

STORAGE NAME: h0671.hcl

DATE: February 3, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE LICENSING & REGULATION
ANALYSIS**

BILL #: HB 671

RELATING TO: Licensure of Tattoo parlors

SPONSOR(S): Representative Morroni

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE LICENSING & REGULATION
 - (2) CRIME & PUNISHMENT
 - (3) GOVERNMENTAL RULES & REGULATIONS
 - (4) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (5)
-

I. SUMMARY:

This bill requires the Department of Health to license tattoo establishments. It exempts any health care professional under the jurisdiction of the department, as long as the individual does not hold himself or herself out as a tattooing establishment.

The bill prohibits the tattooing of minors without written, notarized parental consent. Minors under the age of sixteen must be accompanied by a parent or legal guardian in order to obtain a tattoo.

This bill requires the department to conduct an annual inspection of each licensed tattoo parlor and an inspection of a temporary establishment prior to issuance of a temporary license.

There is a fiscal impact on the department; however, the proposed fees are sufficient to perform the provisions of the bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

This bill creates additional government oversight by requiring the Department of Health to license tattoo establishments and by creating penalties for operating a tattoo establishment without a license. The Department of Health is authorized to adopt rules regulating tattoo parlors.

B. PRESENT SITUATION:

Presently, under s. 877.04, F.S., it is unlawful for any person other than one licensed by or supervised under chapters 458, 459, or 466, or by an individual under such person's general supervision to tattoo the body of an individual. Tattoo parlors are not required to obtain a license in order to operate. The department inspects tattoo establishments once every three years for compliance with the biomedical waste requirements of s. 381.0098, F.S. The department has authority to license and inspect body-piercing salons, many of which also perform tattooing.

C. EFFECT OF PROPOSED CHANGES:

The bill gives the Department of Health authority to license and inspect tattoo establishments. It also gives the department authority to ensure that tattoo establishments meet specific requirements to provide protection of public health. A large number of tattoo establishments also provide body-piercing services that are currently licensed under s. 381.0075, F.S. Therefore, the effect of the bill is that establishments that provide both tattooing and body piercing services must obtain two separate licenses.

Since the substance of s. 877.04, F.S., is transferred to other sections of the new tattoo regulation, the section is repealed.

Establishments that provide cosmetology services are currently licensed under s. 477.025, F.S. Many cosmetology salons also provide permanent make-up services. This is considered by the Board of Cosmetology to be a form of tattooing, consequently, establishments that provide cosmetology services and tattooing services will be required to obtain two separate licenses.

The bill gives the department authority to create rules necessary to implement the provisions in this act. Also, the department is granted the authority to collect fees from the licensees. The total revenues received by the department from the licensees will exceed the department's expenditures to administer this bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 381.0076, F.S., establishing legislative intent, definitions, exemptions, licensure requirements, fees, restrictions on tattooing of a minor, penalties, enforcement, and rule requirements. This section provides for specific requirements for the operation of tattooing establishments.

Section 2. Repeals s. 877.04, F.S., which makes it unlawful for any person other than specific medical professionals or those under their supervision to tattoo an individual. The provisions of this section are transferred to or covered in the tattoo parlor regulation.

Section 3. Provides an effective date of October 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues:</u>	2000-01	2001-02
Department of Health		
Permanent Licenses (\$150 annually x 175 establishments)		
Temporary Licenses (\$75 x 9 temporary establishments)		
County Health Department Trust Fund	\$26,925	\$27,733
=====	=====	=====
Total Revenues		
County Health Department Trust Fund	\$26,925	\$27,733
2. <u>Expenditures:</u>	2000-01	2001-02
Department of Health		
One-Time Costs:		
County Health Department Trust Fund	\$12,282	
Recurring Costs		
County Health Department Trust Fund	\$15,544	\$16,011
=====	=====	=====
Total Expenses		
County Health Department Trust Fund	\$27,826	\$16,011

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Direct Private Sector Costs:

The department estimates that there are 175 permanent tattoo parlors in Florida. The department expects to issue approximately nine temporary licenses. Each permanent tattoo establishment is required to pay an annual licensing fee of \$150. Each temporary establishment must pay a temporary licensing fee of \$75. Total private sector costs are expected to be \$26,925.

Effects on Competition, Private Enterprise and Employment Markets:

According to the Department of Health, a small number of tattoo establishments may discontinue business as a result of the costs associated with the bill. Closure of an establishment will result in unemployment for tattoo artists employed by that establishment.

Also, establishments that provide body-piercing services as well as tattoo services will be required to pay the fees for two separate licenses. This same situation will exist for cosmetology salons licensed under s. 477.025, F.S. If a cosmetology salon also applies permanent make-up for customers, the salon will be required to obtain an additional license as a tattoo studio.

D. FISCAL COMMENTS:

The number of tattoo parlors is expected to grow by 3% annually and this growth accounts for the increases in revenues and recurring expenses from FY 2000-01 to 2001-02. Current Department of Health staff will be used to implement this program, so no new position are necessary.

The fee structure proposed in the bill is not adequate to fund the cost of the program for the first year. There is an estimated shortfall of \$900. However, these costs will be recouped in the second year. The proposed fee structure will generate revenues of \$11,722 in excess of what is needed to fund the program.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill grants the Department of Health the authority to adopt rules regulating tattoo parlors.

C. OTHER COMMENTS:

The Department of Health was unable to identify any specific instances of harm caused to the public due to the absence of regulation of tattoo establishments. Since there has never been any oversight of these types of establishments the department has not compiled any statistical data on this subject.

The department identified several problems with the bill and recommended the following changes:

1. Change the term "tattoo parlor" to "tattoo studio" to reflect current industry terminology.
2. Require 14 days notification of a temporary establishment opening rather than 7 days. This will allow the department sufficient time to inspect the temporary facility.
3. Remove references to instruments used in body-piercing and replace with references to instruments used in tattooing.
4. Amend specific safety requirements to conform with the guidelines established by the Center for Disease Control.
5. Remove language that is procedural in nature. This language will be included in the administrative rule.
6. Change the effective date from October 1, 2000 to April 1, 2001. This later date will better reflect the actual time required for the rule writing process.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

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VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Andrew "Andy" Palmer

Lucretia Shaw Collins