

By Senator Lee

23-883-99

See HB

1 A bill to be entitled
 2 An act relating to public health; creating s.
 3 381.0075, F.S.; providing for regulation of
 4 body-piercing salons by the Department of
 5 Health; providing definitions; providing
 6 exemptions; requiring a license to operate a
 7 body-piercing salon and a temporary license to
 8 operate a temporary establishment; providing
 9 licensing procedures and fees; providing
 10 requirements with respect to body piercing of
 11 minors; prohibiting certain acts; providing
 12 penalties; providing for injunction; providing
 13 for enforcement; providing rulemaking
 14 authority; providing specific requirements for
 15 operation of body-piercing salons; providing an
 16 effective date.

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

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

22 381.0075 Regulation of body-piercing salons.--
 23 (1) LEGISLATIVE INTENT.--It is the intent of the
 24 Legislature to protect the health, safety, and welfare of the
 25 public from the spread of infectious diseases from practices
 26 that prick, pierce, or scar the skin and therefore, to that
 27 end, to regulate body-piercing salons.

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

29 (a) "Body piercing" means for commercial purposes the
 30 act of penetrating the skin to make, generally permanent in
 31 nature, a hole, mark, or scar. "Body piercing" does not

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 other than the outer perimeter or lobe of
11 the ear.
12 (f) "Licensee" means any person licensed under this
13 section who is responsible for compliance with this section
14 and the rules adopted under this section.
15 (g) "Operator" means an individual designated by a
16 licensee to control the operation of an establishment.
17 (h) "Person" means any individual, partnership,
18 corporation, or association.
19 (i) "Safe level" means not more than 50 colonies of
20 microorganisms per 4 square inches of equipment or device
21 surface.
22 (j) "Sanitization" means the effective bactericidal
23 treatment of surfaces of equipment and devices by a product
24 registered by the United States Environmental Protection
25 Agency which provides a sufficient concentration of chemicals
26 and enough time to reduce the bacterial count, including
27 pathogens, to a safe level.
28 (k) "Sterilization" means the use of procedures that
29 destroy all microbial life, including viruses, on the
30 equipment or device.
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1 (1) "Stop-use order" means a written notice from the
2 department to a licensee requiring the licensee to remove a
3 piece of equipment or cease conducting a particular procedure
4 because the equipment is not being operated or the procedure
5 conducted in accordance with the requirements of this section
6 or any rule adopted pursuant thereto.

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

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

16 (4) LICENSE REQUIRED.--

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

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

21 (c) A license for an establishment is not transferable
22 from one place or person to another.

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

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

28 (f) A person operating a temporary establishment must
29 receive a temporary license from the department prior to
30 operation. The department must be contacted at least 7 days
31 prior to commencement of operation of the establishment and

1 must conduct an inspection of the establishment to ensure
2 compliance with licensing requirements prior to issuing the
3 temporary license.

4 (5) LICENSE APPLICATION.--

5 (a) A person must apply to the department for an
6 establishment license prior to commencement of operation and
7 must apply for annual renewal of the license in order to
8 continue operation.

9 (b) Application for an initial license or the renewal
10 of a license must be on a form provided by the department and
11 must be accompanied by the annual or prorated fee required in
12 this section.

13 (c) The licensee must report any change in the
14 application information to the department before the change
15 may be put into operation.

16 (6) FEES.--

17 (a) Fees assessed under this section shall be
18 reasonably calculated to cover the cost of regulation under
19 this section, may be used only to meet the costs of carrying
20 out the requirements of this section, and are nonrefundable.

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

27 (c) Fees must be received by the department within 30
28 days after receipt of written notification from the department
29 that a fee is due. Failure to pay timely will result in the
30 assessment of a late fee. Fees are payable to the county

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1 health department in the county where the establishment is
2 located.

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

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

7 2. Each late fee is \$100.

8 3. The fee for a temporary establishment license is
9 \$75.

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

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

16 (a) Each of the following acts constitutes a felony of
17 the third degree, punishable as provided in s. 775.082, s.
18 775.083, or s. 775.084:

19 1. Owning, operating, or soliciting business as an
20 establishment in this state without first procuring a license
21 from the department, unless specifically exempted by this
22 section.

23 2. Obtaining or attempting to obtain a license to
24 operate an establishment by means of fraud, misrepresentation,
25 or concealment.

26 (b) Each of the following acts constitutes a
27 misdemeanor of the second degree, punishable as provided in s.
28 775.082 or s. 775.083:

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

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

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

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

14 (9) ENFORCEMENT.--

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

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

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

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1 1. The severity of the violation and the extent to
2 which the provisions of this section, the rules adopted under
3 this section, or any terms or conditions of any license issued
4 under this section were violated.

