

By Senator Sobel

31-00816B-09

20091130__

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

31-00816B-09

20091130__

30 involving the practice of tattooing; authorizing the
31 department or the state attorney to enjoin a
32 continuing violation of the act; providing an
33 effective date.

34
35 Be It Enacted by the Legislature of the State of Florida:

36
37 Section 1. Part XVII of chapter 468, Florida Statutes,
38 consisting of sections 468.85, 468.851, 468.852, 468.853,
39 468.854, 468.855, 468.856, 468.857, 468.858, 468.859, 468.86,
40 and 468.861, is created to read:

41 468.85 Short title.—This part may be cited as the "Tattoo
42 Practice and Tattoo Establishment Act."

43 468.851 Definitions.—As used in this part, the term:

44 (1) "Active license or registration" means a current
45 license or registration issued by the department which is not
46 suspended or revoked.

47 (2) "Apprentice tattooist" means a person registered with
48 the department to learn tattooing under the direct supervision
49 of a licensed tattooist.

50 (3) "Department" means the Department of Health.

51 (4) "Direct supervision" means supervision by a licensed
52 tattooist who is physically on the premises of the tattoo
53 establishment.

54 (5) "Guest tattooist" means a person who has a professional
55 background in tattooing in another state, who is registered with
56 the department to learn tattooing under the direct supervision
57 of a licensed tattooist, and whose registration expires after 45
58 days and may not be renewed for 6 months.

31-00816B-09

20091130__

59 (6) "In-service hours" means the number of hours that an
60 autoclave is in operation.

61 (7) "Intern tattooist" means a person who has a
62 professional background in tattooing in another state and who is
63 registered with the department to learn tattooing under the
64 direct supervision of a licensed tattooist.

65 (8) "Tattoo" means a mark or design made on or under the
66 skin by a process of piercing and engraving a pigment, dye, or
67 ink in the skin.

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

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

73 468.852 License required.—

74 (1) (a) A person may not practice tattooing in this state
75 unless the person is licensed as a tattooist or is registered as
76 an intern tattooist, an apprentice tattooist, or a guest
77 tattooist under this part.

78 (b) A business may not be identified as a tattoo
79 establishment unless the establishment is licensed in accordance
80 with this part.

81 (2) The department shall establish requirements for
82 licensure and registration, in consultation with the
83 professional tattooing industry in this state, and shall develop
84 forms by which to verify an applicant's training and employment
85 prior to licensure or registration.

86 468.853 Exemption.—This part does not apply to a physician
87 licensed under chapter 458 or to an osteopathic physician

31-00816B-09

20091130

88 licensed under chapter 459 when the physician is practicing his
89 or her profession.

90 468.854 Prohibited acts.—A person may not:

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

94 (2) Practice tattooing on a minor.

95 (3) Practice tattooing upon an impaired customer or a
96 customer who has exuding sores, weeping dermatitis, or a
97 contagious disease, excluding the common cold.

98 (4) Practice tattooing when the tattooist has exuding
99 sores, weeping dermatitis, or a contagious disease, excluding
100 the common cold.

101 468.855 Qualifications for licensure; license renewal.—

102 (1) Any person who desires to be licensed as a tattooist or
103 registered as an intern tattooist, guest tattooist, or
104 apprentice tattooist must apply to the department for a license
105 or registration.

106 (2) An applicant for licensure as a tattooist must meet the
107 following requirements:

108 (a) Successfully pass the licensure examination for
109 tattooing from the department.

110 (b) Submit a completed application to the department and
111 pay the application fee.

112 (c) Submit proof of completion of an education course on
113 blood-borne pathogens and communicable diseases.

114 (d)1. For licensure on or before December 31, 2009, submit
115 written recommendations for licensure from five professional
116 tattooists who are practicing in this state, demonstrate 5 years

31-00816B-09

20091130__

117 of previous practice of professional tattooing, and provide
118 proof of status as a professional tattooist by:

119 a. Submitting an occupational license as a tattooist from
120 any municipality or county;

121 b. Providing proof of employment in or ownership of
122 property that has an occupational license for the purpose of
123 tattooing; or

124 c. Submitting copies of prior federal income tax filings as
125 a professional tattooist.

126 2. For licensure after December 31, 2009, submit written
127 recommendations for licensure from five tattooists who have been
128 licensed for at least 3 years and have supervised an intern
129 tattooist or apprentice tattooist for a minimum of 1 year.

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

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

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

134 (4) An applicant for registration as an apprentice

135 tattooist must submit to the department:

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

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

138 (5) An applicant may obtain licensure of a tattoo
139 establishment if the applicant submits a completed application
140 and application fee to the department and the department
141 verifies that:

142 (a) The establishment, furnishings, and equipment are clean
143 and in good repair.

