

By Representative Morroni

1 A bill to be entitled
 2 An act relating to public health; creating s.
 3 381.0076, F.S.; providing for regulation of
 4 tattoo parlors by the Department of Health;
 5 providing definitions; providing exemptions;
 6 requiring a license to operate a tattoo parlor
 7 and a temporary license to operate a temporary
 8 establishment; providing licensing procedures
 9 and fees; providing requirements with respect
 10 to tattooing of minors; prohibiting certain
 11 acts; providing penalties; providing for
 12 injunction; providing for enforcement;
 13 providing rulemaking authority; providing
 14 specific requirements for operation of tattoo
 15 parlors; repealing s. 877.04, F.S., relating to
 16 prohibition of tattooing and penalties
 17 therefor, to conform; providing an effective
 18 date.

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

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 22 Section 1. Section 381.0076, Florida Statutes, is
 23 created to read:

24 381.0076 Regulation of tattoo parlors.--

25 (1) LEGISLATIVE INTENT.--It is the intent of the
 26 Legislature to protect the health, safety, and welfare of the
 27 public from the spread of infectious diseases from practices
 28 that prick, pierce, or scar the skin and therefore, to that
 29 end, to regulate tattoo parlors.

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

31 (a) "Department" means the Department of Health.

- 1 (b) "Establishment" means a tattoo parlor as defined
2 in this section.
- 3 (c) "Licensee" means any person licensed under this
4 section who is responsible for compliance with this section
5 and the rules adopted under this section.
- 6 (d) "Operator" means an individual designated by a
7 licensee to control the operation of an establishment.
- 8 (e) "Person" means any individual, partnership,
9 corporation, or association.
- 10 (f) "Safe level" means not more than 50 colonies of
11 microorganisms per 4 square inches of equipment or device
12 surface.
- 13 (g) "Sanitization" means the effective bactericidal
14 treatment of surfaces of equipment and devices by a product
15 registered by the United States Environmental Protection
16 Agency which provides a sufficient concentration of chemicals
17 and enough time to reduce the bacterial count, including
18 pathogens, to a safe level.
- 19 (h) "Sterilization" means the use of procedures that
20 destroy all microbial life, including viruses, on the
21 equipment or device.
- 22 (i) "Stop-use order" means a written notice from the
23 department to a licensee requiring the licensee to remove a
24 piece of equipment or cease conducting a particular procedure
25 because the equipment is not being operated or the procedure
26 conducted in accordance with the requirements of this section
27 or any rule adopted pursuant thereto.
- 28 (j) "Tattooing" means the act of making a permanent
29 mark or design on the skin by a process of either pricking and
30 ingraining an indelible pigment or raising scars.
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- 1 (k) "Tattoo parlor" means a place where tattooing
2 occurs.
- 3 (l) "Temporary establishment" means a tattooing
4 establishment that operates at a fixed location for a period
5 of time of not more than 14 consecutive days in conjunction
6 with a single 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 tattooing
11 establishment.
- 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 be contacted at least 7 days
27 prior to commencement of operation of the establishment and
28 must conduct an inspection of the establishment to ensure
29 compliance with licensing requirements prior to issuing the
30 temporary license.
- 31 (5) LICENSE APPLICATION.--

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 initial licensure or
18 reactivation of an expired license at the beginning of the
19 licensing period or for renewal of a license shall pay the
20 full fee. All other applicants, whether for initial licensure
21 or reactivation of an expired license, shall pay a prorated
22 fee based on the number of quarters left until September 30.

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

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

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- 1 1. The annual license fee, or license renewal fee, for
2 a tattoo parlor is \$150.
- 3 2. Each late fee is \$100.
- 4 3. The fee for a temporary establishment license is
5 \$75.
- 6 (7) MINORS.--A person may not tattoo a minor without
7 the written notarized consent of the minor's parent or legal
8 guardian, and an establishment may not tattoo a minor under
9 the age of 16 unless the minor is accompanied by a parent or
10 legal guardian.
- 11 (8) PROHIBITED ACTS; PENALTIES; INJUNCTION.--
- 12 (a) Each of the following acts constitutes a felony of
13 the third degree, punishable as provided in s. 775.082, s.
14 775.083, or s. 775.084:
- 15 1. Owning, operating, or soliciting business as an
16 establishment in this state without first procuring a license
17 from the department, unless specifically exempted by this
18 section.
- 19 2. Obtaining or attempting to obtain a license to
20 operate an establishment by means of fraud, misrepresentation,
21 or concealment.
- 22 (b) Each of the following acts constitutes a
23 misdemeanor of the second degree, punishable as provided in s.
24 775.082 or s. 775.083:
- 25 1. Failing to maintain the records required by this
26 section or knowingly making false entries in such records.
- 27 2. Failing to comply with the requirements regarding
28 minors set forth in subsection (7).
- 29 (c) In addition to any other punishment provided for,
30 the court may suspend or revoke the license of any licensee
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1 under this section who has been found guilty of any violation
2 of paragraph (a) or paragraph (b).

