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FISCAL IMPACT REPORT

ORIGINAL DATE 2/10/07
 LAST UPDATED 3/2/07 HB 972/aHHGAC/aHFL

SPONSOR King

SHORT TITLE Body Art Safe Practices Act SB _____

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	\$300.0	Recurring	Barbers and Cosmetology Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 Regulation and Licensing Department (RLD)
 Department of Health (DOH)

SUMMARY

Synopsis of HFL Amendment

The House Floor Amendment to House Bill 972 amends NMSA Section 61-17A-20 of the Barbers and Cosmetologists Act to eliminate language in current law prohibiting restoration of a barber, cosmetologist, instructor, esthetician, and manicurist-pedicurist or electrologist license if the licensee fails to restore the license within one year of its expiration. The amendment modifies that section to allow those licensees to request restoration of licenses expired for more than one year pursuant to rules promulgated by the Barbers and Cosmetologists Board.

Synopsis of HHGAC Amendment

The House Health and Government Affairs amendment replaces the (\$340,000) general fund appropriation with a lower (\$300,000) appropriation from the Barbers and Cosmetology fund.

All other changes are technical.

Synopsis of Original Bill

House Bill 972 enacts the Body Art Safe Practices Act administered by the Board of Barbers and Cosmetologists (Board) requiring the licensure of body artists and establishments, and the placement of safety regulations to protect the general public.

Section 16 amends Section 61-17A-6 NMSA 1978 to define board powers and add to the Board two licensed body artists with at least five years experience in their practice and reducing the number of public members from four to two. Section 16-A-12 provides for the addition of a board administrator and additional staff as necessary to carry out the Body Art Safe Practices Act.

Section 17 provides an appropriation of \$340,000 from the general fund to the barbers and cosmetology fund for the administration of the Body Art Safe Practices Act.

FISCAL IMPLICATIONS

It is unknown how many body artists or body artist establishments are subject to licensure, so it is difficult to estimate the cost to the Board to administer this new act. However, it should be noted that the Board could not administer this act without additional resources, including inspectors, operational staff, instate travel funds, and per-diem.

SIGNIFICANT ISSUES

- Licensure of persons who fall within the Body Art Safe Practices Act would fall under the jurisdiction of the Board;
- Annual inspection of body art establishments;
- The act establishes testing requirement for individuals seeking licensure as a body artist.
- The Board may suspend a license immediately without prior notice to the holder of the license if it determines, after inspection, that conditions within a body art establishment present a substantial danger of illness, serious physical harm or death to customers who might patronize a body art establishment; such suspension shall be effective upon communication to an employee physically present on the premises of the body art establishment;

PERFORMANCE IMPLICATIONS

The additional work necessary to insure that body artists are licensed and establishments are inspected annually will require additional field staff relative to the number of body artists and establishments discovered. State wide, total number of body artists and establishments is unknown.

ADMINISTRATIVE IMPLICATIONS

The Board will be required to:

- create requirements for licensure that demonstrate the employee has the training and experience necessary to perform body piercing, tattooing or scarification;

- issue licenses for body art establishment;
- issue licenses for body artist;
- annually inspect the body art establishment premises;
- determine procedures for inspection of body art establishments;
- promulgate rules for revocation and suspension of licenses;
- hold administrative hearings for license suspension; and
- Research blood-borne pathogen training to determine which programs are approved.

TECHNICAL ISSUES

It is unclear whether Section 17 is new material to be included in the Body Art Practices Act or amended to 61-17A NMSA 1978.

Section 17 line 15 should read 2008 for administration of the Body Art (not Act) Safe Practices Act.

OTHER SUBSTANTIVE ISSUES

Several other states have adopted laws regulating the administration of body art. In New Mexico, the City of Albuquerque has adopted a “Body Art Ordinance”, no. 33-1998, imposing requirements governing permits, identification, operator age, sanitation, waste handling, etc. The City of Carlsbad has also adopted its own ordinance regulating the practice of body art.

Non-sterile body modification equipment has been implicated in the spread of HIV, viral hepatitis, and other blood-borne infections including septicemia. New Mexico is one of only two states and the District of Columbia that does not have state regulation of the tattoo industry. In a state with high prevalence rates of hepatitis C (an estimated 30,000 individuals are hepatitis C positive). If enacted, HB 972 would provide regulation and oversight of the “body art” industry.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Regulation and administration to establish levels for health/safety and disease prevention efforts in body art establishments would not be established.

CS/nt