144 (b) The floors, tables, and chairs in the tattoo station
145 and sterilization area are constructed of smooth surfaces that

31-00816B-09

20091130__

146 can be sanitized.

147 (c) Running water is installed in the establishment in
148 compliance with local ordinances.

149 (d) There is a functioning toilet that is easily accessible
150 to customers.

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

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

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

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

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

165 (6) The applicant for licensure or registration must
166 provide proof to the department of meeting the requirements for
167 licensure or registration.

168 (7) The department shall renew a license or registration
169 according to rules adopted by the department. A tattooist must
170 complete a course of continuing education on blood-borne
171 pathogens and communicable diseases, as prescribed by the
172 department.

173 (8) A license or registration issued by the department
174 under this part is not transferable.

31-00816B-09

20091130__

175 468.856 Practice requirements for tattooists; requirements
176 for tattoo establishments.-

177 (1) A licensed tattooist must:

178 (a) Provide direct supervision to an intern tattooist who
179 is registered with the department as being under the supervision
180 of the licensed tattooist.

181 (b) Provide direct supervision to an apprentice tattooist
182 who is registered with the department as being under the
183 supervision of the licensed tattooist.

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

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

188 (e) Before applying a tattoo, provide the customer with
189 information on procedures for follow-up care after receiving the
190 tattoo and obtain written acknowledgement from the customer of
191 receipt of such information.

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

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

197 (h) Use sterilized needles and tubes that have been
198 sterilized in an autoclave before use on a customer for at
199 least:

200 1. Twenty minutes at 15 pounds of pressure per square inch
201 at a temperature of 240° Fahrenheit or 116° Celsius; or

202 2. Fifteen minutes at 20 pounds of pressure per square inch
203 at a temperature of 250° Fahrenheit or 121° Celsius.

31-00816B-09

20091130__

204 (i) At least once every 90 days or 40 in-service hours,
205 whichever comes first, verify that the autoclave is properly
206 sterilizing needles and tubes by use of the KILIT Ampule
207 Sterilization Test or its equivalent. A tattooist must maintain
208 an autoclave log for each use and list the amount of equipment
209 placed in the autoclave, the time the equipment is placed into
210 and removed from the autoclave, the temperature of the
211 autoclave, the pressure used by the autoclave, the final
212 results, and the signature of his or her name or initials when
213 removing the equipment from the autoclave. A tattooist must also
214 maintain records of autoclave verification for at least 3 years,
215 and the records are subject to inspection by the department.

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

220 (k) Use only single-use containers for dyes, inks, or
221 pigments. The containers of dyes, inks, or pigments must be
222 disposed of immediately after use.

223 (l) Use single-use razors and dispose of each razor
224 immediately after use, or use a shaver that is disinfected after
225 each use.

226 (m) Comply with all state and local health codes and
227 ordinances.

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

230 (o) Store all stencils, needles, and tubes when not in use
231 in clean, closed cabinets or containers.

232 (2) An intern tattooist must:

31-00816B-09

20091130__

233 (a) Practice tattooing only under the direct supervision of
234 a licensed tattooist.

235 (b) Display a current registration in a manner that is
236 easily visible to the public.

237 (c) Identify himself or herself as an intern tattooist in
238 oral or written communication to the public which is intended to
239 promote the intern's practice or recognition as a tattooist.

240 (d) Comply with the requirements for practice as a licensed
241 tattooist enumerated in paragraphs (1) (d)-(o).

242 (3) An apprentice tattooist must:

243 (a) Practice tattooing only under the direct supervision of
244 a licensed tattooist.

245 (b) Display a current registration in a manner that is
246 easily visible to the public.

247 (c) Comply with the requirements for practice as a licensed
248 tattooist enumerated in paragraphs (1) (d)-(o).

249 (4) A tattooist who operates a tattoo establishment must:

250 (a) Comply with the requirements for licensure enumerated
251 in s. 468.855.

252 (b) Display a current license for the establishment in a
253 manner that is easily visible to the public.

254 (c) Display a copy of procedures for follow-up care after
255 receiving a tattoo and provide a copy to all customers.

256 (d) Ensure that each tattooist who operates in the tattoo
257 establishment meets all applicable requirements of this part.

258 (e) Maintain for at least 3 years copies of autoclave
259 sterilization tests. Copies of the tests from the previous year
260 must be maintained on the premises of the tattoo establishment.

261 (f) Allow periodic inspection and enforcement by authorized

31-00816B-09

20091130__

262 agents of the department.

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

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

268 486.857 Fees; disposition.—The department shall establish
269 by rule fees for initial licensure or registration, annual
270 renewal fees, and reactivation fees for an inactive license or
271 registration in accordance with ss. 456.004 and 456.025. A
272 license or registration that is not timely renewed becomes
273 inactive.

