

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

SENATE BILL 625

5 By: Senators K. Hammer, B. Davis  
6 By: Representative M. Gray  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE COSMETOLOGY TECHNICAL ADVISORY  
10 COMMITTEE TO INCLUDE MEMBERS FROM THE PERMANENT AND  
11 SEMIPERMANENT COSMETIC INDUSTRY AND THE BODY ART  
12 INDUSTRY; TO ESTABLISH PROCEDURES FOR LICENSURE AND  
13 REGULATIONS OF PERMANENT COSMETICS AND SEMIPERMANENT  
14 COSMETICS PROCEDURES; AND FOR OTHER PURPOSES.  
15

## Subtitle

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18 TO AMEND THE COSMETOLOGY TECHNICAL  
19 ADVISORY COMMITTEE; AND TO ESTABLISH  
20 PROCEDURES FOR LICENSURE AND REGULATIONS  
21 OF PERMANENT COSMETICS AND SEMIPERMANENT  
22 COSMETICS PROCEDURES.  
23

24  
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

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

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

30 (1) Of professions not governed by this title;

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

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

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



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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:

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

3 (B) Shall not perform body art independently;

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

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

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

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

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

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

16 (A) Tattooing;

17 (B) Body piercing;

18 (C) Branding; or

19 (D) Scarification;

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

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

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

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

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

34 (A) Where body art is performed; and

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

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

1 Arkansas or a country other than the United States who:

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

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

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

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

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

12 (A) Forceps;

13 (B) Hemostats;

14 (C) Needles;

15 (D) Receiving tubes; and

16 (E) Tattoo barrels and tubes;

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

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

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

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

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

32  
33 17-26-602. Unlawful to perform body art on person under 18 years of  
34 age – Documentation and consent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28  
29           17-26-603. Department of Health to license, regulate, and inspect for  
30 health hazards.

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

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

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

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

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

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

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

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

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

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

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

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

28 (B) The fee for written and practical examinations under §  
29 17-26-608 is not required for an applicant under subdivision (e)(2)(A) of  
30 this section for examinations taken to complete requirements established by  
31 the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

3  
4 17-26-604. Local health officials.

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

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

10  
11 17-6-605. No criminal liability.

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

14  
15 17-6-606. Blood-borne pathogens course.

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

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

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

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

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

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

32  
33 17-26-607. Education of artist in training.

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

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

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

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

5           (c)(1)(A) During the artist training in the fields of tattooing, body  
6 piercing, or permanent cosmetics, each artist in training shall complete not  
7 less than three hundred seventy-five (375) clock hours of supervised body art  
8 work and classroom instruction in a period not less than six (6) months or  
9 more than twenty-four (24) months in an establishment licensed under § 17-26-  
10 603 and § 6-51-601 et seq.

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

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

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

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

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

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

29                   (ii) The procedures observed and completed; and

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

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

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

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

1 artist trainer holds a current license from the department.

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

5  
6 17-26-608. Examination – Fee.

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

10 (B) Upon completion of the hours required under § 17-26-  
11 607, a practical examination shall be conducted by the department in each  
12 field of training for which the artist in training is seeking licensure.

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

15 (A) Be licensed as an artist;

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

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

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

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

26  
27 17-26-609. Temporary demonstration license.

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

31 (1) Educational purposes where body art is performed;

32 (2) Trade shows where body art is performed;

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

34 (4) An appearance as a guest artist.

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

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

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

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

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

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

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

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

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

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

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

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

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

3  
4 17-26-610. Critical items for closure of body art establishment.

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

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

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

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

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

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

18  
19 17-26-611. Prohibitions.

20 (a) Body art is prohibited:

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

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

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

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

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

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

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

32 (c) A person shall not:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34  
35          17-26-612. Penalties.

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

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

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

7  
8 17-26-613. Prohibited practice.

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

11  
12 Subchapter 7 – Permanent Cosmetics and Semipermanent Cosmetics

13  
14 17-26-701. Definitions.

