

SMALL BUSINESS IMPACT STATEMENT 2016
PROPOSED AMENDMENTS TO NAC 444 – SANITATION

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should have limited impact upon a small business or on the formation, operation or expansion of a small business in Nevada.

A small business is defined in Nevada Revised Statutes NRS 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

This small business impact statement is made pursuant to NRS 233B.0608 (3) and complies with the requirements of NRS 233B.0609. As required by NRS 233B.0608(3), this statement identifies the methods used by the agency in determining the impact of the proposed regulation on a small business in sections 1, 2, 3, and 4 below and provides the reasons for the conclusions of the agency in section 8 below followed by the certification by the person responsible for the agency.

Background

Tattoos, piercings, and other forms of invasive body decoration are increasingly common. These procedures are not currently regulated state-wide in a manner that protects the health of the consumer in the State of Nevada. There is a high risk of contracting skin infections, bloodborne diseases, and other communicable diseases during procedures performed in unregulated and potentially insanitary establishments. These regulations propose oversight of invasive body decoration procedures, with the intent to reduce the risk of bloodborne disease and skin infection among patrons and operators by enforcing industry best practices in all establishments within the State.

These regulations would require all operators in the State to pay a permit fee and become subject to inspection by the Health Authority having jurisdiction. Operators may be impacted financially in the process of complying with these regulations. Regulated establishments will be assessed an annual permit fee of \$290; fees assessed by operators at special events will be variable depending on the number of events attended per year.

Currently, Washoe County Health District, Carson City Health and Human Services, and Southern Nevada Health District regulate invasive body decoration establishments (sometimes known as "Body Art" establishments). The proposed regulations would set a baseline for these health jurisdictions, and would be the primary regulations within Pershing, Humboldt, Lander, Eureka, Elko, White Pine, Churchill, Lyon, Storey, Mineral, Esmeralda, Nye, and Lincoln counties. It was found that some Counties and local jurisdictions prohibit tattoo or piercing facilities within their boundaries unless the establishment maintains a valid permit from the health authority. Since the State does not currently regulate these business, there is a de facto prohibition on these establishments in parts of the state.

An initial informal phone survey of operators in Elko, Lyon, and White Pine counties suggests that many operators are substantially in compliance with industry minimum standards, and it is expected that costs of compliance with these will not be prohibitive. During the drafting period,

the Environmental Health Section held two public workshops to solicit industry comment, and small business impact questionnaires were sent to 13 rural operators before each workshop. Responses are pooled in this report.

1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (2)(a), the Division of Public and Behavioral Health has requested input from the operators of 13 known tattoo, piercing, or related establishments operating in Elko, Lyon, Nye, Churchill, Humboldt, Washoe, and White Pine Counties.

A Small Business Impact Questionnaire was sent to all 13 operators by email or received in-person along with a copy of the proposed regulation between July 1st and 5th (Survey 1) and the revised regulation proposal, between September 19th and 30th (survey 2). The questions on both questionnaires were:

- 1) How many employees are currently employed by your business?
- 2) Will a specific regulation have an adverse economic effect upon your business?
- 3) Will the regulation(s) have any beneficial effect upon your business?
- 4) Do you anticipate any indirect adverse effects upon your business?
- 5) Do you anticipate any indirect beneficial effects upon your business?

Summary of Response

Summary Of Comments Received - Survey 1 (1 response was received out of 13 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes	No	Yes	No
No explanation	No explanation	Cost to the client may increase	No explanation

Summary Of Comments Received – Survey 2 (1 response was received out of 13 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes	Yes	Yes	Yes
Establishment is a mobile unit, and states the proposed regulations regarding mobile units would pose an undue burden on their business without truly protecting public health. Work performed in Nevada currently generates \$25,000 - \$45,000 per year; establishment would have to cease current operations under proposed regulations.	Establishment states that protecting public health by closing insanitary operations would increase their clientele and income.	Regulations as proposed would eliminate their type of business completely.	Establishment states that uniform regulations throughout the state would improve the industry as a whole.

2) Describe the manner in which the analysis was conducted.

EHS staff reviewed each comment during the public workshop, to solicit further information from industry representatives and representatives from other Nevada health districts regarding the status quo in counties with existing regulations.

