



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

Committee on Health

Committee on Commerce and Consumer Protection

S.B. 1263, Relating to Tattoo Artists

**Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health**

**February 10, 2009
8:30 a.m.**

1 **Department's Position:** The Department of Health opposes this bill as written.

2 **Fiscal Implications:** Approval of additional positions and training funds will be needed in order for the
3 Department of Health to comply with this bill.

4 **Purpose and Justification:** The bill seeks to provide temporary licenses to unlicensed tattoo artists
5 participating in tattoo conventions or events outside of a tattoo establishment and proposes to allow
6 temporary tattoo establishment permits to be issued to these conventions and events. Additionally, the
7 bill seeks to provide "occupational safety and health" protection for the tattoo artists.

8 The department cannot support this bill as written. Numerous clarifications of intent are needed
9 throughout, especially regarding licensing requirements. The provision for development of a
10 bloodborne pathogen course specifically for the tattoo industry and approved by the Director of Health
11 is problematic. Also, the references to "all standards set by professional tattoo associations" pursuant to
12 OSHA standards is vague and overly broad. While dealing with the artist safety is a positive action for
13 the profession, it does less to address major public health and safety issues from the consumer's
14 perspective.

1 The proposed bill will also conflict with HRS 321, Part XXX Tattoo Artists and HAR, Title 11,
2 Chapter 17, Tattoo Artists. In order to prevent interpretation and enforcement difficulties, changes to
3 the requirements for licensure of tattoo artists and tattoo establishments should be accomplished
4 comprehensively, and preferably through amendment of the administrative rule.

5 Thank you for the opportunity to testify.



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PLEASE DELIVER:
2/10/09
8:30 am
CR 229

To: SENATE COMMITTEE ON HEALTH
Senator David Y. Ige, Chair
Senator Josh Green, MD, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
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From: Hawaii Medical Association
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Lauren Zirbel, Government Affairs

Re: SB 1263 RELATING TO TATTOO ARTISTS

Chairs & Committee Members:

Hawaii Medical Association supports this measure as an important element in protecting public safety.

Thank you for the opportunity to provide this testimony.

Hawaii Medical Association
1360 S. Beretania St.
Suite 200
Honolulu, HI 96814
(808) 536-7702
(808) 528-2376 fax
www.hmaonline.net

Health Committee:
Sen. David Ige, Chair
Sen. Josh Green, Vice-Chair

Hearing: Tuesday, 2/10/09, 8:30 am

Support of SB1263 Relating to the permitting of tattoo shops and licensure of tattoo artists, with suggested revisions (attached).

Submitted by:

Tricia Allen, PO Box 61967, Honolulu, HI 96839, 808 734-8677 tattoo@lava.net and
Peggy Sucher, 2128 Kalakaua Ave, Honolulu, HI 96815, 808 778-0117 ladytattoo@hawaii.rr.com
on behalf of the **Coalition for Safe Tattooing in Hawai'i** (see attached partial roster)

This testimony is in support of Senate Bill 1263 (HB1499). As spokesperson for the coalition, I will briefly introduce myself. I am a professional tattooist who has been licensed in Hawai'i since 1992. Although I am a long-time resident of O'ahu, I primarily tattoo in California; thus I have no personal advantage or gain in these efforts, other than to see that tattooing here is practiced in a safe manner, and that both our Statutes and Departmental Rules and Regulations are reasonably up-to-date. I hold a Master's Degree in Anthropology from the University of Hawai'i and completed Ph.D coursework and fieldwork on the revitalization of tattooing in Polynesia (primarily French Polynesia and Rapa Nui). I have extensive experience in teaching hygienic tattooing in these and several other island groups.

In summary, our current tattoo statutes and regulations were written in 1981 and have been revised only very minimally. Currently there is no opportunity for temporary permits and licensing of tattooists, which makes conventions and demonstrations at museums and universities impossible. We have been quite active this last year in organizing the tattoo community to address this and other issues, hosting meetings, and compiling the concerns and viewpoints of the licensed tattooists in our state. Both Sucher and myself have also had numerous meetings with staff at the Sanitation Branch of DOH (our licensing agency) and with staff members in the Infectious Disease Branch, seeking their input.

We feel that revision is necessary, and that temporary permits and licenses should be obtainable, but with specific safeguards to protect the health of both the tattoo community, and Hawai'i's residents and visitors. We also believe that Hepatitis B inoculations, as specified in the OSHA (HIOH) standards should be a requirement for licensure. It has been well established that Hepatitis B and C are prevalent in Hawai'i, and could be easily communicated via tattooing, thus safety measures are an absolute necessity.