15 As used in this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

6                   (A) 3D nipple and areola;

7                   (B) Scar camouflaging;

8                   (C) Scalp micropigmentation;

9                   (D) Microblading;

10                  (E) Makeup application; and

11                  (F) Pigment lightening;

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

15                   (A) Permanent eyebrows;

16                   (B) Permanent eyeliner; and

17                   (C) Permanent lip liner or color;

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

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

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

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

27                   (D) Blotchy pigmentation;

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

31                   (A) Repigmentation;

32                   (B) Microneedling;

33                   (C) Eyelash extensions;

34                   (D) Makeup application; and

35                   (E) Removal of hair through products or instruments which  
36 do not include waves, rays, or lasers;



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

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

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

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

11           (i) Has completed the education required under § 17-  
12 26-707; and

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

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

18  
19           17-26-702. Unlawful to perform permanent cosmetics or semipermanent  
20 cosmetics on person under 18 years of age – Documentation and consent.

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

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

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

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

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

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

1 subdivision (a)(1) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18  
 19 17-26-703. Licensure, regulation, and inspection for health hazards.

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

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

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

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

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

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

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

4 (2) Any rule affecting establishments in effect on January 1,  
5 2021, shall remain in effect until the department adopts rules under this  
6 subchapter.

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

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

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

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

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

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

20 (B) The fee for written and practical exams under § 17-26-  
21 707 is not required for an applicant under subdivision (e)(2)(A) of this  
22 section for exams taken to complete requirements established by the  
23 department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32  
33           17-26-704. Local health officials.

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

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

3  
4       17-26-705. No criminal liability.

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

8  
9       17-26-706. Blood-borne pathogens course.

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

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

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

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

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

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

26  
27       17-26-707. Education of student.

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

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

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

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

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

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

6 (B) During the education of a student in semi-permanent  
7 cosmetics, each student shall complete not less than two hundred (200) clock  
8 hours of supervised semipermanent cosmetics, including not less than one  
9 hundred (100) hours of supervised on-site work and not less than fifty (50)  
10 hours of classroom instruction, in a period not less than six (6) months or  
11 more than twenty-four (24) months in an establishment licensed under § 17-26-  
12 709.

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

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

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

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

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

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

1 artist in training.

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

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

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

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

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

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

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

22  
23 17-26-708. Institutions.

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

26 (1) The address and phone number of the institution;

27 (2) Proof of accreditation within the previous six (6) months;

28 (3) The floor plan of the institution to ensure adequate space  
29 for fundamental teaching and hands-on laboratory instruction;

30 (4) The name, contact information, work experience, and license  
31 information for all sponsor educators teaching at the institution;

32 (5) The background and resume of the owner;

33 (6) Proof of registration and good standing with the Secretary  
34 of State under the name of the institution;

35 (7) Proof of malpractice or liability insurance; and

36 (8) A detailed curriculum to be approved by the department.



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

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

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

6 (3) Provide:

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

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

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

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

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

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

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

23 (3) Permanent closure of the institution.

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

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

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

30 (3) Permanent closure of the institution.

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

34 (2) The department shall not license an institution for distance  
35 learning if the institution is unable to administratively support off-campus  
36 education.

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

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

6           (2) A guest artist shall:

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

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

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

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

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

20  
21           17-26-709. Examination – Fee.

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

26                   (B) Upon completion of the hours required under § 17-26-  
27 707, a practical examination shall be conducted by the department in each  
28 field of training for which the student is seeking licensure.

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

31                   (A) Be licensed as an artist;

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

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

35           (b) The department shall levy and collect a nonrefundable fee of fifty  
36 dollars (\$50.00) from each student who applies to take the written and

1 practical examinations required under this section for licensure as an  
2 artist.

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

6  
7 17-26-710. Temporary demonstration license.

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

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

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

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

17 (4) An appearance as a guest artist.

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

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

27 (2) The department shall collect a nonrefundable fee of fifty  
28 dollars (\$50.00) per artist who performs permanent cosmetics and  
29 semipermanent cosmetics at an event, not to exceed two thousand dollars  
30 (\$2,000) per event.

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

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

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

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

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

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

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

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

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

26  
27       17-26-711. Critical items for closure of establishment.