5 2. Actions taken by the licensee to correct the
6 violation.

7 3. Any previous violations by the licensee.

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

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

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

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

16 3. Violates any provision of this section or any rule
17 adopted under this section.

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

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

29 3. The fines imposed by a citation may not exceed
30 \$1,000 for each violation. Each day the violation exists

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1 constitutes a separate violation for which a citation may be
2 issued.

3 4. The department shall inform the recipient of a
4 citation, by written notice pursuant to ss. 120.569 and
5 120.57, of the right to an administrative hearing to contest
6 the citation within 21 days after the date the citation is
7 received. The citation must contain a conspicuous statement
8 that if the recipient fails to pay any fine levied against the
9 recipient within the time allowed or fails to appear to
10 contest the citation after having requested a hearing, the
11 recipient has waived the recipient's right to contest the
12 citation and must pay the maximum fine.

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

19 6. Any person who willingly refuses to sign and accept
20 a citation issued by the department commits a misdemeanor of
21 the second degree, punishable as provided in s. 775.082 or s.
22 775.083.

23 7. This paragraph provides an alternative means of
24 enforcing this section, but does not prohibit the department
25 from enforcing this section or the rules adopted under this
26 section by any other means. However, the department may use
27 only a single method of enforcement for each violation.

28 (g) The department shall deposit all fines it collects
29 under this section in the County Health Department Trust Fund
30 for use in providing services specified in this section.

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1 (10) RULES.--The department may adopt rules not
2 inconsistent with law which are necessary to implement and
3 administer this section. The rules may include sanitation
4 practices, sterilization requirements and procedures, patient
5 record content requirements, personnel record retention
6 requirements, patient notification requirements and
7 procedures, physical plant requirements, light requirements,
8 and enforcement procedures.

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

10 (a) A body-piercing salon must:

11 1. Properly sterilize all instruments that pierce the
12 skin, directly aid in piercing the skin, or may come in
13 contact with instruments that pierce the skin, through such
14 means as storage in trays with other instruments or contact
15 with forceps, in accordance with the sterilization procedures
16 in this section.

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

20 3. Use protective infection barriers such as gloves
21 and masks when serving a customer. If the protective barriers
22 are contaminated, they must be properly disposed of
23 immediately. Protective barriers may only be used once and
24 only for one customer.

25 4. To the degree possible, thoroughly cleanse the area
26 to be pierced with an antiseptic solution before and after the
27 piercing.

28 5. Use only jewelry that is made of implant grade
29 high-quality stainless steel, solid gold of at least 14K
30 weight, niobium, titanium, platinum, a dense, low-porosity
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1 plastic, or silver and that is free of nicks, scratches, or
2 irregular surfaces.

3 6. Provide each customer with written instructions on
4 the proper care of the pierced area so as to prevent
5 infection.

6 7. Maintain a record of each customer's visit for a
7 period of not less than 2 years, including, but not limited
8 to, the customer's name, date of visit, and area pierced and
9 the name of the person performing the piercing.

10 8. Report any injury or any complaint of injury to the
11 department on forms prescribed by the department and provide a
12 copy of the report to the complainant.

13 (b) Sterilization procedures must include the
14 following:

15 1. Proper autoclaving must be done according to the
16 autoclave manufacturer's instructions.

17 2. There must be a sterilization indicator in each
18 autoclaving to monitor the sterilization procedure. The
19 indicator must indicate exposure to steam and 250° Fahrenheit.

20 3. Contaminated instruments must be sterilized in the
21 following manner:

22 a. The contaminated instruments must be thoroughly
23 cleansed with an antiseptic solution, according to the
24 instructions for the antiseptic solution, and hot water.

25 b. The contaminated instruments and all other
26 instruments, must be packaged properly and loaded correctly
27 into the autoclave.

28 c. The contaminated instruments must be sterilized by
29 autoclave.

30 4. All sterilized instruments must be stored and
31 handled in a manner that 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, 1999.

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18 HOUSE SUMMARY

19 Provides for regulation of body-piercing salons by the
20 Department of Health. Defines terms and provides
21 exemptions. Requires a license to operate a body-piercing
22 salon and a temporary license to operate a temporary
23 establishment. Provides licensing procedures and fees.
24 Prohibits body piercing of a minor without consent of a
25 parent or legal guardian and, if less than 16 years of
26 age, without being accompanied at the establishment by a
27 parent or legal guardian. Prohibits other acts and
28 provides penalties therefor. Provides for injunction and
29 enforcement. Provides rulemaking authority. Provides
30 specific requirements for operation of body-piercing
31 salons. See bill for details.