The bill that you have before you (SB1263) was based on a preliminary draft that myself and several others worked on over the course of the past year. Our draft accounted for the opinions of a number of professional tattooists in Hawai'i, taking into consideration all necessary safeguards as well as practicalities. In the final draft, several changes were made from our preliminary suggested version, some of which are quite critical and worsen the situation. The more critical points are highlighted in yellow. I will address these points in detail below. This list of suggested revisions and testimony is from several of our more active members, with input from other professionals and community members (listed on the final pages).

SUGGESTED REVISIONS

(please pay particular attention to those highlighted in yellow):

321-A(c) (p. 1, lines 13-15) currently reads:

“All permits shall...of each year”

Suggested Language:

“All permits shall expire on January 31st of each year. The application for a permit renewal shall be submitted to the department in writing before January 2nd of each year.

Rationale:

A minor point, but January 1st or 2nd would allow the Department more time for the necessary inspections, approvals/denials, and processing permits.

321-A(d) (p. 2, lines 8-9) currently reads:

“Temporary permits may...in addition to:”

Suggested Language:

“Temporary permits may... Temporary permit applicants shall pay a \$25 non-refundable application fee in addition to:”

Rationale:

The current wording is unclear as to what the initial \$25 fee is for. In addition, the current draft does not specify that application fees are non-refundable in the case of denial of a permit. Our preliminary draft included the phrase: “in the event of denial of an application, application fees will not be refunded to the applicant”. It is our understanding that articles cannot be added, so we have suggested “non-refundable application fee” to be more explicit..

321-B(a) (p. 2, line 19) currently reads:

“(a) The department may issue temporary licenses valid for fourteen calendar days to tattoo artists not licensed in the State for educational, trade show, or product demonstration purposes. Temporary licensees shall be subject to this part and applicable rules.”

Suggested Language:

“The department may issue temporary licenses valid for a maximum of fourteen consecutive calendar days in any given calendar year to tattooists not licensed ...”

Rationale:

This point is ABSOLUTELY CRITICAL to our goals. The limitation of fourteen days in a calendar year was in our preliminary draft but was omitted. If tattooists intend to work here longer, we believe they should obtain a permanent license. We have knowledge that there is a group of unlicensed, non-professional tattooists that are planning to participate in and hold regular tattoo conventions to circumvent licensing requirements and the costs of establishing and maintaining a permitted tattoo shop.

321-B(b) (pa 3, line 3) currently reads:

“Applications for temporary... issuance of a temporary license.”

Suggested Language:

“Applications for temporary licenses shall be made in writing to the department at least sixty days prior to the proposed events and accompanied by a non-refundable application fee of \$25 ... before the issuance of a temporary license.”

Rationale:

The current draft does not specify that application fees are non-refundable in the case of denial of a license. Our preliminary draft included the phrase: “in the event of denial of an application, application fees will not be refunded to the applicant. The “non-refundable” phrase should somehow be included.

321-B(c) (p. 3, lines 11-15) currently reads:

“An applicant for...and shall have”

Suggested Language:

“An applicant for a temporary license shall comply with section 321-374(c) and shall have either:

- 1) Passed a blood borne pathogen course developed specifically for the tattoo industry, and approved by the director, within two years of ~~{taking the course}~~ the application; or
- (2) Passed the state tattoo artist written examination within two years of the application.

Rationale:

This is the another change we see as ABSOLUTELY CRITICAL. The terms “either” and “or” were omitted from the official draft of the bill. The Department of Health and Sanitation is horribly understaffed. With the increased popularity of tattooing, there has been a demand for a greater frequency of administration of the tattoo examination. This is a burden for the DOH. Allowing alternative courses with examinations allows for visiting tattooists to obtain temporary permits prior to scheduled trade-shows and demonstrations while alleviating much of the increased burden placed on the DOH. In addition, several of these courses include practicum and are quite in-depth, and sufficient for determining if a tattooist is qualified and adequately trained in proper hygiene. The rationale for the other wording change is self evident—again, the wording in the official draft, and the mis-placed comma drastically changes intended meaning.

321-B(d)(1) (p.3, lines 18-19) currently reads:

“Are appropriately licensed...without the State; and”

Suggested Language:

“Are [~~appropriately licensed in~~] professional tattooists in jurisdictions without the State; and”

Rationale:

Approximately 13 states do not require licensure. We do not want to limit temporary Hawai'i licenses to only those holding licenses elsewhere. Temporary licenses should be available to all professional tattooists meeting the specified Hawai'i State requirements, regardless of licensure elsewhere.