274 (1) The annual fee for a tattoo establishment license may
275 not exceed \$500.

276 (2) The annual fee for licensure as a tattooist may not
277 exceed \$250.

278 (3) The annual fee for registration as an intern tattooist
279 may not exceed \$250.

280 (4) The annual fee for registration as an apprentice
281 tattooist may not exceed \$150.

282 (5) The fee for registration as a guest tattooist may not
283 exceed \$150 per registration.

284 468.858 Disciplinary grounds.—

285 (1) In addition to the grounds set forth in s. 456.072, the
286 following acts constitute grounds for which the department may
287 take disciplinary action against a person licensed or registered
288 under this part:

289 (a) Violating a state or local health code or ordinance.

290 (b) Making a false, deceptive, or misleading advertisement

31-00816B-09

20091130__

291 or deceptively failing to identify oneself as an intern,
292 apprentice, or guest tattooist.

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

295 (d) Violating any applicable provision of this part, a rule
296 adopted under this part, a lawful order of the department, or
297 any applicable provision of chapter 456 or rule adopted under
298 chapter 456.

299 (e) Having a comparable license, registration, or
300 certification revoked, suspended, or otherwise acted against by
301 the licensing authority of another state, territory, or country.

302 (f) Being found guilty of or pleading nolo contendere to,
303 regardless of adjudication, a crime in any jurisdiction which
304 relates to the practice of tattooing or operating a tattoo
305 establishment.

306 (g) Committing fraud, deceit, negligence, or misconduct in
307 practicing tattooing or operating a tattoo establishment.

308 (h) Aiding, assisting, procuring, or advising any
309 unlicensed person in the practice of tattooing or the operation
310 of a tattoo establishment.

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

315 (3) Disciplinary proceedings shall be conducted as provided
316 in chapters 120 and 456.

317 (4) The maximum fine per violation is \$1,500, and the
318 department shall adopt by rule procedures for taking
319 disciplinary action against a licensee or registrant.

31-00816B-09

20091130

320 468.859 Rulemaking.—The department shall adopt rules to
321 administer this part.

322 468.86 Intern and apprentice tattooist programs.—

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

326 1. A written agreement from the supervising tattooist that
327 the applicant will serve the internship under the direct
328 supervision of the supervising tattooist.

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

330 3. Proof of compliance with the conditions of registration
331 for an intern tattooist, set forth in s. 468.855.

332 4. Proof of successful completion of a course of study on
333 first aid and blood-borne pathogens and communicable diseases.

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

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

340 1. A written agreement from the supervising tattooist that
341 the applicant will serve the apprenticeship under the direct
342 supervision of the supervising tattooist.

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

344 3. Proof of compliance with the conditions of registration
345 for an apprentice tattooist, set forth in s. 468.855.

346 4. Proof of successful completion of a course of study on
347 first aid and blood-borne pathogens and communicable diseases.

348 (b) An applicant for registration as an apprentice

31-00816B-09

20091130

349 tattooist must provide any material requested by the department
350 to verify compliance with the intern program.

351 (c) An apprentice tattooist must use the words "apprentice
352 tattooist" in any advertisement or written document relating to
353 the practice of tattooing by the apprentice tattooist.

354 468.861 Penalties.—

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

358 1. Owning, operating, or soliciting business as a tattoo
359 establishment in this state without first procuring a license
360 from the department, unless specifically exempted by this
361 section.

362 2. Obtaining or attempting to obtain a license to operate a
363 tattoo establishment by means of fraud, misrepresentation, or
364 concealment.

365 3. Tattooing a minor.

366 4. Practicing tattooing upon an impaired customer or a
367 customer who has exuding sores, weeping dermatitis, or a
368 contagious disease, excluding the common cold.

369 5. Practicing tattooing when the tattooist has exuding
370 sores, weeping dermatitis, or a contagious disease, excluding
371 the common cold.

372 (b) A person who fails to maintain the records required by
373 this part or who knowingly makes false entries in such records
374 commits a misdemeanor of the second degree, punishable as
375 provided in s. 775.082 or s. 775.083.

376 (c) In addition to any other punishment provided for in
377 this section, the court may suspend or revoke the license of any

31-00816B-09

20091130__

378 licensee or registrant who is found guilty of any violation of
379 paragraph (a) or paragraph (b).

380 (d) If the department or any state attorney has probable
381 cause to believe that an establishment or person has violated
382 paragraph (a), the department or state attorney may bring an
383 action to enjoin the establishment or person from engaging in or
384 continuing such violation or doing any act in furtherance
385 thereof, and the court may provide any other relief it finds
386 appropriate.

387 Section 2. This act shall take effect July 1, 2009.