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SNL2012 CHAPTER P-7.2

PERSONAL SERVICES ACT

Amended:

2018 cP-37.3 s66

CHAPTER P-7.2

AN ACT TO REGULATE THE PERSONAL SERVICES INDUSTRY

(Assented to June 27, 2012)

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Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title

1. This Act may be cited as the *Personal Services Act* .

[2012 cP-7.2 s1](#)

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Definitions

2. In this Act

- (a) "body piercing" means the penetration or puncturing of the skin by a method for the purpose of inserting jewellery or other objects in or through the body but does not include the piercing of the ear lobe below the external auditory canal;
- (b) "contamination" means the presence of an infectious, chemical or physical agent on a body surface, inanimate object or other surface;
- (c) "communicable disease" means a communicable disease as defined in the *Public Health Protection and Promotion Act* ;

- (d) "health hazard" means a condition or circumstance that has or is likely to have an adverse effect on the health of a person and includes a condition or circumstance that is unsanitary, prevents or hinders the suppression of disease or facilitates the transmission of a communicable disease;
- (e) "inspector" means a person designated as an inspector under section 11 ;
- (f) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;
- (g) "owner" means a person who owns a personal services establishment or tanning facility and, for the purpose of this Act and the regulations, includes a person who operates a personal services establishment or a tanning facility;
- (h) "personal services" means a service intended to permanently or semi-permanently alter the body for cultural, artistic or expressive purpose including tanning, body piercing, tattooing, branding, skin peeling, scarification, subdermal implantation, tongue bifurcation, microdermal implantation and another service or procedure designated as a personal service in the regulations;
- (i) "personal services establishment" means a premises at, on or in which personal services are offered, provided or performed in exchange for compensation but does not include a tanning facility;
- (j) "tanning equipment" means ultraviolet or other lamps intended to induce skin tanning through the irradiation of a part of the living human body with ultraviolet radiation and equipment containing lamps, and includes ballasts, starters, reflectors, acrylic shields, timers and airflow cooling systems;
- (k) "tanning facility" means a location, place, area, structure or establishment that provides customers with access to tanning equipment in exchange for compensation;
- (l) "tattooing" means a method of placing indelible ink or other pigments into or under the skin or mucosa with needles or other instruments used to puncture the skin, resulting in permanent colouration of the skin or mucosa and includes micropigmentation and cosmetic tattooing; and
- (m) "temporary structure" means a premise, place or dwelling, whether fixed or mobile, established in conjunction with fairs, circuses, concerts, festivals, civic events or another event lasting no longer than 7 consecutive days.

[2012 cP-7.2 s2](#); [2018 cP-37.3 s66](#)

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Access to personal services

3. (1) An owner or employee of a personal services establishment or tanning facility shall not offer or provide the following personal services to a person who is under the age of 19 years:

- (a) tanning;
- (b) subdermal implantation;
- (c) scarification;
- (d) branding;
- (e) skin peeling;
- (f) tongue bifurcation;
- (g) microdermal implantation; or
- (h) another personal service prescribed in the regulations.

(2) An owner or employee of a personal services establishment may offer or provide the following personal services to a person who is 16 years of age or more, or to a person who is less than 16 years of age with the written consent of his or her parent or guardian:

- (a) body piercing;
- (b) tattooing; or
- (c) another personal service prescribed in the regulations.

[2012 cP-7.2 s3](#)

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Proof of age

4. (1) An owner or employee of a personal services establishment or tanning facility shall require a person appearing to the owner or employee to be under the age required by subsection 3(1) or (2) to provide proof of age.

(2) Where a person is required to provide proof of age under subsection (1), that person shall present a form of identification prescribed in the regulations.

(3) The owner or employee of a personal services establishment or tanning facility shall not accept, as proof of age, a form of proof other than that referred to in subsection (2).

(4) It is not a defence to a prosecution under section 3 for the owner or other person to show that the person under the age required by that section appeared to be above that age.

(5) An owner or employee of a personal services establishment or a tanning facility shall refuse to provide personal services or sell access to tanning equipment to a person if it appears that the person's proof of age documentation has been altered.