321-374(b) (p. 4-5, lines 19-2) in regards to permanent licenses currently reads:

“(b) The applicant shall be required to show by examination the knowledge of the provisions of this chapter including knowledge of virology, bacteriology, and aseptic techniques to ensure that infection and contagious disease will not be transmitted by the application of tattoos.”

Suggested Language:

“(b) The applicant shall [be required to show by examination the knowledge of the provisions of this chapter including knowledge of virology, bacteriology, and aseptic techniques to ensure that infection and contagious disease will not be transmitted by the application of tattoos] have met the requirements specified in either Section 321 (c)(1) or Section 321(c)(2).”

Rationale:

This paragraph is ambiguous. Is it referring to the state administered examination? Is it referring to the alternative examination and course allowed for temporary permits (see 321(c) (1) and (2)? Or both? It is our intention that permanent resident tattooists be allowed both alternatives and the same options in licensing requirements as those seeking temporary licenses.

321-374(c)(2) (p. 5, lines 14-15) currently reads:

“Has completed the hepatitis...Code of Federal Regulations 1910.1030(f)”

Suggested Language:

“Has completed the hepatitis...Code of Federal Regulations 1910.1030(f) and has signed the appropriate waiver/declamation.”

Rationale:

321-374(c)(3) is part of 321-374(c)(2) and absolutely should not be a separate article. The waiver and/or declamation is part of the same sentence that appears above and is directly out of the OSHA (HIOSH) standards. It is inappropriate standing alone, as it now appears.

321-374(b)(14) (p. 8, lines 10-15) currently reads:

“Practicing tattooing while...the tattoo shop.”

Suggested Language:

“No person with a communicable disease which may be transmitted despite universal precautions may practice tattooing while actively infectious. The director may require a formal letter or certificate signed by a duly licensed physician stating that the tattoo artist's health is not a risk to clients or fellow employees before returning to work.”

Rationale:

This may be problematic due to the current federal HIPAA and Equal Employment Opportunity acts. The issue is currently addressed in the Departmental Rules and Regulations (11-17), which we hope will be revised in the near future. We have discussed the wording of such a clause with staff members in the Infectious Disease branch of DOH, and the John A. Burns School of Medicine and have their recommended wording (above). However, we still see this as being potentially problematic. Our concern is that such a clause, unless very carefully worded, could not

only be a liability and violation of the HIPPA act, but could result in our bill not passing. We would appreciate your careful consideration and possible editing of the wording of this article.

We urge you to support SB1263 with these suggested revisions. Thank you for your time and consideration.

Coalition for Safe Tattooing in Hawai'i

in support of SB1263 with specified revisions

* indicates primary contacts for the coalition

LICENSED TATTOOISTS

*Peggy Sucher, Licensed Tattooist.

2128 Kalakaua Ave, Honolulu, HI 96815 (808) 778-0117 ladytattoo@hawaii.rr.com

*Tricia Allen, Licensed Tattooist

P.O. Box 61967 Honolulu, HI 96839 (808) 734-8677 tattoo@lava.net

Dave Sucher, Licensed Tattooist

2128 Kalakaua Ave, Honolulu, HI 96815 (808) 778-0117 cueman@hawaii.rr.com

Laura Naylor, Licensed Tattooist

54-060 Kamehameha Hwy, Hauula, HI 96717 (808) 293-8288 laura@lauranaylorartist.com

Adam Siehr Licensed Tattooist

434 Ena Rd. Honolulu, HI 96815 (808) 391-8287 adam@tattooadam.com

Rodney Powell, Tattooisst/Behavioral Health Service Coordinator, United Behavioral Health