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

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

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

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

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

3  
4                   17-26-712. Prohibitions.

5                   (a) Permanent cosmetics and semipermanent cosmetics are prohibited:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36

1 17-26-713. Penalties.

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

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

10  
11 SECTION 4. Arkansas Code Title 20, Chapter 27, Subchapter 15, is  
12 repealed.

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

14  
15 ~~20-27-1501. Definitions.~~

16 ~~As used in this subchapter:~~

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

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

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

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

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

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

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

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

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

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

35 ~~(A) Tattooing;~~

36 ~~(B) Body piercing;~~

1 ~~(C) Branding;~~

2 ~~(D) Permanent cosmetics; or~~

3 ~~(E) Scarification;~~

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

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

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

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

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

18 ~~(A) Where body art is performed; and~~

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

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

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

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

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

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

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

32 ~~(A) Forceps;~~

33 ~~(B) Hemostats;~~

34 ~~(C) Needles;~~

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

36 ~~(E) Receiving tubes; and~~





1 ~~body art unless:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33  
34                   ~~20-27-1503. Department of Health to license, regulate, and inspect for~~  
35 ~~health hazards.~~

36                   ~~(a)(1) Body art establishments which and artists who perform body art~~

1 shall be licensed by the Department of Health.

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

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

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

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

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

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

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

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

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

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

34           ~~(B) The fee for written and practical exams under § 20-27-~~  
35 ~~1508 is not required for an applicant under subdivision (e)(2)(A) of this~~  
36 ~~section for exams taken to complete requirements established by the~~

1 department.

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

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

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

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

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

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

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

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

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

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

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

35 ~~(f) All fees levied and collected under this subchapter are declared~~  
36 ~~to be special revenues and shall be deposited into the State Treasury, there~~

1 ~~to be credited to the Public Health Fund to be used exclusively for the Body~~  
2 ~~Art Program of the department.~~

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

9  
10 ~~20-27-1504. Local health officials.~~

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

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

16  
17 ~~20-27-1505. No criminal liability.~~

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

21  
22 ~~20-27-1506. Blood-borne pathogens course.~~

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

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

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

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

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

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

4  
5           ~~20-27-1507. Education of artist in training.~~

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

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

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

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

13           ~~(c)(1)(A) During the artist training in the fields of tattooing, body~~  
14 ~~piercing, or permanent cosmetics, each artist in training shall complete not~~  
15 ~~less than three hundred seventy five (375) clock hours of supervised body art~~  
16 ~~work and classroom instruction in a period not less than six (6) months or~~  
17 ~~more than twenty four (24) months in an establishment licensed under § 20-27-~~  
18 ~~1503 and § 6-51-601 et seq.~~

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

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

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

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

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

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

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

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

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

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

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

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

13

14                                  20-27-1508. ~~Examination — Fee.~~

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

18   (B) ~~Upon completion of the hours required under § 20-27-~~  
19 ~~1507, a practical examination shall be conducted by the department in each~~  
20 ~~field of training for which the artist in training is seeking licensure.~~

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

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

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

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

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

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

34

35                                  20-27-1509. ~~Temporary demonstration license.~~

36                                  (a) ~~The Department of Health may issue a temporary demonstration~~

1 ~~license to an artist or establishment or to a supplier of materials for body~~  
2 ~~art for:~~

3 ~~(1) Educational purposes where body art is performed;~~

4 ~~(2) Trade shows where body art is performed;~~

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

6 ~~(4) An appearance as a guest artist.~~

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

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

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

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

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

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

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

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

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



1 ~~temporary demonstration license may be granted.~~

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

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

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

11  
12 ~~20-27-1510. Critical items for closure of body art establishment.~~

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

15 ~~(2) The department shall list the prohibitions under § 20-27-~~  
16 ~~1511 as critical items for closure.~~

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

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

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

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

26  
27 ~~20-27-1511. Prohibitions.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6  
7           ~~20-27-1512. Penalties.~~

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

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

15  
16           ~~20-27-1513. Prohibited practice.~~

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

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