[2012 cP-7.2 s4](#)

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Provision of information

5. (1) Before performing or providing a personal service, the owner or employee of a personal services establishment or tanning facility shall disclose the following information to each person requesting a personal service:

- (a) an explanation of the procedure requested;
- (b) potential health risks associated with the requested procedure;
- (c) in the case of tattooing, that tattooing is permanent and that removal of tattooing may not be complete and may leave scarring;
- (d) in the case of body piercing, that scarring may result;
- (e) after-care instructions, including, as appropriate,
 - (i) removal of bandages,
 - (ii) instructions for cleaning the site and application of cleaning solutions, ointments and lotions,
 - (iii) activity restrictions,
 - (iv) signs and symptoms of infections, and
 - (v) possible side effects;
- (f) a contact number for client questions; and
- (g) another matter prescribed by the regulations.

(2) For the purpose of subsection (1), disclosure means

- (a) posting the information and informing the person requesting the service where the information is posted;
- (b) having the information printed, displaying the printed information in an easily accessible location and informing the person requesting the service where the information is displayed or may be accessed; or
- (c) having the information printed and directly handing a copy of the information to the person requesting the personal service.

[2012 cP-7.2 s5](#)

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Refusal to provide services

6. Where an owner or employee of a personal services establishment or tanning facility has reason to believe that a person requesting personal services is so under the influence of alcohol or another drug that he or she may not be capable of fully understanding information provided to him or her under section 5 , the owner or employee shall not perform the personal service.

[2012 cP-7.2 s6](#)

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Signage

7. (1) The minister may direct that signs, in a form approved by the minister, be posted or displayed at personal services establishments or tanning facilities for the purpose of this Act and the regulations

- (a) in a manner that is visible and unobstructed from view; and
- (b) that disclose information relating to the sale of personal services or of access to tanning equipment and the associated potential health hazards as may be prescribed by the regulations.

(2) It is an offence for an owner or employee of a personal services establishment or tanning facility to fail to post or display signs as directed and required under this Act and the regulations.

[2012 cP-7.2 s7](#)

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Temporary structure

8. A person shall not operate a temporary structure as a personal services establishment or tanning facility and a person shall not offer personal services or access to tanning equipment from a temporary structure.

[2012 cP-7.2 s8](#)

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Standards

9. (1) The minister may establish health and safety standards applicable to a personal services establishment or a tanning facility.

(2) A personal services establishment and a tanning facility shall be constructed, maintained and operated in a way that no condition exists that constitutes a health hazard.

(3) It is an offence for the owner or employee of a personal services establishment or a tanning facility to fail to comply with the applicable health and safety standard established by the minister under subsection (1) or to operate a personal services establishment or tanning facility in a manner that constitutes a violation of this Act or the regulations.

[2012 cP-7.2 s9](#)

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Registration

10. (1) A personal services establishment or a tanning facility shall not operate unless that establishment or facility is registered under this Act.

(2) Notwithstanding subsection (1), a personal services establishment or tanning facility which is operating on the day that this Act comes into force shall register as required by that subsection within 90 days of this Act coming into force, and may operate during that period.

(3) A personal services establishment or a tanning facility shall apply for registration to the Government Service Centre, and the minister responsible for that centre may issue a certificate of registration.

(4) A personal services establishment or a tanning facility which changes address shall notify the Government Service Centre in writing of the change before commencing operations at that new address.

[2012 cP-7.2 s10](#)

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Inspectors and others

11. (1) The minister may designate persons or classes of persons to act as inspectors for the purpose of this Act and the regulations.

(2) An inspector or other person exercising a power or performing a duty or function under this Act is not liable for exercising the power or performing the duty or function in good faith.

(3) A person shall not knowingly make a false or misleading statement, either orally or in writing, to the inspector while he or she is exercising powers or carrying out duties or functions under this Act or the regulations.

[2012 cP-7.2 s11](#)

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Powers of inspectors re: compliance

12. (1) An inspector may, at all reasonable times, for a purpose related to the administration or enforcement of this Act or the regulations, inspect or examine the premises, processes, books and records of a person that the inspector may consider relevant for the purpose of determining compliance with this Act or the regulations, and the inspector may, without a warrant,

- (a) enter any premises
 - (i) which is a personal services establishment or a tanning facility,
 - (ii) where any property, or books and records are or may be kept, or
 - (iii) where anything is done or is suspected by the inspector of being done in connection with a requirement of this Act or the regulations;
- (b) make copies, extracts, photographs or videos the inspector considers necessary;
- (c) require the owner or person in charge of a premises to give the inspector all reasonable assistance, including the production of books and records as requested by the inspector, and to answer all proper questions relating to the administration or enforcement of this Act or the regulations and, for that purpose, require the owner or person in charge to attend at the premises with the inspector; and
- (d) require the owner or person in charge to make available the means to generate and manipulate books and records that are in machine readable or electronic form and any other means or information necessary for the inspector to assess the books and records.

