

By the Committee on Health, Aging and Long-Term Care; and
Senator Lee

317-1768-99

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.

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

19
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, the term:
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. The term does not include the

1 use of a mechanized, presterilized ear-piercing system that
2 penetrates 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.

7 (e) "Jewelry" means any ornament inserted into a
8 pierced area of the body other than the outer perimeter or
9 lobe of the ear.

10 (f) "Licensee" means any person licensed under this
11 section who is responsible for compliance with this section
12 and the rules adopted under this section.

13 (g) "Operator" means an individual designated by a
14 licensee to control the operation of an establishment.

15 (h) "Safe level" means not more than 50 colonies of
16 microorganisms per 4 square inches of equipment or device
17 surface.

18 (i) "Sanitization" means the effective bactericidal
19 treatment of surfaces of equipment and devices by a product
20 registered by the United States Environmental Protection
21 Agency which provides a sufficient concentration of chemicals
22 and enough time to reduce the bacterial count, including
23 pathogens, to a safe level.

24 (j) "Sterilization" means the use of procedures that
25 destroy all microbial life, including viruses, on the
26 equipment or device.

27 (k) "Stop-use order" means a written notice from the
28 department to a licensee requiring the licensee to remove a
29 piece of equipment from service, operation, or use or to cease
30 conducting a particular procedure because the equipment is not
31 being operated or the procedure conducted in accordance with

1 the requirements of this section or any rule adopted pursuant
2 thereto.

3 (1) "Temporary establishment" means an establishment
4 that operates at a fixed location for a period of time of not
5 more than 14 consecutive days in conjunction with a single
6 event or celebration.

7 (3) EXEMPTIONS.--This section does not apply to the
8 practice of any licensed health care professional under the
9 regulatory jurisdiction of the department as long as the
10 person does not hold himself or herself out as a body-piercing
11 salon.

12 (4) LICENSE REQUIRED.--

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

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

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

19 (d) A license automatically expires on September 30 of
20 each year unless renewed by the department upon the request of
21 the licensee.

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

24 (f) A person operating a temporary establishment must
25 receive a temporary license from the department prior to
26 operation. The department must conduct an inspection of the
27 temporary establishment to ensure compliance with licensing
28 requirements within 14 days after the application for a
29 temporary license.

30 (5) LICENSE APPLICATION.--
31

1 (a) A person must apply to the department for an
2 establishment license prior to commencement of operation and
3 must apply for annual renewal of the license in order to
4 continue operation.

5 (b) Application for an initial license or the renewal
6 of a license must be on a form provided by the department and
7 must be accompanied by the annual or prorated fee required in
8 this section.

9 (c) The licensee must report any change in the
10 application information to the department before the change
11 may be put into operation.

12 (6) FEES.--

13 (a) Fees assessed under this section shall be
14 reasonably calculated to cover the cost of regulation under
15 this section, may be used only to meet the costs of carrying
16 out the requirements of this section, and are nonrefundable.

17 (b) A person applying for an annual license shall pay
18 the full fee. Any applicant applying for a license other than
19 an annual license shall pay a prorated fee based on the number
20 of quarters left until September 30.

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

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

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

31 2. Each late fee is \$100.

1 3. The fee for a temporary establishment license is
2 \$75.

3 (7) MINORS.--An establishment may not perform body
4 piercing on a minor without the written notarized consent of
5 the minor's parent or legal guardian, and an establishment may
6 not perform body piercing on a minor under the age of 16
7 unless the minor is accompanied by a parent or legal guardian.

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

9 (a) Each of the following acts constitutes a felony of
10 the third degree, punishable as provided in s. 775.082, s.
11 775.083, or s. 775.084:

12 1. Owning, operating, or soliciting business as an
13 establishment in this state without first procuring a license
14 from the department, unless specifically exempted by this
15 section.

16 2. Obtaining or attempting to obtain a license to
17 operate an establishment by means of fraud, misrepresentation,
18 or concealment.

19 (b) Each of the following acts constitutes a
20 misdemeanor of the second degree, punishable as provided in s.
21 775.082 or s. 775.083:

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

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

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

30 (d) If the department or any state attorney has
31 probable cause to believe that an establishment or person has

1 violated any provision of paragraph (a), an action may be
2 brought by the department or the state attorney to enjoin such
3 establishment or person from continuing such violation or
4 engaging therein or doing any acts in furtherance thereof, and
5 the court may provide any other relief it deems appropriate.

