

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

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

33  
 34 Be It Enacted by the Legislature of the State of Florida:

35  
 36 Section 1. Part XVII of chapter 468, Florida Statutes,  
 37 consisting of sections 468.85, 468.851, 468.852, 468.853,  
 38 468.854, 468.855, 468.856, 468.857, 468.858, 468.859, 468.86,  
 39 and 468.861, is created to read:

40 468.85 Short title.--This part may be cited as the "Tattoo  
 41 Practice and Tattoo Establishment Act."

42 468.851 Definitions.--As used in this part, the term:

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

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

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

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

53 (5) "Guest tattooist" means a person who has a  
 54 professional background in tattooing in another state, who is  
 55 registered with the department to learn tattooing under the  
 56 direct supervision of a licensed tattooist, and whose

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57 registration expires after 45 days and may not be renewed for 6  
58 months.

59 (6) "Inservice 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 for instruction on tattooing.

71 (10) "Tattooist" means a person licensed under this part  
72 to 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

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85 prior to licensure or registration.

86 468.853 Exemption.--This part does not apply to a  
87 physician licensed under chapter 458 or to an osteopathic  
88 physician licensed under chapter 459 when the physician is  
89 practicing his 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  
103 or 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  
107 the 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

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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  
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  
125 as 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

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141 verifies that:

142 (a) The establishment, furnishings, and equipment are  
143 clean 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  
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  
150 accessible 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  
164 the 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

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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.

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  
196 tattoo establishment, as defined by department rule.

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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  
203 inch at a temperature of 250° Fahrenheit or 121° Celsius.

204        (i) At least once every 90 days or 40 inservice 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

229 in 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:

233 (a) Practice tattooing only under the direct supervision

234 of 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

241 licensed tattooist enumerated in paragraphs (1) (d)-(o).

242 (3) An apprentice tattooist must:

243 (a) Practice tattooing only under the direct supervision

244 of 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

248 licensed 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

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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  
262 authorized 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

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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,  
286 the following acts constitute grounds for which the department  
287 may take disciplinary action against a person licensed or  
288 registered under this part:

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

290 (b) Making a false, deceptive, or misleading advertisement  
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  
296 rule adopted under this part, a lawful order of the department,  
297 or 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

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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  
316 provided 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.

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  
 349 tattooist must provide any material requested by the department  
 350 to verify compliance with the apprenticeship 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 (1) 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 (a) 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 part.

361 (b) Obtaining or attempting to obtain a license to operate  
 362 a tattoo establishment by means of fraud, misrepresentation, or  
 363 concealment.

364 (c) Tattooing a minor.

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

368 (e) Practicing tattooing when the tattooist has exuding  
 369 sores, weeping dermatitis, or a contagious disease, excluding  
 370 the common cold.

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

375 (3) In addition to any other punishment provided for in  
 376 this section, the court may suspend or revoke the license or  
 377 registration of any licensee or registrant who is found guilty  
 378 of any violation of subsection (1) or subsection (2).

379 (4) If the department or any state attorney has probable  
 380 cause to believe that an establishment or person has violated  
 381 subsection (1), the department or state attorney may bring an  
 382 action to enjoin the establishment or person from engaging in or  
 383 continuing such violation or doing any act in furtherance  
 384 thereof, and the court may provide any other relief it finds  
 385 appropriate.

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