Following the July 19, 2016 workshop, EHS staff attended an industry conference to learn more about industry sanitation and best practices, and significantly revised the proposed regulations to better reflect the use of pre-sterilized, disposable equipment. During this period, the section requiring Blood Borne Pathogen training was strengthened to reflect the importance of this training to the industry representatives.

Following the October 18, 2016 workshop, no further changes were made to the proposed regulations. The sole response to the small business impact questionnaire was in regards to the 14 day limit on operations conducted from a mobile tattoo unit. Upon further discussion with industry at the workshop and among other Health Division staff, EHS staff determined that limiting mobile unit permits to 14 days would best protect public health by ensuring that units were always locatable for inspections and found to be in compliance before each event. Since

the operation is transitory in nature, there was a concern that annual permits would increase the risk of improper sanitation when units are set up quickly and without an inspection, and thus increase risk to the consumer.

3) The estimated economic effect of the proposed regulation on the small business which it is to regulate including, without limitation both adverse and beneficial effects and both direct and indirect effects.

It is not expected that these regulations will have significant adverse impact upon small businesses operating from brick-and-mortar establishments. The responses received from one business owner indicated that traveling mobile establishments may be impacted by these regulations due to restrictions on the number of days a mobile unit can operate from a single location. Additional permits can be obtained if the 14 day maximum needs to be exceeded. The benefit to this time restriction on the mobile permits is to ensure that the public safety is preserved. Mobile operations would have to notify the health authority of the event location and timeframe ahead of time to allow for guidance to be provided in advance and inspections to occur during the event.

4) Provide a description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

In the draft regulations, permits issued to mobile operators are limited to 14 days at a single location within the state. This was of significant concern to an operator who currently operates a mobile unit at various locations throughout the state. It was suggested that EHS consider issuing annual permits to mobile unit operators in lieu of short-term permits.

During the second workshop, this proposal was opened for discussion. Operators of brick-and-mortar establishments raised concerns that short-term operations posed a risk to consumers since they are often not in town any more when complications arise.

From a regulatory standpoint, short-term permits would facilitate locating mobile operators in a timely fashion for routine inspections or complaint investigations. Mobile establishments have logistic concerns that permanent establishments do not, including: water supply, sewage disposal, siting, sterilizers being jostled on the road, or supply deliveries to a changing address. By requiring a permit for each event, EHS ensures that the agency is aware of when and where a unit will be, and is able to inspect them during the event. This reduces the risk to the consumer of insanitary units passing a non-operational inspection at a field office, but not following good practices when performing invasive body decoration procedures.

Ultimately, EHS staff decided not to permit mobile operations on an annual basis. With the online State application system, mobile operators would still be able to apply for a permit for their next location without visiting an office, and could apply for a second permit if they intend to stay in one location for more than 14 days. An operator who changes location frequently could consider consolidating trips to reduce the number of permits requested. If a mobile unit sets up for two-week stretches in 3 rural towns, the total permit fees would be comparable to those proposed for brick-and-mortar establishments.

5) The estimated cost to the agency for enforcement of the proposed regulation.

Approximately \$6000 - \$8000.

6) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount DPBH expects to collect and the manner in which the money will be used.

At this time, it is estimated that the fees collected will total approximately \$6000 - \$8000. The total amount will be used to fund the regulatory program, including inspections and educational opportunities.

7) An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

These regulations do not duplicate any existing federal or state regulations; the Division does not find these regulations more stringent than any currently enforced by the local health districts.

8) Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

The low response rates suggest that most operators do not find that these regulations will significantly impact their business. Although questionnaires were distributed only to establishments known by the local inspector or local business licensing authority, EHS staff feel that the establishments surveyed are an accurate representation of the industry in the 13 rural and frontier counties. Informal phone surveys conducted while locating invasive body decoration establishments and comments made during the public workshops indicate that the majority of existing establishments are already in substantial compliance with the proposed regulations, and will not find the requirements of these regulations an undue burden.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Lindsey Doolittle at the Division of Public and Behavioral Health at:

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Certification by Person Responsible for the Agency

I, Amy Roukie, Administrator of the Division of Public and Behavioral Health certify to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in this statement was prepared properly and is accurate.

Signature _____ Date: _____