

By the Committees on Governmental Oversight and Productivity; Health, Aging and Long-Term Care; and Senator Lee

302-1896-99

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:

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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, 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.

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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 remedy. A citation  
17 constitutes a notice of proposed agency action.

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

21           3. The fines imposed by a citation may not exceed  
22 \$1,000 for each violation. Each day the violation exists  
23 constitutes a separate violation for which a citation may be  
24 issued.

25           4. The department shall inform the recipient of a  
26 citation, by written notice pursuant to ss. 120.569 and  
27 120.57, of the right to an administrative hearing to contest  
28 the citation within 21 days after the date the citation is  
29 received. The citation must contain a conspicuous statement  
30 that, if the recipient fails to pay any fine levied against  
31 the recipient within the time allowed or fails to appear to

1 contest the citation after having requested a hearing, the  
2 recipient has waived the recipient's right to contest the  
3 citation and must pay the maximum fine.

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

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

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

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

22 (10) RULES.--The department has authority to adopt  
23 rules to implement and administer this section. The rules may  
24 include sanitation practices; sterilization requirements and  
25 procedures; patient record content requirements; personnel  
26 record retention requirements; patient notification  
27 requirements and procedures; physical plant requirements;  
28 light requirements; jewelry and equipment requirements;  
29 standards for materials and supplies; standards for personnel  
30 training, health, hygiene and work practices; disease control  
31 measures; and other aspects of an establishment's operation



1 necessary to protect the health and safety of patrons and  
2 establishment personnel.

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

4 (a) A body-piercing salon must:

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

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

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

19 4. To the degree possible, thoroughly cleanse the area  
20 to be pierced with an antiseptic solution before and after the  
21 piercing.

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

27 6. Provide each customer with written instructions on  
28 the proper care of the pierced area so as to prevent  
29 infection.

30 7. Maintain a record of each customer's visit for a  
31 period of not less than 2 years, including, but not limited

1 to, the customer's name, date of visit, area pierced, the name  
2 of the person performing the piercing and documentation to  
3 verify that the requirements of subsection (7) have been met.

4 8. Report any injury requiring emergency care during  
5 the performance of body piercing or as a result of body  
6 piercing within the timeframes specified in rules adopted by  
7 the department.

8 (b) Sterilization procedures must include the  
9 following:

10 1. Proper autoclaving must be done according to the  
11 autoclave manufacturer's instructions.

12 2. There must be a sterilization indicator in each  
13 autoclaving to monitor the sterilization procedure. The  
14 indicator must indicate exposure to steam and 250° Fahrenheit.

15 3. Contaminated instruments must be sterilized in the  
16 following manner:

17 a. The contaminated instruments must be thoroughly  
18 cleansed with an antiseptic solution, according to the  
19 instructions for the antiseptic solution, and hot water.

20 b. The contaminated instruments and all other  
21 instruments, must be packaged properly and loaded correctly  
22 into the autoclave.

23 c. The contaminated instruments must be sterilized by  
24 autoclave.

25 4. All sterilized instruments must be stored and  
26 handled in a manner that maintains sterility.

27 5. Autoclaves must be cleaned regularly and serviced  
28 at least once a year.

29 6. Each body-piercing salon utilizing autoclave  
30 sterilization techniques must post the sterilization  
31 procedures and ensure that personnel responsible for

1 performing the sterilization procedures are adequately  
2 trained.

3 7. All staff must be trained in proper  
4 infection-control procedures.

5 8. Presterilized, prewrapped, disposable instruments  
6 may be used, but must be used in accordance with the  
7 manufacturer's instructions.

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

10 Section 2. This act shall take effect October 1, 1999.

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12 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
13 COMMITTEE SUBSTITUTE FOR  
14 CS for SB 980

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16 Removes language permitting the department to issue citations  
17 for violations with criminal penalties.

18 Replaces delegation of rulemaking authority with standardized  
19 language.

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