

4 (D) the regulation of quality and purity of commercially
 5 compressed air sold for human respiration.

6 * **Sec. 30.** AS 44.46.020 is amended by adding a new subsection to read:

7 (b) The department's regulations for tattooing and permanent cosmetic coloring
 8 shops and for body piercing shops must include requirements that

9 (1) the shop be equipped with appropriate sterilizing equipment, with
 10 availability of hot and cold running water, and with an appropriate waste receptacle;

11 (2) the owner of the shop is responsible for ensuring that case history
 12 cards are kept for each client for a period of three years after the client's most recent
 13 tattooing and permanent cosmetic coloring or body piercing;

14 (3) a practitioner in the shop may use only instruments for tattooing
 15 and permanent cosmetic coloring or body piercing that have been sterilized in
 16 accordance with methods approved by the department.

17 * **Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section
 18 to read:

19 TRANSITIONAL LICENSES. (a) Notwithstanding AS 08.13, as amended by this
 20 Act, the Board of Barbers and Hairdressers shall issue a license to practice tattooing and
 21 permanent cosmetic coloring or to practice body piercing to a person who

22 (1) submits to the board by July 1, 2001, the proper application and fees;

23 (2) provides to the board satisfactory evidence that the person is 18 years of
 24 age or older and has been practicing tattooing and permanent cosmetic coloring or body
 25 piercing for a fee for at least 12 of the 24 consecutive months immediately preceding the
 26 person's application date; and

27 (3) demonstrates to the board adequate safety, sanitation, sterilization, and
 28 aseptic techniques and knowledge of infection control practices and requirements by passing
 29 a written examination approved by the board.

30 (b) In this section,

31 (1) "body piercing" means puncturing the body of a person for a fee by aid of

- 1 needles or other instruments designed to be used to puncture the body for the purpose of
- 2 inserting jewelry or other objects in or through the human body, except that, for purposes of
- 3 this section, "body piercing" does not include puncturing the external part of the human ear;

8 * **Sec. 32.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 TRANSITIONAL BOARD MEMBER. Notwithstanding AS 08.13.010, as amended
11 by sec. 3 of this Act, the initial member of the Board of Barbers and Hairdressers who is
12 appointed to fill the seat designated for a person licensed to practice tattooing and permanent
13 cosmetic coloring or body piercing need not be licensed to practice tattooing and permanent
14 cosmetic coloring or body piercing until July 1, 2002.

15 * **Sec. 33.** The uncodified law of the State of Alaska is amended by adding a new section
16 to read:

REGULATIONS. The Board of Barbers and Hairdressers and the Department of Environmental Conservation shall begin the process of developing regulations to implement this Act. A regulation developed under this section takes effect under AS 44.62 but not before the effective date of the law that is implemented by the regulation.

21 * **Sec. 34.** Except as provided in secs. 35 and 36 of this Act, this Act takes effect
22 immediately under AS 01.10.070(c).

23 * **Sec. 35.** (a) AS 08.13.070, as amended by sec. 5 of this Act, AS 08.13.180, as amended
24 by sec. 18 of this Act, AS 08.13.190(a), as amended by sec. 20 of this Act, AS 08.13.215,
25 enacted by sec. 24 of this Act, and AS 44.46.020, as amended by secs. 29 and 30 of this Act,
26 take effect July 1, 2002.

27 (b) The following provision also takes effect July 1, 2002: AS 08.13.195, enacted by
28 sec. 21 of this Act, to the extent that AS 08.13.195 covers violations relating to tattooing and
29 permanent cosmetic coloring and body piercing other than violations of AS 08.13.217.

30 * Sec. 36. The following provisions take effect September 1, 2000:

31 (1) AS 08.13.217, enacted by sec. 24 of this Act;