6 (9) ENFORCEMENT.--

7 (a) The department shall inspect or investigate an
8 establishment as necessary, but at least annually, to ensure
9 compliance with this section. Department personnel may, at any
10 reasonable time, enter any establishment licensed under this
11 section, or any premises the department has reason to believe
12 is being operated or maintained in violation of this section,
13 to determine compliance with this section or any rule adopted
14 under this section. The department shall investigate consumer
15 complaints regarding body piercings within 14 days.

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

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

24 1. The severity of the violation and the extent to
25 which the provisions of this section, the rules adopted under
26 this section, or any terms or conditions of any license issued
27 under this section were violated.

28 2. Actions taken by the licensee to correct the
29 violation.

30 3. Any previous violations by the licensee.

31

1 (d) The department may issue a stop-use order, or
2 institute legal action for injunctive or other relief, to
3 enforce any provision of this section or any rule adopted
4 under this section.

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

- 7 1. Fails to pay any fee required by this section;
8 2. Obtains or attempts to obtain a license under this
9 section by fraud, misrepresentation, or concealment; or
10 3. Violates any provision of this section or any rule
11 adopted under this section.

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

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

23 3. The fines imposed by a citation may not exceed
24 \$1,000 for each violation. Each day the violation exists
25 constitutes a separate violation for which a citation may be
26 issued.

27 4. The department shall inform the recipient of a
28 citation, by written notice pursuant to ss. 120.569 and
29 120.57, of the right to an administrative hearing to contest
30 the citation within 21 days after the date the citation is
31 received. The citation must contain a conspicuous statement

1 that, if the recipient fails to pay any fine levied against
2 the recipient within the time allowed or fails to appear to
3 contest the citation after having requested a hearing, the
4 recipient has waived the recipient's right to contest the
5 citation and must pay the maximum fine.

6 5. The department may reduce or waive any fine imposed
7 by a citation. In determining whether to reduce or waive a
8 fine, the department must consider the gravity of the
9 violation, the person's attempts at correcting the violation,
10 and the person's history of previous violations for which
11 enforcement actions were taken under this section.

12 6. Any person who willingly refuses to sign and accept
13 a citation issued by the department commits a misdemeanor of
14 the second degree, punishable as provided in s. 775.082 or s.
15 775.083.

16 7. This paragraph provides an alternative means of
17 enforcing this section, but does not prohibit the department
18 from enforcing this section or the rules adopted under this
19 section by any other means. However, the department may use
20 only a single method of enforcement for each violation.

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

24 (10) RULES.--The department may adopt rules not
25 inconsistent with law which are necessary to implement and
26 administer this section. The rules may include sanitation
27 practices; sterilization requirements and procedures; patient
28 record content requirements; personnel record retention
29 requirements; patient notification requirements and
30 procedures; physical plant requirements; light requirements;
31 jewelry and equipment requirements; standards for materials

1 and supplies; standards for personnel training, health,
2 hygiene and work practices; disease control measures; and
3 other aspects of an establishment's operation necessary to
4 protect the health and safety of patrons and establishment
5 personnel.

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

7 (a) A body-piercing salon must:

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

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

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

22 4. To the degree possible, thoroughly cleanse the area
23 to be pierced with an antiseptic solution before and after the
24 piercing.

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

30
31

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

4 7. Maintain a record of each customer's visit for a
5 period of not less than 2 years, including, but not limited
6 to, the customer's name, date of visit, area pierced, the name
7 of the person performing the piercing and documentation to
8 verify that the requirements of subsection (7) have been met.

9 8. Report any injury requiring emergency care during
10 the performance of body piercing or as a result of body
11 piercing within the timeframes specified in rules adopted by
12 the department.

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.

16
17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 SB 980

20 Increases the number of days for inspection and licensure of
21 temporary establishments from 7 to 14 days. Clarifies that
22 the prohibition against piercing of a minor applies to
23 establishments, not individuals. Deletes the requirement that
24 body-piercing establishments report any complaint of injury to
25 the department. Requires the department to investigate
26 consumer complaints within 14 days. Adds a requirement that
27 establishments retain documentation of compliance with
28 requirement for parental presence or permission for piercing
29 of minors. Gives the department additional rule making
30 authority to develop jewelry and equipment requirements;
31 personnel training; health, hygiene and work practices; disease
control measures; and other aspects of operation necessary to
protect the safety of patrons and establishment personnel.