

1 HB89
2 204182-1
3 By Representative Hollis
4 RFD: Health
5 First Read: 02-FEB-21
6 PFD: 12/17/2020

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8 SYNOPSIS: Existing law does not regulate microblading
9 facilities.

10 This bill would provide for the regulation
11 of microblading facilities and would allow the
12 State Department of Health to adopt rules regarding
13 microblading.

14 This bill would also provide for civil
15 remedies and criminal penalties.

16 Amendment 621 of the Constitution of Alabama
17 of 1901, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of
19 Alabama of 1901, as amended, prohibits a general 8
20 law whose purpose or effect would be to require a
21 new or increased expenditure of local funds from
22 becoming effective with regard to a local
23 governmental entity without enactment by a 2/3 vote
24 unless: it comes within one of a number of
25 specified exceptions; it is approved by the
26 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to 16
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

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11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To regulate microblading facilities and the practice
16 of microblading; to allow the State Department of Health to
17 adopt rules regarding microblading; to provide for civil
18 remedies and criminal penalties for violations; and in
19 connection therewith would have as its purpose or effect the
20 requirement of a new or increased expenditure of local funds
21 within the meaning of Amendment 621 of the Constitution of
22 Alabama of 1901, now appearing as Section 111.05 of the
23 Official Recompilation of the Constitution of Alabama of 1901,
24 as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. As used in this act the following terms
27 shall have the following meanings:

1 (1) DEPARTMENT. State Department of Public Health.

2 (2) FACILITY. The geographic location at which an
3 individual does one or more of the following for compensation:

4 a. Places an indelible mark upon the body of another
5 individual by the insertion of a pigment on or under the skin.

6 b. Places an indelible design upon the body of
7 another individual by production of scars other than branding.

8 (3) MICROBLADE or MICROBLADING. A form of
9 semi-permanent makeup that provides a means to partially or
10 fully camouflage missing eyebrow hair with the appearance of
11 simulated hair using fine deposits of cosmetic pigments.

12 (4) MINOR. An individual under 18 years of age who
13 is not emancipated.

14 Section 2. Each microblading technician shall be
15 governed by the Needlestick Safety and Prevention Act, Pub. L.
16 106430, and this act.

17 Section 3. (a) An individual may not do any of the
18 following:

19 (1) Microblade another individual without providing
20 proof of course certification.

21 (2) a. Microblade on a minor unless the individual
22 obtains the prior written, informed consent of the parent or
23 legal guardian of the minor.

24 b. The parent or legal guardian of the minor shall
25 execute the written informed consent required under this
26 subdivision in the presence of the individual performing the

1 microblading on the minor in the presence of the individual or
2 his or her employee or agent.

3 c. Microblade on another individual if the other
4 individual is under the influence of intoxicating liquor or a
5 controlled substance.

6 d. Microblade at a facility that is not licensed
7 under this act.

8 (b) (1) The owner or operator of a facility may apply
9 to the department for a facility license on a form provided by
10 the department and at the time of application shall pay to the
11 department the appropriate fee as provided in this section.

12 (2) If the department determines that the
13 application is complete and the microblading facility proposed
14 or operated by the applicant meets the requirements of this
15 act and the rules adopted pursuant to this act, the department
16 shall issue a license to the applicant for the operation of
17 that facility. The license shall be effective for a time
18 period prescribed by rule of the department.

19 (3) The owner or operator of a microblading facility
20 shall pay the following fees for a facility license:

21 a. Initial annual license, two hundred fifty dollars
22 (\$250).

23 b. One-year renewal of an annual license, two
24 hundred dollars (\$200).

25 c. Temporary license to operate a facility at a
26 fixed location for not more than a two-week period, fifty
27 dollars (\$50).

1 (4) Fees collected under subdivision (3) shall be
2 deposited in the State Treasury to the credit of the
3 department. These amounts shall be budgeted and allotted in
4 accordance with Sections 41-4-80 through 41-4-96 and Sections
5 41-19-1 through 41-19-12, Code of Alabama 1975.

6 (c) The owner or operator of a facility licensed
7 under this act shall apply to the department for renewal of
8 the license not less than 30 days before the license expires.
9 Upon payment of the renewal fee, the department shall renew
10 the license if the applicant is in compliance with this act
11 and the rules adopted pursuant to this act.

12 (d) Before issuing a license, renewing a license, or
13 issuing a temporary license to an applicant, the department
14 shall inspect the premises of the facility that is the subject
15 of the application.

16 (e) The department shall periodically inspect each
17 facility licensed under this act to ensure compliance with
18 this act.

19 (f) The department shall issue a license under this
20 act to a specific person for a facility at a specific
21 location, and the license issued shall be nontransferable.

22 Section 4. A person who owns or operates a licensed
23 facility shall do all of the following:

24 (1) Display the license in a conspicuous place
25 within the customer service area of the facility.

26 (2) Ensure that an individual engaged in
27 microblading at the facility wears disposable gloves approved

1 by the department when microblading, or when cleaning
2 instruments used in microblading.

3 (3) Maintain a permanent record of each individual
4 who has received microblading performed at the facility and
5 make the records available for inspection by the department or
6 local county health department. The record shall include the
7 name of the individual receiving microblading, and his or her
8 address, age, signature, including the date of the
9 microblading, and location of the facility.

10 (4) Provide each customer with a written information
11 sheet approved by the department that provides instructions on
12 microblading site, which shall include a recommendation that
13 the person seek medical attention if the microblading site
14 becomes infected or painful, or if the person develops a fever
15 soon after microblading is performed.

16 (5) Within 24 hours of becoming aware that an
17 individual who has had microblading at the facility is
18 infected with a communicable disease, the owner or operator of
19 the facility shall notify the department or the local county
20 health department.

21 Section 5. (a) The department shall perform all of
22 the following duties:

23 (1) Enforce this act and the rules adopted under
24 this act.

25 (2) Adopt rules necessary to implement this act,
26 including, but not limited to, rules governing each of the
27 following:

- 1 a. The facility design and construction.
- 2 b. Microblading equipment standards, including, but
- 3 not limited to, cleaning and sterilization requirements.
- 4 c. Microblading dye standards.
- 5 d. Inspection of microblading facilities.
- 6 e. Facility license renewal.

7 (b) The department may exercise any of the following
8 powers:

9 (1) Appoint an advisory committee to assist the
10 department in rule development.

11 (2) After notice and an opportunity for a hearing,
12 suspend, revoke, or deny a license or license renewal for a
13 violation of this act or a rule adopted pursuant to this act.

14 (c) Local county health departments may enforce this
15 act and all rules adopted pursuant to this act.

16 (d) In addition to any other enforcement action
17 authorized by law, a person alleging a violation of this act
18 may bring a civil action for appropriate injunctive relief.

19 Section 6. A person who violates this act or a rule
20 adopted under this act shall be guilty of a Class C
21 misdemeanor.

22 Section 7. Although this bill would have as its
23 purpose or effect the requirement of a new or increased
24 expenditure of local funds, the bill is excluded from further
25 requirements and application under Amendment 621, now
26 appearing as Section 111.05 of the Official Recompilation of
27 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

3 Section 8. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.