(2) Notwithstanding subsection (1), an inspector shall not enter a dwelling-house without the consent of the occupant except under the authority of a warrant issued under section 14 .

[2012 cP-7.2 s12](#)

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Order of inspector

13. (1) Where an inspector finds that an owner or employee of a personal services establishment or tanning facility is not in compliance with a provision of this Act or the regulations, the inspector may order the owner or employee to comply with the provision and may require the order to be carried out immediately or within the period of time that the inspector specifies.

(2) Notwithstanding subsection (1), where an inspector reasonably believes that personal services are provided or performed in a way or under conditions that pose an immediate health hazard, the inspector may, in writing, order the owner or employee of a personal services establishment or tanning facility to

- (a) immediately stop all or a portion of the personal services; and
 - (b) before resuming operations, to take the remedial measures specified in the inspector's order that are necessary to ensure that the personal services can be performed or provided without further risk to the health and safety of others.
- (3) An order of an inspector issued under subsection (2) shall
- (a) where required by an inspector, be posted on the premises in a location that is visible to the public and unobstructed from view; and
 - (b) remain in effect until the remedial action has been taken to the satisfaction of the inspector.

[2012 cP-7.2 s13](#)

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Contravention of Act suspected

14. (1) Where, during the course of an inspection or examination under section 12 , or otherwise where an inspector believes on reasonable grounds that there has been a contravention of this Act or the regulations, the inspector may, with a warrant issued under subsection (2), seize and take away any of the books or records that may be required as evidence of a contravention and may retain those documents until the time they are required in a court proceeding.

(2) A provincial court judge who is satisfied upon oath or affirmation there are reasonable grounds for believing there is in or on a personal services establishment, tanning facility or premises anything that may provide evidence with respect to a suspected offence under this Act or the regulations, may issue a warrant authorizing an inspector to enter the premises and to

- (a) search;
- (b) examine the contents of the premises and make those inquiries that the inspector considers necessary; and
- (c) copy, extract, photograph, video, seize and take away evidence, books and records

for the purpose of investigating the suspected offence.

(3) The owner or person in charge of a premises referred to in this section or a person there shall not obstruct an inspector in the carrying out of his or her duties under this section as authorized by the warrant.

[2012 cP-7.2 s14](#)

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Telewarrant

15. (1) Where, in the opinion of an inspector it would not be practical to appear before a provincial court judge to apply for a warrant, the inspector may make the application by telephone, facsimile or other means of telecommunication.

(2) Where the information on which an application for a warrant is submitted by telephone, facsimile or other means of telecommunication, the information shall be given under oath or affirmation, and the oath or affirmation may be administered by telephone, facsimile or other means of telecommunication.

(3) The information submitted by telephone, facsimile or other means of communication shall include

- (a) a statement of the circumstances that make it impracticable for the inspector to appear personally before a provincial court judge; and
- (b) a statement of the inspector's grounds for believing that a person has contravened this Act or that entry onto public or private premises where a contravention of this Act is believed to occur has been denied.

(4) The sworn or affirmed information submitted by telephone, facsimile or other means of telecommunication by an inspector shall specify the name of the person giving evidence, the facts

ascertained and the manner and location in which evidence was received, and a record of that information shall be filed by the provincial court judge with the clerk of the court over which the judge presides.

[2012 cP-7.2 s15](#)

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Disposition of documents

16. (1) Where an inspector removes documents or records from a personal services establishment or tanning facility for the purpose of section 14 , and makes a copy or extract of them or a part of them, the inspector shall give a receipt to the owner of the premises for the documents or records removed.

(2) Where documents or records are removed from premises, the documents or records shall be returned to the owner as soon as the copies or extracts have been made.

(3) A copy or extract of a document or record related to an inspection, examination, test or inquiry purporting to be certified by the inspector is admissible in evidence in an action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original without proof of appointment, designation, authority or signature of the person purporting to have certified the copy.

[2012 cP-7.2 s16](#)

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Protection from liability

17. (1) A person who reports to an inspector or peace officer a violation or suspected violation of this Act or the regulations is not liable to a civil action in respect of the allegation contained in the report or for anything done in good faith to assist an inspector or peace officer in an inspection or investigation.

