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FISCAL IMPACT REPORT

ORIGINAL DATE 03/02/11

SPONSOR King LAST UPDATED 03/11/11 HB 557/aHBIC

SHORT TITLE Various Board Powers & Duties SB _____

ANALYST Sanchez, C.

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Attorney General's Office (AGO)

Department of Public Safety (DPS)

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry Amendment to HB 557 makes technical changes to the bill.

No significant changes are identified.

Synopsis of Original Bill

House Bill 557 (HB557) proposes to enhance enforcement of the Barbers and Cosmetologists Act and Body Art Safe Practices Act by adding the following:

- Allowing the Board of Barbers and Cosmetologists to issue cease-and-desist orders to persons in violation of the Barbers and Cosmetologists Act and the Body Art Safe Practices Act.
- Adding criminal misdemeanor penalties for violations of the Body Art Safe Practices Act or for fraudulent practices

FISCAL IMPLICATIONS

No significant fiscal impact is identified.

SIGNIFICANT ISSUES

According to the Department of Public Safety (DPS), the Body Art Safe Practices Act provides for standards related to practices involving tattooing, body piercing, or scarification. These standards extend protection to individuals and promote the health of the public by requiring practices that lower the risk of transmission of infectious disease.

DPS reports that non-sterile body art instruments and materials have been implicated in the spread of blood-borne pathogens, including viral hepatitis.

The proposed changes to the existing acts included in HB557 would permit action by the Board of Barbers and Cosmetologists against persons in violation of these acts to stop potentially hazardous practices and would provide additional fines for violations. This could protect the health of clients by providing disincentives against unsafe practices.

HB 557 creates criminal misdemeanor penalties for Body Art Safe Practices Act to mirror the Barbers and Cosmetologists penalties and fines. The Body Art Safe Practices act penalty that the board may promulgate is to not exceed \$150.00 (61-17B-11) the Barbers and Cosmetologists Act penalty that the board may promulgate is less than \$1,000.00 (61-17A-23).

PERFORMANCE IMPLICATIONS

According to the Regulation and Licensing Department (RLD), by adding the power of cease and desist and criminal misdemeanor penalties it will impact all persons who obtain services that fall under the Board of Barbers and Cosmetologists. The board will have authority over unlicensed or unsanitary establishments and individuals.

TECHNICAL ISSUES

Section 61-17B-11 B. states the district court may impose a civil penalty not exceeding \$500.00. However, D states conviction by a fine of less than \$1,000.00 at the discretion of the court.

OTHER SUBSTANTIVE ISSUES

The amendment includes two Acts because there is only one board that governs the two professions. According to the Attorney General's Office (AGO) since there is a separate Body Art Act it might be safer to include a separate provision specifically allowing for the issuance of cease and desist order to persons violating the Body Art Safe Practices Act in the act. Further, the current penalties contained in Section 61-17B-11 need to be conformed to the penalties in HB 557.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If HB557 is not enacted, the Barbers and Cosmetologists Act and the Body Art Safe Practices Act would not be amended to increase sanctions to aid in enforcement of these acts.