

By Senator Campbell

33-319-01

1                                   A bill to be entitled  
2           An act relating to the practice of tattooing;  
3           creating part XV of ch. 468, F.S., the Tattoo  
4           Practice and Tattoo Establishment Act;  
5           providing legislative intent with respect to  
6           the regulation of the practice of tattooing;  
7           providing definitions; prohibiting the practice  
8           of tattooing unless a person is licensed or  
9           registered by the Department of Business and  
10          Professional Regulation; requiring the  
11          licensure of a tattoo establishment; requiring  
12          that the department establish requirements for  
13          licensure and registration; exempting  
14          physicians licensed under ch. 458 or ch. 459,  
15          F.S., from regulation under the act; specifying  
16          requirements for licensure and license renewal;  
17          providing requirements for registration as an  
18          intern tattooist or apprentice tattooist;  
19          requiring certain courses of continuing  
20          education; prohibiting the transfer of a  
21          license or registration; providing practice  
22          requirements for tattooists, intern tattooists,  
23          and apprentice tattooists; specifying fees for  
24          initial licensure and registration and annual  
25          renewal thereof; specifying acts that  
26          constitute grounds under which the department  
27          may take disciplinary action; providing for  
28          disciplinary proceedings and fines; authorizing  
29          the Department of Business and Professional  
30          Regulation to adopt rules to administer the  
31          act; requiring that the department provide

1           legal and investigative services to administer  
2           the act; providing requirements for persons  
3           applying for registration as an intern  
4           tattooist or apprentice tattooist; prohibiting  
5           the tattooing of a minor without the presence  
6           and consent of the minor's parent or guardian;  
7           prohibiting the tattooing of a minor under a  
8           specified age; providing penalties for certain  
9           violations involving the practice of tattooing;  
10          authorizing the department or the state  
11          attorney to enjoin a continuing violation of  
12          the act; providing an effective date.

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

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16           Section 1. Part XV of chapter 468, Florida Statutes,  
17          consisting of sections 468.831, 468.832, 468.833, 468.834,  
18          468.835, 468.836, 468.837, 468.838, 468.839, 468.840, 468.841,  
19          468.842, 468.843, 468.844, 468.845, and 468.846, Florida  
20          Statutes, is created to read:

21           468.831 Short title.--This part may be cited as the  
22 "Tattoo Practice and Tattoo Establishment Act."

23           468.832 Legislative intent.--The Legislature finds  
24 that the practice of tattooing by unskilled and incompetent  
25 practitioners in unsanitary surroundings endangers the public  
26 health and safety. The sole legislative purpose in enacting  
27 this part is to ensure that every tattoo establishment and  
28 every person who practices tattooing in this state meets  
29 minimum requirements for safe practice. It is the legislative  
30 intent that every person practicing tattooing who lacks  
31 minimum competence or who otherwise presents a danger to the

1 public be prohibited from practicing tattooing or operating an  
2 establishment where tattooing is performed in this state.

3 468.833 Definitions.--As used in this part, the term:

4 (1) "Active license or registration" means a current  
5 license or registration issued by the department which is not  
6 suspended or revoked.

7 (2) "Apprentice tattooist" means a person registered  
8 with the department to learn tattooing under the direct  
9 supervision of a licensed tattooist.

10 (3) "Department" means the Department of Business and  
11 Professional Regulation.

12 (4) "Direct supervision" means general supervision by  
13 a licensed tattooist who is physically on the premises of the  
14 tattoo establishment.

15 (5) "General supervision" means supervision by a  
16 licensed tattooist who is knowledgeable concerning the  
17 procedures taking place and the methods being used, but who is  
18 not physically on the premises of the tattoo establishment.

19 (6) "Guest tattooist" means a person who has a  
20 professional background in tattooing in another state, who is  
21 registered with the department to learn tattooing under the  
22 general supervision of a licensed tattooist, and whose  
23 registration expires after 45 days and may not be renewed for  
24 6 months.

25 (7) "Intern tattooist" means a person who has a  
26 professional background in tattooing in another state and who  
27 is registered with the department to learn tattooing under the  
28 general supervision of a licensed tattooist.