541 Pohakulani Street Hilo, HI 96720 (808) 754-8966 tongan_tattoo@yahoo.com

Tinomana F. E. Hoffmann, Licensed Tattooist

1211 Nanakai St. Pearl City, HI 96782 808 497-4204 aitotattoo@clearwire.net

Conor Haley, Licensed Tattooist, Shop Owner

2270 Kuhio Ave #B Honolulu, HI 96815 808-306-4659 arockstar@hawaii.com

Cory Alameda, Licensed Tattooist

2128 Kalakaua Ave., Honolulu, HI 96815 808 924 7460

Scott Bender, Licensed Tattooist

2128 Kalakaua Ave, Honolulu, HI 96815 808 924 7460

Ali Blevins, Licensed Tattooist

2309 Kuhio Ave., Honolulu, HI 96815 no phone schmonzie@hotmail.com

Sergio Dowd, Licensed Tattooist

320 Ward Ave #215 Honolulu HI 96814, 808 541-7400

Dan Foerster, Tattoo Apprentice

2128 Kalakaua Ave, Honolulu, HI 96815 808 924 7460

Mildred Schwarz, Tattoo Apprentice

320 Ward Ave #215 Honolulu HI 96814, 808 541-7400 sadlilstar@gmail.com

MEDICAL PROFESSIONALS AND HEALTH CARE WORKERS

Stephen E. Case, John A. Burns School of Medicine, Biological Safety Officer

45-128 Alina Place, Kaneohe, HI 96744 808 554-1136 stevec@hawaii.edu

JoAnn Johansen, RN, CNM, MSN,

P.O. Box 6329 Kamuela, HI 96743 808-887-0167 joannj@hawaiiantel.net

Brigid Mulloy, RN CNM, ARNP

PO Box 280 Kaunakakai HI 96748 808 553-3380 brigid@mobetah.net

Peter Silva, Pacific Island Trainer, Life Foundation.

541 Pohakulani Street Hilo, HI 96720 (808) 333-5192

COMMUNITY MEMBERS

JoAnn Kahanamoku, Kupuna and Cultural Advisor

P.O. Box 4616 Kailua-Kona, HI 96745 808 334-0217

Claud Sutcliffe, Ph.D., Executive Director, Mediation Center of Molokai

P.O. Box 1708, Kaunakakai, HI 96748 808:553-3844 claud@hawaiiintel.net

Patricia Lee Masters, Ph.D, Academic Program Officer, University of Hawaii at West O'ahu

4741 Matsonia Drive Honolulu, HI 96816 sumanateri@aim.com

Carlos Juarez, Ph.D, Professor and Dean of International Studies, Hawaii Pacific University

7413 Makaa St. Honolulu HI 96825, 808.779.8004 cjuarez@hpu.edu

Angela M. Britten, Director of Corporate Development & Special Events, Bishop Museum

758 Iana Street, Kailua, HI 96734 w: (808) 848-4170 angela.britten@bishopmuseum.org

Ephrosine Daniggelis, Ph.D, community support

2002 Hunnewell St., Honolulu, HI 96822, 947-5828 ephro@hotmail.com

Kimo Silberstein, Cultural Practitioner

2350 Palolo Ave, Honolulu, HI 96816 808 737-9194 kumukimo@hawaii.rr.com

P.F. Ski Kwiatkowski, Cultural Practitioner/Traditional Tattooist

P.O. Box 2250 Kamuela, HI 96743 kakaukii@hawaiiintel.net

Waimea Williams, community support

45-539 Pahia Road Kaneohe, HI 96744 808 375-5036 williams011@hawaii.rr.com

Audra Sellers, community support

P.O. Box 13207, Lahaina, HI 96761 808-281-5280 audra1@hawaii.rr.com

Deyna Puckett, community support

P.O. Box 13207, Lahaina, HI 96761 808-281-5280 deyna@hawaii.rr.com

Karna Hazelhoff, community support

PO Box 858 Kamuela, HI 96743 karnahazelhoff@comcast.net

James Bayley, community support

2765 Round Top Dr., Honolulu, HI 96822 (808) 946-9669 jimskalabim@hotmail.com

Sally Lundburg, community support

PO Box 244 Paauilo, Hawaii 96776 (808)776-1535 sallylundburg@hotmail.com

Keith Tallett, community support

PO Box 244 Paauilo, Hawaii 96776 (808)776.1535 keithtallett2005@hotmail.com

Mimi Forsyth, community support

P O Box 970968 Waipahu, HI 96797 (808)-676-8261 forsythm001@hawaii.rr.com

Janice Tumpap, community support

23 Poniu Circle Wailuku 96793 808 205-8068 tumpapc@gmail.com

Jim Patterson, community support

62 Hui Rd F Lahaina, Maui, HI 96761 808-669-0872 terpatterson@yahoo.com

Tere Patterson, community support

62 Hui Rd F Lahaina, Maui, HI 96761 808-669-0872 terpatterson@yahoo.com

Dave Wethington, taxpayer

350 Ward Ave, #10622, Honolulu, HI 96814 808 239 7776

Joyce Chun, taxpayer

350 Ward Ave, #10622, Honolulu, HI 96814 808 239 7776

Carol Colbath, graphic artist, community support

45-539 Kamo'oali'i, Kaneohe, Hawai'i 96744 808 235-4828 ccd@hawaii.rr.com

Goro Sulijoadikusumo, community support

3810 Claudine St., Honolulu, HI 96816 734-3439 goro@hawaii.rr.com

Health Committee:
Sen. David Ige, Chair
Sen. Josh Green, Vice-Chair

Hearing: Tuesday, 2/10/09, 8:30 am

Support of SB1263 Relating to the permitting of tattoo shops and licensure of tattoo artists.