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

10 (9) ENFORCEMENT.--

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

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

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

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

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1 2. Actions taken by the licensee to correct the
2 violation.
3 3. Any previous violations by the licensee.
4 (d) The department may issue a stop-use order, or
5 institute legal action for injunctive or other relief, to
6 enforce any provision of this section.
7 (e) The department may cancel, revoke, or suspend a
8 license to operate an establishment if the licensee:
9 1. Fails to pay any fee required by this section;
10 2. Obtains or attempts to obtain a license under this
11 section by fraud, misrepresentation, or concealment; or
12 3. Violates any provision of this section or any rule
13 adopted under this section.
14 (f)1. The department may issue a citation that
15 contains an order of correction or an order to pay a fine, or
16 both, for any violation of this section or the rules adopted
17 under this section, when the violation of the section or rule
18 is enforceable by an administrative or civil remedy or when
19 the violation of the section or rule is a misdemeanor of the
20 second degree. A citation constitutes a notice of proposed
21 agency action.
22 2. A citation must be in writing and must describe the
23 particular nature of the violation, including specific
24 reference to the provision of law or rule allegedly violated.
25 3. The fines imposed by a citation may not exceed
26 \$1,000 for each violation. Each day the violation exists
27 constitutes a separate violation for which a citation may be
28 issued.
29 4. The department shall inform the recipient of a
30 citation, by written notice pursuant to ss. 120.569 and
31 120.57, of the right to an administrative hearing to contest

1 the citation within 21 days after the date the citation is
2 received. The citation must contain a conspicuous statement
3 that if the recipient fails to pay any fine levied against the
4 recipient within the time allowed or fails to appear to
5 contest the citation after having requested a hearing, the
6 recipient has waived the recipient's right to contest the
7 citation and must pay the maximum fine.

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

14 6. Any person who willingly refuses to sign and accept
15 a citation issued by the department commits a misdemeanor of
16 the second degree, punishable as provided in s. 775.082 or s.
17 775.083.

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

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

26 (10) RULES.--The department has authority to adopt
27 rules to implement this section. Such rules may include
28 sanitation practices, sterilization requirements and
29 procedures, patient record content requirements, personnel
30 record retention requirements, patient notification

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1 requirements and procedures, physical plant requirements,
2 light requirements, and enforcement procedures.
3 (11) TATTOO PARLORS; SPECIFIC REQUIREMENTS.--
4 (a) A licensee or operator of a tattoo parlor may not
5 allow any person to tattoo the body of any human being in the
6 licensed establishment unless the person is licensed to
7 practice medicine under chapter 458, osteopathic medicine
8 under chapter 459, or dentistry under chapter 466 or the
9 person is under the general supervision of a person licensed
10 to practice medicine under chapter 458, osteopathic medicine
11 under chapter 459, or dentistry under chapter 466.
12 (b) A tattoo parlor must:
13 1. Properly sterilize all instruments that pierce the
14 skin, directly aid in piercing the skin, or may come in
15 contact with instruments that pierce the skin, through such
16 means as storage in trays with other instruments or contact
17 with forceps, in accordance with the sterilization procedures
18 in this section.
19 2. Sanitize all equipment indirectly used in
20 tattooing, including any beds, tables, headrests, armrests,
21 legrests, or handrails.
22 3. Use protective infection barriers such as gloves
23 and masks when serving a customer. If the protective barriers
24 are contaminated, they must be properly disposed of
25 immediately. Protective barriers may only be used once and
26 only for one customer.
27 4. If the skin is to be shaved, the shaving shall be
28 done, after the skin is washed with soap, using a new
29 single-service blade which is discarded after use on a single
30 customer. Following shaving, the skin shall be washed with
31 soap and cleansed with an antiseptic. If petroleum jelly is

1 used, it shall be applied with sterile gauze which shall be
2 used only once and discarded. After tattooing, the area must
3 be cleaned with an antiseptic and bandaged with a loose, dry,
4 sterile gauze dressing.

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

8 6. Maintain a record of each customer's visit for a
9 period of not less than 2 years, including, but not limited
10 to, the customer's name and date of visit, identification of
11 the tattoo, and the name of the person performing the
12 procedure.

13 7. Report any injury or any complaint of injury to the
14 department on forms prescribed by the department and provide a
15 copy of the report to the complainant.

16 (c) Sterilization procedures must include the
17 following:

18 1. Proper autoclaving must be done according to the
19 autoclave manufacturer's instructions.

20 2. There must be a sterilization indicator in each
21 autoclaving to monitor the sterilization procedure. The
22 indicator must indicate exposure to steam and 250° Fahrenheit.

23 3. Contaminated instruments must be sterilized in the
24 following manner:

25 a. The contaminated instruments must be thoroughly
26 cleansed with an antiseptic solution, according to the
27 instructions for the antiseptic solution, and hot water.

28 b. The contaminated instruments and all other
29 instruments, must be packaged properly and loaded correctly
30 into the autoclave.

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- 1 c. The contaminated instruments must be sterilized by
2 autoclave.
- 3 4. All sterilized instruments must be stored and
4 handled in a manner that maintains sterility.
- 5 5. Autoclaves must be cleaned regularly and serviced
6 at least once a year.
- 7 6. Each tattoo parlor utilizing autoclave
8 sterilization techniques must post the sterilization
9 procedures and ensure that personnel responsible for
10 performing the sterilization procedures are adequately
11 trained.
- 12 7. All staff must be trained in proper
13 infection-control procedures.
- 14 8. Presterilized, prewrapped, disposable instruments
15 may be used, but must be used in accordance with the
16 manufacturer's instructions.
- 17 (d) The tattoo parlor must be in compliance with s.
18 381.0098.

19 Section 2. Section 877.04, Florida Statutes, is hereby
20 repealed.

21 Section 3. This act shall take effect October 1, 2000.

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24 HOUSE SUMMARY

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