29 (8) "Tattoo" means a mark or design made on or under  
30 the skin by a process of pricking or engraining a pigment,  
31 dye, or ink in the skin.

1           (9) "Tattoo establishment" means any permanent  
2 location, place, area, structure, or business used for the  
3 practice of tattooing or the instruction of tattooing.

4           (10) "Tattooist" means a person licensed under this  
5 part to practice tattooing or provide instruction on  
6 tattooing.

7           468.834 License required.--

8           (1)(a) A person may not practice tattooing in this  
9 state unless the person is licensed as a tattooist or is  
10 registered as an intern tattooist, an apprentice tattooist, or  
11 a guest tattooist under this part.

12           (b) A business may not be identified as a tattoo  
13 establishment unless the establishment is licensed in  
14 accordance with this part.

15           (2) The department shall establish requirements for  
16 licensure and registration, in consultation with the Florida  
17 Professional Tattoo Artist Guild, and shall develop forms by  
18 which to verify an applicant's training and employment prior  
19 to licensure or registration.

20           468.835 Exemption.--This part does not apply to a  
21 physician licensed under chapter 458 or to an osteopathic  
22 physician licensed under chapter 459 when the physician is  
23 practicing his or her profession.

24           468.836 Prohibited acts.--A person may not:

25           (1) Operate a tattoo establishment or practice  
26 tattooing unless the person holds an active license or  
27 registration and practices in accordance with this part.

28           (2) Practice tattooing on a minor.

29           (3) Practice tattooing upon an impaired customer or a  
30 customer with exuding sores, weeping dermatitis, or a  
31 contagious disease, excluding the common cold.

1           (4) Practice tattooing when the tattooist has exuding  
2 sores, weeping dermatitis, or a contagious disease, excluding  
3 the common cold.

4           468.837 Qualifications for licensure; license renewal;  
5 inactive status.--

6           (1) Any person who desires to be licensed as a  
7 tattooist or registered as an intern tattooist or apprentice  
8 tattooist must apply to the department for a license or  
9 registration.

10           (2) An applicant for licensure as a tattooist may take  
11 the licensure examination to practice tattooing if the  
12 applicant submits to the department:

13           (a) A completed application to the department and pays  
14 the application fee.

15           (b) Written recommendations for licensure from five  
16 tattooists who have been licensed for at least 3 years and who  
17 have supervised an intern tattooist or apprentice tattooist  
18 for at least 1 year. An applicant for licensure before  
19 December 31, 2001, must submit written recommendations for  
20 licensure from five tattooists who are licensed in a state  
21 other than this state and must demonstrate 5 years of previous  
22 practice of licensed tattooing.

23           (c) Proof of completion of an educational course on  
24 blood-borne pathogens and communicable diseases.

25           (3) An applicant for registration as an intern  
26 tattooist must submit to the department:

27           (a) A completed application and the application fee.

28           (b) Proof of general supervision by a licensed  
29 tattooist.

30           (4) An applicant for registration as an apprentice  
31 tattooist must submit to the department:

1           (a) A completed application and the application fee.

2           (b) Proof of direct supervision by a licensed  
3 tattooist.

4           (5) An applicant may obtain licensure of a tattoo  
5 establishment if the applicant submits a completed application  
6 and application fee to the department and the department  
7 verifies that:

8           (a) The establishment, furnishings, and equipment are  
9 clean and in good repair.

10           (b) The floors, tables, and chairs are constructed of  
11 smooth surfaces that may be sanitized in the tattoo station  
12 and sterilization area.

13           (c) Running water is installed in the establishment in  
14 compliance with local ordinances.

15           (d) There is a functioning toilet that is easily  
16 accessible to customers.

17           (e) There is at least one sink for hand washing which  
18 is easily accessible to the tattooist and equipped with  
19 running water, soap, and single-use disposable towels.

20           (f) There are a sufficient number of trash containers  
21 that are easily accessible to the tattooist for disposal of  
22 towels, or other absorbent material, and disposal of dyes,  
23 inks, or pigments previously used on a customer.

24           (g) The establishment is in compliance with the local  
25 building, occupational, zoning, and health codes.

