

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

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 (m) "Temporary establishment" means a body-piercing
11 establishment that operates at a fixed location for a period
12 of time of not more than 14 consecutive days in conjunction
13 with a single event or celebration.

14 (3) EXEMPTIONS.--This section shall not be construed
15 to apply to the practice of any licensed health care
16 professional under the regulatory jurisdiction of the
17 department as long as the person does not hold himself or
18 herself out as a body-piercing establishment.

19 (4) LICENSE REQUIRED.--

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

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

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

26 (d) A license shall automatically expire on September
27 30 of each year unless renewed by the department upon the
28 request of the licensee.

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

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1 (f) A person operating a temporary establishment must
2 receive a temporary license from the department prior to
3 operation. The department must conduct an inspection of the
4 establishment to ensure compliance with licensing requirements
5 prior to issuing a temporary license. The department must be
6 contacted at least 7 days prior to commencement of operation
7 of a temporary establishment.

8 (5) LICENSE APPLICATION.--

9 (a) A person must apply to the department for an
10 establishment license prior to commencement of operation and
11 must apply for annual renewal of the license in order to
12 continue operation.

13 (b) Application for an initial license or the renewal
14 of a license must be on a form provided by the department and
15 must be accompanied by the annual or prorated fee required in
16 this section.

17 (c) The licensee shall report any change in the
18 application information to the department before the change
19 may be put into operation.

20 (6) FEES.--

21 (a) Fees assessed under this section shall be
22 reasonably calculated to cover the cost of regulation under
23 this section, may be used only to meet the costs of carrying
24 out the requirements of this section, and are nonrefundable.

25 (b) A person applying for initial licensure or
26 reactivation of an expired license at the beginning of the
27 licensing period or for renewal of a license shall pay the
28 full fee. All other applicants, whether for initial licensure
29 or reactivation of an expired license, shall pay a prorated
30 fee based on the number of quarters left until September 30.

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1 (c) Fees must be received by the department within 30
2 days after receipt of written notification from the department
3 that a fee is due. Failure to pay timely will result in the
4 assessment of a late fee. Fees are payable to the county
5 health department in the county where the establishment is
6 located.

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

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

11 2. Each late fee is \$100.

12 3. The fee for a temporary establishment license is
13 \$75.

14 (7) MINORS.--A person may not perform body piercing on
15 a minor without the written notarized consent of the minor's
16 parent or legal guardian, and an establishment may not perform
17 body piercing on a minor under the age of 16 unless the minor
18 is accompanied by a parent or legal guardian.

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

20 (a) Each of the following acts constitutes a felony of
21 the third degree, punishable as provided in s. 775.082, s.
22 775.083, or s. 775.084:

23 1. Owning, operating, or soliciting business as an
24 establishment in this state without first procuring a license
25 from the department, unless specifically exempted by this
26 section.

27 2. Obtaining or attempting to obtain a license to
28 operate an establishment by means of fraud, misrepresentation,
29 or concealment.

1 (b) Each of the following acts constitutes a
2 misdemeanor of the second degree, punishable as provided in s.
3 775.082 or s. 775.083:

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

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

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

12 (d) If the department or any state attorney has
13 probable cause to believe that an establishment or person has
14 violated any provision of paragraph (a), an action may be
15 brought by the department or the state attorney to enjoin such
16 establishment or person from continuing such violation, or
17 engaging therein or doing any acts in furtherance thereof, and
18 the court may provide any other relief it deems appropriate.

19 (9) ENFORCEMENT.--

20 (a) The department shall inspect or investigate an
21 establishment as necessary, but at least annually, to ensure
22 compliance with this section. Department personnel may, at
23 any reasonable time, enter any establishment licensed under
24 this section or any premises the department has reason to
25 believe is being operated or maintained in violation of this
26 section, to determine compliance with this section or any rule
27 adopted under this section.

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

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

6 1. The severity of the violation and the extent to
7 which the provisions of this section, the rules adopted under
8 this section, or any terms or conditions of any license issued
9 under this section were violated.

10 2. Actions taken by the licensee to correct the
11 violation.

12 3. Any previous violations by the licensee.

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

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

18 1. Fails to pay any fee required by this section;

19 2. Obtains or attempts to obtain a license under this
20 section by fraud, misrepresentation, or concealment; or

21 3. Violates any provision of this section or any rule
22 adopted under this section.

23 (f)1. The department may issue a citation that
24 contains an order of correction or an order to pay a fine, or
25 both, for any violation of this section or the rules adopted
26 under this section, when the violation of the section or rule
27 is enforceable by an administrative or civil remedy or when
28 the violation of the section or rule is a misdemeanor of the
29 second degree. A citation constitutes a notice of proposed
30 agency action.