(2) A person shall not dismiss, suspend, discipline, demote, harass or otherwise disadvantage or penalize an individual where

- (a) the individual, acting in good faith and on the basis of reasonable belief, has disclosed to an inspector that another person has contravened or is about to contravene a provision of this Act or the regulations;
- (b) the individual, acting in good faith and on the basis of reasonable belief, has done or stated an intention of doing an act that is required to be done in order to avoid having a person contravene a provision of this Act or the regulations;

- (c) the individual, acting in good faith and on the basis of reasonable belief, has refused to do or stated an intention to refuse to do an act that is in contravention of this Act or the regulations; or
- (d) another person believes that the individual will do an act described in paragraph (a), (b) or (c).

[2012 cP-7.2 s17](#)

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Offence and penalty

18. (1) A person who contravenes this Act or the regulations or an order made under this Act or the regulations or who fails to cooperate with an inspector or comply with an order of an inspector is guilty of an offence and liable, on summary conviction,

- (a) in the case of a person who is not an owner of a personal services establishment or tanning facility,
 - (i) for a first offence, to a fine of \$50,
 - (ii) for a second offence, to a fine of \$250, and
 - (iii) for a third offence and for each subsequent offence, to a fine of \$500; and
- (b) in the case of a person who is an owner of a personal services establishment or tanning facility,
 - (i) for a first offence, to a fine of \$500,
 - (ii) for a second offence, to a fine of \$2,500, and
 - (iii) for a third offence and for each subsequent offence, to a fine of \$5,000.

(2) Each contravention of this Act or the regulations constitutes a new and separate offence.

(3) Where an offence under this Act or the regulations is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

(4) For the purpose of subsections (2) and (3), a conviction for an offence more than one year after the date of the last previous conviction shall be considered to be a conviction for a first offence.

(5) Where a person is convicted of an offence under this Act or the regulations, in addition to another punishment that may be imposed under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order requiring the offender to comply with those conditions that the court considers appropriate and just in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.

(6) With respect to an offence under this Act or the regulations, a complaint may be made and a summons issued by means of a ticket under the *Provincial Offences Act*.

[2012 cP-7.2 s18](#)

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Regulations

19. (1) The minister may make regulations

- (a) designating services or procedures as personal services;
- (b) prescribing personal services for the purpose of paragraph 3(1)(h) or 3(2)(c);
- (c) prescribing the forms of identification which may be required for proof of age;
- (d) prescribing the additional information which may be required to be disclosed under section 5;
- (e) prescribing the information which may be required to be disclosed in signage required under section 7;
- (f) respecting the registration of personal services establishments or tanning facilities;
- (g) providing for the appointment or designation of, and prescribing the duties and powers of, inspectors;
- (h) providing for the addition to or exemption from this Act or the regulations or a part of them, of a class of personal services or of a person or class of persons or of a personal services establishment or tanning facility and prescribing the terms and conditions of the exemption;
- (i) prescribing the devices to be used in a personal services establishment or tanning facility and the manner of using those devices;
- (j) prescribing the facilities and equipment to be provided and maintained at personal services establishments and tanning facilities;

- (k) respecting the health and safety standards applicable to personal services establishments or tanning facilities, including standards respecting personal hygiene, equipment sterilization, sanitation, measures to control the transmission of infectious microorganisms and to prevent the transmission of communicable disease, and waste disposal;
- (l) prescribing the records to be made and kept at personal services establishments or tanning facilities;
- (m) prescribing proof of age documentation; or
- (n) generally, to give effect to the purpose of this Act.

(2) The minister may, in addition to or instead of regulations made under this section, adopt by reference and constitute as regulations the whole or part of provisions of a code adopted or standards fixed with or without modification, and including amendments to the code or standard of an organization acceptable to the minister.

(3) A certificate of the minister that a document is a copy of a code or standard referred to in subsection (1) or an extract from, a modification of, or an amendment to, a code or standard is without further proof presumptive evidence of the content of that code, standard, extract or amendment.

[2012 cP-7.2 s19](#)

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Consequential Amdt.

20. Section 2 of the *Provincial Offences Ticket Regulations, 1999* is amended by adding immediately after paragraph (h) the following:

- (h.1) a provision of the *Personal Services Act* or a regulation made under that Act;

[2012 cP-7.2 s20](#)

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Commencement

21. This Act, or a section, subsection, paragraph or subparagraph of this Act, comes into force on a day or days to be proclaimed by the Lieutenant-Governor in Council. (In force - Jan. 31/14)

[2012 cP-7.2 s21](#)

