

By Representative Valdes

1                                   A bill to be entitled  
2           An act relating to the Department of Health;  
3           creating s. 381.0075, F.S.; providing for  
4           regulation of body piercing by the department;  
5           providing definitions; providing exemptions;  
6           requiring a license to operate a body-piercing  
7           salon; providing licensing procedures and fees;  
8           prohibiting body piercing of a minor without  
9           consent of a parent or legal guardian;  
10          prohibiting other acts; providing penalties;  
11          providing for injunction; providing for  
12          enforcement; providing rulemaking authority;  
13          providing specific requirements for  
14          body-piercing salons; providing an effective  
15          date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19           Section 1. Section 381.0075, Florida Statutes, is  
20 created to read:

21           381.0075 Regulation of body-piercing salons.--

22           (1) LEGISLATIVE INTENT.--It is the intent of the  
23 Legislature to protect the health, safety, and welfare of the  
24 public from the spread of infectious diseases from practices  
25 which prick, pierce, or scar the skin. To that end, it is the  
26 intent of the Legislature to regulate body-piercing salons.

27           (2) DEFINITIONS.--As used in this section:

28           (a) "Body piercing" means the act of penetrating the  
29 skin to make, generally permanent in nature, a hole, mark, or  
30 scar. "Body piercing" does not include the use of a  
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1 mechanized, presterilized ear-piercing system that penetrates  
2 the outer perimeter or lobe of the ear or both.  
3 (b) "Body-piercing salon" means a place where body  
4 piercing occurs.  
5 (c) "Department" means the Department of Health.  
6 (d) "Establishment" means a body-piercing salon as  
7 defined in this section.  
8 (e) "Jewelry" means any personal ornament inserted  
9 into a pierced area, which must be made of implant grade  
10 high-quality stainless steel, solid gold of at least 14K  
11 weight, niobium, titanium, platinum, a dense, low-porosity  
12 plastic, or silver and which is free of nicks, scratches, or  
13 irregular surfaces. Ear studs are not jewelry for purposes of  
14 this section.  
15 (f) "Licensee" means any person licensed under this  
16 section who is responsible for compliance with this section  
17 and the rules adopted under this section.  
18 (g) "Operator" means an individual designated by a  
19 licensee to control the operation of an establishment.  
20 (h) "Person" means any individual, partnership,  
21 corporation, or association.  
22 (i) "Safe level" means not more than 50 colonies of  
23 microorganisms per 4 square inches of equipment or device  
24 surface.  
25 (j) "Sanitization" means the effective bactericidal  
26 treatment of surfaces of equipment and devices by a product  
27 registered by the United States Environmental Protection  
28 Agency which provides a sufficient concentration of chemicals  
29 and enough time to reduce the bacterial count, including  
30 pathogens, to a safe level.  
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1       (k) "Sterilization" means the use of procedures which  
2 destroy all microbial life, including viruses, on the  
3 equipment or device.

4       (l) "Stop-use order" means a written notice from the  
5 department to a licensee requiring the licensee to remove a  
6 piece of equipment or cease conducting a particular procedure  
7 because the equipment is not being operated or the procedure  
8 conducted in accordance with the requirements of this section  
9 or any rule adopted pursuant thereto.

10       (3) EXEMPTIONS.--This section shall not be construed  
11 to alter the scope of practice authorized for any health care  
12 practitioner licensed under chapter 458, chapter 459, chapter  
13 460, chapter 461, chapter 466, chapter 474, or chapter 486 as  
14 such scope of practice is defined by statute or rule.

15       (4) LICENSE REQUIRED.--

16       (a) A person may not operate an establishment unless  
17 it is licensed under this section.

18       (b) Any person operating an establishment shall obtain  
19 a license from the department annually.

20       (c) A license for an establishment shall not be  
21 transferable from one place or person to another.

22       (d) A license shall automatically expire on September  
23 30 of each year unless renewed by the department upon the  
24 request of the licensee.

25       (e) A current license shall be displayed in a public  
26 area of the establishment.

27       (5) LICENSE APPLICATION.--

28       (a) A person must apply to the department for an  
29 establishment license prior to commencement of operation and  
30 must apply for annual renewal of the license in order to  
31 continue operation.

1       (b) Application for an initial license or the renewal  
2 of a license must be on a form provided by the department and  
3 must be accompanied by the annual or prorated fee required in  
4 this section.

5       (c) The licensee shall report any change in the  
6 application information to the department before the change  
7 may be put into operation.

8       (6) FEES.--

9       (a) Fees assessed under this section shall be  
10 reasonably calculated to cover the cost of regulation under  
11 this section, may be used only to meet the costs of carrying  
12 out the requirements of this section, and are nonrefundable.