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1 2. A citation must be in writing and must describe the
2 particular nature of the violation, including specific
3 reference to the provision of law or rule allegedly violated.

4 3. The fines imposed by a citation shall not exceed
5 \$1,000 for each violation. Each day the violation exists
6 constitutes a separate violation for which a citation may be
7 issued.

8 4. The department shall inform the recipient of a
9 citation, by written notice pursuant to ss. 120.569 and
10 120.57, of the right to an administrative hearing to contest
11 the citation within 21 days after the date the citation is
12 received. The citation must contain a conspicuous statement
13 that if the recipient fails to pay any fine levied against the
14 recipient within the time allowed or fails to appear to
15 contest the citation after having requested a hearing, the
16 recipient has waived the recipient's right to contest the
17 citation and must pay the maximum fine.

18 5. The department may reduce or waive any fine imposed
19 by a citation. In determining whether to reduce or waive a
20 fine, the department must consider the gravity of the
21 violation, the person's attempts at correcting the violation,
22 and the person's history of previous violations for which
23 enforcement actions were taken under this section.

24 6. Any person who willingly refuses to sign and accept
25 a citation issued by the department commits a misdemeanor of
26 the second degree, punishable as provided in s. 775.082 or s.
27 775.083.

28 7. This paragraph provides an alternative means of
29 enforcing this section but does not prohibit the department
30 from enforcing this section or the rules adopted under this
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1 section by any other means. However, the department may use
2 only a single method of enforcement for each violation.
3 (g) The department shall deposit all fines it collects
4 under this section in the county health department trust fund
5 for use in providing services specified in this section.
6 (10) RULES.--The department may adopt rules not
7 inconsistent with law which are necessary to implement and
8 administer this section. The rules may include sanitation
9 practices, sterilization requirements and procedures, patient
10 record content requirements, personnel record retention
11 requirements, patient notification requirements and
12 procedures, physical plant requirements, light requirements,
13 and enforcement procedures.
14 (11) BODY-PIERCING SALONS; SPECIFIC REQUIREMENTS.--
15 (a) A body-piercing salon must:
16 1. Properly sterilize all instruments which pierce the
17 skin, directly aid in piercing the skin, or may come in
18 contact with instruments that pierce the skin, through such
19 means as storage in trays with other instruments or contact
20 with forceps, in accordance with the sterilization procedures
21 in this section.
22 2. Sanitize all equipment indirectly used in body
23 piercing, including any beds, tables, headrests, armrests,
24 legrests, or handrails.
25 3. Use protective infection barriers such as gloves
26 and masks when serving a customer. If the protective barriers
27 are contaminated, they must be properly disposed of
28 immediately. Protective barriers may only be used once and
29 only for one customer.
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- 1 4. To the degree possible, thoroughly cleanse the area
2 to be pierced with an antiseptic solution before and after the
3 piercing.
- 4 5. Use only jewelry as defined in this section.
- 5 6. Provide each customer with written instructions on
6 the proper care of the pierced area so as to prevent
7 infection.
- 8 7. Maintain a record of each customer's visit for a
9 period of not less than 2 years, including, but not limited
10 to, the customer's name, date of visit, and area pierced and
11 the name of the person performing the piercing.
- 12 8. Report any injury or any complaint of injury to the
13 department on forms prescribed by the department and provide a
14 copy of the report to the complainant.
- 15 (b) Sterilization procedures must include:
- 16 1. Proper autoclaving according to the autoclave
17 manufacturer's instructions.
- 18 2. A sterilization indicator in each autoclaving to
19 monitor the sterilization procedure. The indicator must
20 indicate exposure to steam and 250° Fahrenheit.
- 21 3. Contaminated instruments must be sterilized in the
22 following manner:
- 23 a. The contaminated instruments shall be thoroughly
24 cleansed with an antiseptic solution, according to the
25 instructions for the antiseptic solution, and hot water.
- 26 b. All instruments must be packaged properly and
27 loaded correctly into the autoclave.
- 28 c. The contaminated instrument shall be sterilized by
29 autoclave.
- 30 4. All sterilized instruments must be stored and
31 handled in a manner which maintains sterility.

1 5. Autoclaves must be cleaned regularly and serviced
2 at least once a year.
3 6. Each body-piercing salon utilizing autoclave
4 sterilization techniques must post the sterilization
5 procedures and ensure that personnel responsible for
6 performing the sterilization procedures are adequately
7 trained.
8 7. All staff must be trained in proper
9 infection-control procedures.
10 8. Presterilized, prewrapped, disposable instruments
11 may be used, but must be used in accordance with the
12 manufacturer's instructions.
13 (c) The body-piercing salon must be in compliance with
14 s. 381.0098.
15 Section 2. This act shall take effect October 1 of the
16 year in which enacted.
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