Submitted by:

Rodney Powell - Behavioral Health Advocate / Tattooist.

This testimony is in support of Senate Bill 1263 (HB1499). I am a licensed tattooist and also a social worker working in behavioral health. In my work, I have encountered numerous public health concerns due to laws that do not fully protect our community. I work with indigent populations who, often times, will place themselves at risk unknowingly. I believe it is the responsibility of those who are licensed in our State to practice tattooing to uphold their art to the fullness of the law. Within this, however, it is the State's responsibility to continuously revise these laws so that they safeguard our community and provide for accountability.

Seeing how disease prevention can lead to healthier communities, I am in full support of this bill with the recommended revisions, and I urge that the current statues be updated. In addition to health reasons, tattooing has increased in popularity tremendously in recent years, and the laws must adjust accordingly to better facilitate licensing and permits in a SAFE manner.

Additionally, this bill will also substantially increase revenues for the state for the following reasons:

- 1) All permit & licensing fees and renewal fees have been increased between 30% to 50%.
- 2) There will be an increase in the number of tattooist licenses, due to the fact that temporary permits will be allowed, thus increasing revenues even more.
- 3) Fees are substantial for temporary permits for conventions, so additional revenues will be involved.

This is all done without necessarily increasing the workload on Department of Health and Sanitation, as it offers options for examinations other than those administered by the Department.

Please accept my testimony in support of this bill.

Sincerely,
Rodney Powell
Behavioral Health Social Worker
Licensed Tattooist

Health Committee:
Sen. David Ige, Chair
Sen. Josh Green, Vice-Chair

Hearing: Tuesday, 2/10/09, 8:30 am

Support of SB1263 Relating to the permitting of tattoo shops and licensure of tattoo artists.

Submitted by:

Peter Silva, HIV Pacific Island Trainer – Life Foundation. 677 Ala Moana Blvd. #226 Honolulu, HI 96815. 808-521-2437.

This testimony is in support of Senate Bill 1263 (HB1499). I am a certified HIV counselor and tester, and work with the U.S. Pacific Island Jurisdictions towards developing HIV prevention services, building community capacity, and supporting community leadership in directing how services are provided.

Seeing how disease prevention can lead to healthier communities, I am in full support of this bill with the recommended revisions, and I urge that the current statues be updated. In addition to health reasons, tattooing has increased in popularity tremendously in recent years, and the laws must adjust accordingly to better facilitate licensing and permits in a SAFE manner.

Additionally, this bill will also substantially increase revenues for the state for the following reasons:

- 1) All permit & licensing fees and renewal fees have been increased between 30% to 50%.
- 2) There will be an increase in the number of tattooist licenses, due to the fact that temporary permits will be allowed, thus increasing revenues even more.
- 3) Fees are substantial for temporary permits for conventions, so additional revenues will be involved.

This is all done without necessarily increasing the workload on Department of Health and Sanitation, as it offers options for examinations other than those administered by the Department.

Please accept my testimony in support of this bill.

Sincerely,

Peter Silva
HIV Pacific Island Trainer
Life Foundation

Dear Senators:

I am writing in reference to SB 1263 which is an update of the current Hawaii Tattoo Regulations. As a licensed tattooist, a board member of both the Alliance of Professional Tattooists and the National Tattoo Association and a 28 year veteran of the trade I am in support of this bill WITH the correct revisions submitted. Without the revisions the bill is not feasible.

As part of the coalition that penned the original bill I believe our regulations are long overdue for updating. The health issues of today coupled with the popularity of tattooing warrant adapting our state's obligation to protect the health of our people.

This bill covers all forms of tattooing: modern electric, traditional (hand tap) and cosmetic. As blood born pathogens know NO boundaries it is imperative that we give the Health Department the proper authority to oversee body invasive procedures.

This bill increases licensing and inspection funding for the Department of Health to alleviate costs incurred for site inspections, testing and other expenses. It allows for trade shows and educational exhibits under the right health related constraints.

With the revisions which bring the bill back to our original submission we feel we have eased a bit of the burden on our Department of Health. The revisions must be implemented in order to truly represent that opportunity.

Thank you for your considerations,

Peggy Sucher

Hawaii Licensed Tattooer

Board Member, Editor, Lecturer, Health Instructor

Alliance of Professional Tattooists/National Tattoo Association

Columnist, www.aroundhawaii.com

Purdue University, BS, '79

Registered Voter, Landowner, Taxpayer State of Hawaii