

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 980

SPONSOR: Committee on Health, Aging and Long-term Care and Senator Lee

SUBJECT: Body-piercing

DATE: March 11, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Liem</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 980 requires the Department of Health to license permanent and temporary body-piercing salons, and to adopt rules to regulate such facilities. The bill establishes licensing procedures, inspections, fees, rule making authority, and enforcement mechanisms. The bill requires parental permission for body piercing of minors, establishes requirements for piercing procedures and equipment sterilization, and establishes criminal penalties for certain violations.

The bill creates s. 381.0075, Florida Statutes.

II. Present Situation:

Body-piercing salons are not subject to licensure in Florida. The Department of Health estimates (based on the number of biomedical waste facilities in the Department’s databases listed as “tattoo/body-piercing facilities”) that there are 260 locations where body-piercing occurs for commercial purposes in Florida. According to officials at the Department of Health and the Centers for Disease Control and Prevention (CDC), a risk exists for the transmission of HIV and other blood-borne diseases such as hepatitis through the practice of body piercing, if instruments contaminated with blood are not sterilized or disinfected, or are used inappropriately between clients. CDC recommends that instruments that are intended to penetrate the skin be used once, then disposed of or thoroughly cleaned and sterilized.

III. Effect of Proposed Changes:

The bill requires body-piercing establishments to be subject to licensure regulation and requires the Department of Health to adopt administrative rules to regulate body-piercing establishments. The bill does not apply to the practice of any licensed health care professional under the regulatory jurisdiction of the department as long as the person does not hold himself or herself out

as a body-piercing salon. The bill makes operation of an establishment without a license or obtaining a license by means of fraud a third degree felony.

“Body-piercing salon” is defined as any place where body piercing occurs and “establishment” is defined as a body-piercing salon. “Body piercing” is defined as penetrating the skin to make a hole, mark, or scar for commercial purposes, but excludes use of a mechanized, pre-sterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear, or both.

The bill prohibits an establishment from piercing any body part of a minor without the written notarized consent of the minor’s parent or legal guardian. An establishment may not perform body piercing on a minor under the age of 16 unless the minor is accompanied by a parent or legal guardian. A violation of these requirements for minors constitutes a second degree misdemeanor.

The bill requires body-piercing establishments to: properly sterilize all instruments that pierce, aid in piercing, or come into contact with instruments that pierce the skin; sanitize all equipment indirectly used in body piercing; use protective infection barriers; to the degree possible, thoroughly cleanse the area to be pierced; use only jewelry that is made of implant grade high-quality stainless steel, solid gold of at least 14K weight, niobium, titanium, platinum, a dense, low-porosity plastic, or silver and which is free of nicks, scratches, or irregular surfaces; provide customers with written instructions on the proper care of the pierced area; maintain a record of each customer’s visit for a period of not less than 2 years, including documentation of parental presence or consent in the case of minors.

The Department of Health is required to inspect body-piercing establishments at least annually and may adopt rules to implement and administer this act. The bill requires the Department of Health to assess each body-piercing salon an annual license fee of \$150 and a late fee of \$100, and provides time frames for the inspection of temporary establishments. The bill provides that fees assessed by the department must be reasonably calculated to cover the cost of regulation and may be used only to meet the costs of carrying out the requirements of the bill. Fees are non-refundable.

The bill authorizes the Department of Health or any state attorney to bring actions to enjoin persons operating a body-piercing establishment without being licensed. The department is authorized to impose an administrative fine no greater than \$1,000 per violation per day, for any violation under the bill. The bill grants authority to the department to issue stop-use orders, citations, and other legal remedies to enforce the regulation of body piercing. The bill requires the department to investigate consumer complaints within 14 days.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The bill requires body-piercing salons to report injuries or complaints of injuries to the department. These records would be open to public inspection under the requirements of Article I, Subsection 24(a) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The bill requires body-piercing establishments to obtain an annual license at a cost of \$150 for a permanent establishment or \$75 for a temporary establishment. Failure to timely pay the licensure fee results in a \$100 late fee.

B. Private Sector Impact:

Body-piercing establishments may experience additional operational costs due to increased requirements, imposed by this bill, relating to bookkeeping, sterilization, equipment maintenance and supplies.

C. Government Sector Impact:

The Department of Health estimates it will assess a \$150 annual license fee from each body-piercing establishment for a total of \$34,875, which will cover costs associated with licensure and facility inspections.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill creates a third degree felony offense for any person to commit various prohibited acts relating to owning, operating, or soliciting business as a body-piercing establishment in the state without being licensed or unless specifically exempted from the bill's requirements. Violations subject the person to imprisonment for up to 5 years and a fine up to \$5,000. Section 921.001, F.S., requires any legislation that creates a felony offense, enhances a misdemeanor offense to a felony or reclassifies an existing felony offense to a greater felony classification to result in a net zero sum impact in the overall prison population as determined by the Criminal Justice Estimating Conference, unless the legislation contains a sufficient funding source to accommodate the change, or the Legislature abrogates the application of s. 921.001, F.S. To the extent the bill creates a felony offense for certain acts relating to owning, operating, or soliciting business as a

body-piercing establishment in the state without being licensed, it may have a fiscal impact based on its impact on the overall prison population as determined by the Criminal Justice Estimating Conference under procedures established in s. 216.136(5), F.S.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