26           (h) All water-carried sewage is disposed of by a  
27 public sewage system or a sewage system that is constructed  
28 and operating in conformance with local ordinances.

29           (i) There is a functioning autoclave on the premises  
30 of the establishment for sterilizing tattoo-related equipment.

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1           (7) The applicant for licensure or registration must  
2 provide proof to the department of meeting the requirements of  
3 licensure.

4           (8) The department shall renew a license or  
5 registration according to rules adopted by the department. A  
6 tattooist must complete a course of continuing education in  
7 the prevention of blood-borne diseases and viruses, as  
8 prescribed by the department.

9           (9) A license or registration issued by the department  
10 under this part is not transferable.

11           468.838 Practice requirements for tattooists;  
12 requirements for tattoo establishments.--

13           (1) A licensed tattooist must:

14           (a) Provide general supervision to an intern tattooist  
15 who is registered with the department as being under the  
16 supervision of the licensed tattooist.

17           (b) Provide direct supervision to an apprentice  
18 tattooist who is registered with the department as being under  
19 the supervision of the licensed tattooist.

20           (c) Display a current license in a manner that is  
21 easily visible to the public.

22           (d) Practice tattooing only in a licensed tattoo  
23 establishment that complies with the requirements of this  
24 part.

25           (e) Before applying a tattoo, provide the customer  
26 with information on procedures for follow-up care after  
27 receiving the tattoo and obtain written acknowledgement from  
28 the customer of receipt of such information.

29           (f) Ensure that each person applying a tattoo under  
30 the supervision of the licensed tattooist washes his or her  
31 hands before and after each application.

1           (g) Maintain sanitary conditions at all times in the  
2 tattoo establishment, as defined by department rule.

3           (h) Use sterilized needles and tubes that have been  
4 sterilized in an autoclave before use on a customer for at  
5 least:

6           1. Twenty minutes at 15 pounds of pressure per square  
7 inch at a temperature of 240 degrees Fahrenheit or 116 degrees  
8 Celsius; or

9           2. Fifteen minutes at 20 pounds of pressure per square  
10 inch at a temperature of 250 degrees Fahrenheit or 121 degrees  
11 Celsius.

12           (i) At least once every 30 days, verify that the  
13 autoclave is properly sterilizing needles and tubes by use of  
14 the KILIT Ampule Sterilization Test or its equivalent. A  
15 tattooist must maintain autoclave verification records for at  
16 least 3 years and the records are subject to inspection by the  
17 department.

18           (j) Use only single-use towels or other absorbent  
19 material for drying, cleaning, disinfecting, scrubbing, or  
20 bandaging the skin of the tattooist or the customer. The towel  
21 or material must be immediately disposed of after use.

22           (k) Use only single-use containers for dyes, inks, or  
23 pigments. Used containers of dyes, inks, or pigments must be  
24 disposed of immediately after use.

25           (l) Use single-use razors and dispose of each razor  
26 immediately after use or use a shaver that is disinfected  
27 after each use.

28           (m) Comply with all state and local health codes and  
29 ordinances.

30           (n) Report to the department any person or  
31 establishment in violation of this part.



- 1           (o) Store all stencils, needles, and tubes when not in  
2 use in clean, closed cabinets or containers.
- 3           (2) An intern tattooist must:
- 4           (a) Practice tattooing only under the general  
5 supervision of a licensed tattooist.
- 6           (b) Display a current registration in a manner that is  
7 easily visible to the public.
- 8           (c) Comply with the requirements for practice of a  
9 licensed tattooist enumerated in paragraphs (1)(d) through  
10 (1)(o).
- 11           (3) An apprentice tattooist must:
- 12           (a) Practice tattooing only under the direct  
13 supervision of a licensed tattooist.
- 14           (b) Display a current registration in a manner that is  
15 easily visible to the public.
- 16           (c) Comply with the requirements for practice of a  
17 licensed tattooist enumerated in paragraphs (1)(d) through  
18 (1)(o).
- 19           (4) A tattooist who operates a tattoo establishment  
20 must:
- 21           (a) Comply with the requirements for licensure  
22 enumerated in s. 468.837.
- 23           (b) Display a current license for the establishment in  
24 a manner that is easily visible to the public.
- 25           (c) Display a copy of procedures for follow-up care  
26 after receiving a tattoo and provide a copy to all customers.
- 27           (d) Ensure that each tattooist who operates in the  
28 tattoo establishment meets all applicable requirements of this  
29 part.
- 30
- 31

1           (e) Maintain for at least 3 years copies of autoclave  
2 sterilization tests and consent forms for minors who have  
3 received a tattoo at the establishment.