13       (b) A person applying for initial licensure or  
14 reactivation of an expired license at the beginning of the  
15 licensing period or for renewal of a license shall pay the  
16 full fee. All other applicants, whether for initial licensure  
17 or reactivation of an expired license, shall pay a prorated  
18 fee based on the number of quarters left until September 30.

19       (c) Fees must be received by the department within 30  
20 days after receipt of written notification from the department  
21 that a fee is due. Failure to pay timely will result in the  
22 assessment of a late fee. Fees are payable to the county  
23 health department in the county where the establishment is  
24 located.

25       (d) The fees assessed under this section are, unless  
26 prorated, as follows:

27           1. The annual license fee, or license renewal fee, for  
28 a body-piercing salon is \$150.

29           2. Each late fee is \$100.

30       (7) MINORS.--A person may not pierce any body part of  
31 a minor without the written notarized consent of the minor's

1 parent or legal guardian, and an establishment may not serve a  
2 minor under the age of 16 unless the minor is accompanied by a  
3 parent or legal guardian.

4 (8) PROHIBITED ACTS; PENALTIES; INJUNCTION.--

5 (a) Each of the following acts constitutes a felony of  
6 the third degree, punishable as provided in s. 775.082, s.  
7 775.083, or s. 775.084:

8 1. Owning, operating, or soliciting business as an  
9 establishment in this state without first procuring a license  
10 from the department, unless specifically exempted by this  
11 section.

12 2. Obtaining or attempting to obtain a license to  
13 operate an establishment by means of fraud, misrepresentation,  
14 or concealment.

15 (b) Each of the following acts constitutes a  
16 misdemeanor of the second degree, punishable as provided in s.  
17 775.082 or s. 775.083:

18 1. Failing to maintain the records required by this  
19 section or knowingly making false entries in such records.

20 2. Failing to comply with the requirements regarding  
21 minors set forth in subsection (7).

22 (c) In addition to any other punishment provided for,  
23 the court may suspend or revoke the license of any licensee  
24 under this section who has been found guilty of any violation  
25 of paragraph (a) or paragraph (b).

26 (d) If the department or any state attorney has  
27 probable cause to believe that an establishment or person has  
28 violated any provision of paragraph (a), an action may be  
29 brought by the department or the state attorney to enjoin such  
30 establishment or person from continuing such violation, or  
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1 engaging therein or doing any acts in furtherance thereof, and  
2 the court may provide any other relief it deems appropriate.

3 (9) ENFORCEMENT.--

4 (a) The department shall inspect or investigate an  
5 establishment as necessary, but at least annually, to ensure  
6 compliance with this section. Department personnel may, at  
7 any reasonable time, enter any establishment licensed under  
8 this section or any premises the department has reason to  
9 believe is being operated or maintained in violation of this  
10 section, to determine compliance with this section or any rule  
11 adopted under this section.

12 (b) The department may impose an administrative fine,  
13 not to exceed \$1,000 per violation per day, for the violation  
14 of any provision of this section, any rule adopted under this  
15 section, or any term or condition of any license issued under  
16 this section by the department.

17 (c) In determining the amount of fine to be levied for  
18 a violation, as provided in paragraph (b), the following  
19 factors shall be considered:

20 1. The severity of the violation and the extent to  
21 which the provisions of this section, the rules adopted under  
22 this section, or any terms or conditions of any license issued  
23 under this section were violated.

24 2. Actions taken by the licensee to correct the  
25 violation.

26 3. Any previous violations by the licensee.

27 (d) The department may issue a stop-use order, or  
28 institute legal action for injunctive or other relief, to  
29 enforce any provision of this section.

30 (e) The department may cancel, revoke, or suspend a  
31 license to operate an establishment if the licensee:

1           1. Fails to pay any fee required by this section;  
2           2. Obtains or attempts to obtain a license under this  
3 section by fraud, misrepresentation, or concealment; or  
4           3. Violates any provision of this section or any rule  
5 adopted under this section.  
6           (f)1. The department may issue a citation that  
7 contains an order of correction or an order to pay a fine, or  
8 both, for any violation of this section or the rules adopted  
9 under this section, when the violation of the section or rule  
10 is enforceable by an administrative or civil remedy or when  
11 the violation of the section or rule is a misdemeanor of the  
12 second degree. A citation constitutes a notice of proposed  
13 agency action.  
14           2. A citation must be in writing and must describe the  
15 particular nature of the violation, including specific  
16 reference to the provision of law or rule allegedly violated.  
17           3. The fines imposed by a citation shall not exceed  
18 \$1,000 for each violation. Each day the violation exists  
19 constitutes a separate violation for which a citation may be  
20 issued.  
21           4. The department shall inform the recipient of a  
22 citation, by written notice pursuant to ss. 120.569 and  
23 120.57, of the right to an administrative hearing to contest  
24 the citation within 21 days after the date the citation is  
25 received. The citation must contain a conspicuous statement  
26 that if the recipient fails to pay any fine levied against the  
27 recipient within the time allowed or fails to appear to  
28 contest the citation after having requested a hearing, the  
29 recipient has waived the recipient's right to contest the  
30 citation and must pay the maximum fine.  
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1           5. The department may reduce or waive any fine imposed  
2 by a citation. In determining whether to reduce or waive a  
3 fine, the department must consider the gravity of the  
4 violation, the person's attempts at correcting the violation,  
5 and the person's history of previous violations for which  
6 enforcement actions were taken under this section.

7           6. Any person who willingly refuses to sign and accept  
8 a citation issued by the department commits a misdemeanor of  
9 the second degree, punishable as provided in s. 775.082 or s.  
10 775.083.

11           7. This paragraph provides an alternative means of  
12 enforcing this section but does not prohibit the department  
13 from enforcing this section or the rules adopted under this  
14 section by any other means. However, the department may use  
15 only a single method of enforcement for each violation.

16           (g) The department shall deposit all fines it collects  
17 under this section in the county health department trust fund  
18 for use in providing services specified in this section.

19           (10) RULES.--The department may adopt rules not  
20 inconsistent with law which are necessary to implement and  
21 administer this section.

22           (11) BODY-PIERCING SALONS; SPECIFIC REQUIREMENTS.--

23           (a) A body-piercing salon must:

24           1. Properly sterilize all instruments which pierce the  
25 skin, directly aid in piercing the skin, or may come in  
26 contact with instruments that pierce the skin, through such  
27 means as storage in trays with other instruments or contact  
28 with forceps, in accordance with the sterilization procedures  
29 in this section.

1           2. Sanitize all equipment indirectly used in body  
2 piercing, including any beds, tables, headrests, armrests,  
3 legrests, or handrails.

4           3. Use protective infection barriers such as gloves  
5 and masks when serving a customer. If the protective barriers  
6 are contaminated, they must be properly disposed of  
7 immediately. Protective barriers may only be used once and  
8 only for one customer.

9           4. To the degree possible, thoroughly cleanse the area  
10 to be pierced with an antiseptic solution before and after the  
11 piercing.

12           5. Use only jewelry as defined in this section.

13           6. Provide each customer with written instructions on  
14 the proper care of the pierced area so as to prevent  
15 infection.

16           7. Maintain a record of each customer's visit for a  
17 period of not less than 2 years, including the customer's  
18 name, date of visit, and area pierced and the name of the  
19 person performing the piercing.

20           8. Report any injury or any complaint of injury to the  
21 department on forms prescribed by the department and provide a  
22 copy of the report to the complainant.

23           (b) Sterilization procedures must include:

24           1. Proper autoclaving according to the autoclave  
25 manufacturer's instructions.

26           2. A sterilization indicator in each autoclaving to  
27 monitor the sterilization procedure. The indicator must  
28 indicate exposure to steam and 250° Fahrenheit.

29           3. Contaminated instruments must be sterilized in the  
30 following manner:

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1           a. The contaminated instruments shall be thoroughly  
2 cleansed with an antiseptic solution, according to the  
3 instructions for the antiseptic solution, and hot water.

4           b. All instruments must be packaged properly and  
5 loaded correctly into the autoclave.

6           c. The contaminated instrument shall be sterilized by  
7 autoclave.

8           4. All sterilized instruments must be stored and  
9 handled in a manner which maintains sterility.

10          5. Autoclaves must be cleaned regularly and serviced  
11 at least once a year.

12          6. Each body-piercing salon utilizing autoclave  
13 sterilization techniques must post the sterilization  
14 procedures and ensure that personnel responsible for  
15 performing the sterilization procedures are adequately  
16 trained.

17          7. All staff must be trained in proper  
18 infection-control procedures.

19          8. Presterilized, prewrapped, disposable instruments  
20 may be used, but must be used in accordance with the  
21 manufacturer's instructions.

22          (c) The body-piercing salon must be in compliance with  
23 s. 381.0098.

24          Section 2. This act shall take effect October 1, 1997.

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HOUSE SUMMARY

Provides for regulation of body piercing by the Department of Health. Provides definitions and exemptions. Requires a license to operate a body-piercing salon. Provides licensing procedures and fees. Prohibits body piercing of a minor without consent of a parent or legal guardian. Prohibits other acts. Provides penalties. Provides for injunction. Provides for enforcement. Provides rulemaking authority. Provides specific requirements for body-piercing salons. See bill for details.