4           (f) Allow periodic inspection by authorized agents of  
5 the department.

6           (g) Report to the department any person or tattoo  
7 establishment in violation of this part.

8           (5) Any person who is licensed or registered under  
9 this part must notify the department within 14 days following  
10 any change in the name or address of the licensee or  
11 registrant.

12           486.839 Fees; disposition.--

13           (1) The department shall establish by rule fees for  
14 initial licensure or registration, annual renewal fees, and  
15 reactivation fees for an inactive license or registration in  
16 accordance with ss. 455.203 and 455.219. A license or  
17 registration that is not timely renewed becomes inactive.

18           (a) The annual fee for a tattoo establishment license  
19 may not exceed \$400.

20           (b) The annual fee for licensure as a tattooist may  
21 not exceed \$400.

22           (c) The annual fee for registration as an intern  
23 tattooist may not exceed \$200.

24           (d) The annual fee for registration as an apprentice  
25 tattooist may not exceed \$100.

26           (e) The fee for registration as a guest tattooist may  
27 not exceed \$100 per registration.

28           (2) The department shall establish by rule an initial  
29 application fee for licensure and registration which may not  
30 exceed \$400.

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1           (3) The department shall establish by rule a fee for  
2 the licensure examination which may not exceed the actual cost  
3 to the department of developing and administering the  
4 examination.

5           468.840 Disciplinary grounds.--

6           (1) In addition to the grounds set forth in s.  
7 455.227, the following acts constitute grounds for which the  
8 department may take disciplinary action against a person  
9 licensed or registered under this part:

10           (a) Violating a state or local health code or  
11 ordinance.

12           (b) Making a false, deceptive, or misleading  
13 advertisement or deceptively failing to identify oneself as an  
14 intern, apprentice, or guest tattooist.

15           (c) Providing false information on an application for  
16 licensure or registration or on an autoclave test.

17           (d) Violating any applicable provision of this part, a  
18 rule adopted under this part, a lawful order of the  
19 department, or any applicable provision of chapter 455 or a  
20 rule adopted under chapter 455.

21           (e) Having a comparable license, registration, or  
22 certification revoked, suspended, or otherwise acted against  
23 by the licensing authority of another state, territory, or  
24 country.

25           (f) Being found guilty of or pleading nolo contendere  
26 to, regardless of adjudication, a crime in any jurisdiction  
27 which relates to the practice of tattooing or operating a  
28 tattoo establishment.

29           (g) Committing fraud, deceit, negligence, or  
30 misconduct in practicing tattooing or operating a tattoo  
31 establishment.

1           (h) Aiding, assisting, procuring, or advising any  
2 unlicensed person in the practice of tattooing or the  
3 operation of a tattoo establishment.

4           (2) The department may revoke, suspend, fine, place on  
5 probation with conditions, reprimand, or deny subsequent  
6 renewal of licensure or registration to any licensee or  
7 registrant who violates subsection (1).

8           (3) Disciplinary proceedings shall be conducted as  
9 provided in chapters 120 and 455.

10           (4) The maximum fine per violation is \$1,000 and the  
11 department shall adopt by rule procedures for taking  
12 disciplinary action against a licensee or registrant.

13           468.841 Rulemaking.--The department shall adopt rules  
14 under ss. 120.536(1) and 120.54 to administer this part.

15           468.842 Legal services.--The department shall provide  
16 all legal services needed to administer this part.

17           468.843 Investigative services; inspections.--

18           (1) The department shall provide all investigative  
19 services required to administer this part.

20           (2) The department may adopt rules governing periodic  
21 inspections of tattoo establishments; applicants for licensure  
22 of a tattoo establishment; and applicants for licensure or  
23 registration as a tattooist, an intern tattooist, or an  
24 apprentice tattooist.

25           468.844 Intern and apprentice tattooist programs.--

26           (1)(a) Any person applying for registration as an  
27 intern tattooist must apply on forms supplied by the  
28 department. The applicant must provide to the department:

29           1. A written agreement from the supervising tattooist  
30 that the applicant will serve the internship under the general  
31 supervision of the supervising tattooist.

1           2. Proof of practice in a licensed tattoo  
2 establishment.

3           3. Proof of compliance with the conditions of  
4 registration for an intern tattooist, set forth in s. 468.837.

5           4. Proof of successful completion of a course of study  
6 on first aid and blood-borne pathogens and communicable  
7 diseases.

8           (b) An applicant for registration as an intern  
9 tattooist must provide any material requested by the  
10 department to verify compliance with the intern program.

11           (2)(a) Any person applying for registration as an  
12 apprentice tattooist must apply on forms supplied by the  
13 department. The applicant must provide to the department:

14           1. A written agreement from the supervising tattooist  
15 that the applicant will serve the apprenticeship under the  
16 direct supervision of the supervising tattooist.

17           2. Proof of practice in a licensed tattoo  
18 establishment.

19           3. Proof of compliance with the conditions of  
20 registration for an apprentice tattooist, set forth in s.  
21 468.837.

22           4. Proof of successful completion of a course of study  
23 on first aid and blood-borne pathogens and communicable  
24 diseases.

25           (b) An applicant for registration as an intern  
26 tattooist must provide any material requested by the  
27 department to verify compliance with the intern program.

28           (c) An apprentice tattooist must use the words  
29 "apprentice tattooist" in any advertisement or written  
30 document relating to the practice of tattooing by the  
31 apprentice tattooist.

1           468.845 Minors.--A person may not tattoo a minor  
2 without the physical presence and notarized consent of the  
3 minor's parent or legal guardian. A person may not tattoo a  
4 minor under 16 years of age.

5           468.846 Penalties.--

6           (a) Each of the following acts constitutes a felony of  
7 the third degree, punishable as provided in s. 775.082, s.  
8 775.083, or s. 775.084:

9           1. Owning, operating, or soliciting business as a  
10 tattoo establishment in this state without first procuring a  
11 license from the department, unless specifically exempted by  
12 this section.

13           2. Obtaining or attempting to obtain a license to  
14 operate a tattoo establishment by means of fraud,  
15 misrepresentation, or concealment.

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

19           1. Failing to maintain the records required by this  
20 part or knowingly making false entries in such records.

21           2. Failing to comply with the requirements regarding  
22 minors set forth in s. 468.845.

23           (c) In addition to any other punishment provided for  
24 in this section, the court may suspend or revoke the license  
25 of any licensee or registrant who is found guilty of any  
26 violation of paragraph (a) or paragraph (b).

27           (d) If the department or any state attorney has  
28 probable cause to believe that an establishment or person has  
29 violated paragraph (a), the department or state attorney may  
30 bring an action to enjoin the establishment or person from  
31 engaging in or continuing such violation or doing any act in

1 furtherance thereof, and the court may provide any other  
2 relief it finds appropriate.

3 Section 2. This act shall take effect October 1, 2001.  
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6 SENATE SUMMARY

7 Creates the Tattoo Practice and Tattoo Establishment Act.  
8 Provides for the Department of Business and Professional  
9 Regulation to regulate the practice of tattooing.  
10 Prohibits the practice of tattooing unless a person is  
11 licensed by or registered with the department. Requires  
12 that a tattoo establishment be licensed by the  
13 department. Exempts licensed physicians and osteopathic  
14 physicians from regulation under the act. Provides  
15 requirements for registration as an intern tattooist,  
16 apprentice tattooist, or guest tattooist. Specifies  
17 certain acts that constitute grounds under which the  
18 department may take disciplinary action. Prohibits the  
19 tattooing of a minor without the presence and consent of  
20 the minor's parent or legal guardian. Prohibits the  
21 tattooing of a minor under 16 years of age. Provides  
22 penalties for certain violations involving the practice  
23 of tattooing. (See bill for details.)  
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