

1 A bill to be entitled
2 An act relating to the practice of tattooing; creating s.
3 381.00771, F.S.; defining terms; creating s. 381.00773,
4 F.S.; prohibiting the practice of tattooing except by a
5 person licensed or registered by the Department of Health;
6 requiring tattoo artists to complete an education course
7 and pass an examination; providing for the licensure of
8 tattoo artists and the registration of guest tattoo
9 artists licensed in jurisdictions outside of this state;
10 creating s. 381.00775, F.S.; exempting certain personnel
11 who perform tattooing for medical or dental purposes from
12 regulation under specified provisions; creating s.
13 381.00777, F.S.; requiring the licensure of permanent
14 tattoo establishments and temporary establishments;
15 creating s. 381.00779, F.S.; providing practice
16 requirements for tattoo artists, guest tattoo artists,
17 tattoo establishments, and temporary establishments;
18 creating s. 381.00781, F.S.; providing for fees for
19 initial licensure or registration and the renewal or
20 reactivation thereof; authorizing the adjustment of fees
21 according to inflation or deflation; creating s.
22 381.00783, F.S.; specifying acts that constitute grounds
23 for which the department may take disciplinary action;
24 providing penalties; creating s. 381.00785, F.S.;
25 requiring the department to adopt rules to administer the
26 act; creating s. 381.00787, F.S.; providing penalties for
27 certain violations involving the practice of tattooing;
28 transferring, renumbering, and amending s. 877.04, F.S.;

29 prohibiting the tattooing of a minor child except under
 30 certain circumstances; providing penalties; creating s.
 31 381.00791, F.S.; providing that specified provisions do
 32 not preempt certain local laws and ordinances; deferring
 33 imposition of the licensure and registration requirements
 34 until a specified date; providing an effective date.

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

37
 38 Section 1. Section 381.00771, Florida Statutes, is created
 39 to read:

40 381.00771 Definitions of terms used in ss. 381.00771-
 41 381.00791.—As used in ss. 381.00771-381.00791, the term:

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

45 (2) "Department" means the Department of Health.

46 (3) "Guest tattoo artist" means a person who is licensed,
 47 registered, or certified to practice tattooing in a jurisdiction
 48 outside of this state who is registered with the department to
 49 practice tattooing in this state.

50 (4) "Operator" means a person designated by a tattoo
 51 establishment or temporary establishment to control the
 52 operation of the establishment.

53 (5) "Stop-use order" means a written notice from the
 54 department to a licensee or registrant requiring him or her to
 55 remove any tattooing equipment or supplies or cease conducting
 56 any particular procedures because the equipment or supplies are

57 not being used or the procedures are not being conducted in
 58 accordance with ss. 381.00771-381.00791 or any rule adopted
 59 under those sections.

60 (6) "Tattoo" means a mark or design made on or under the
 61 skin by a process of piercing and ingraining a pigment, dye, or
 62 ink in the skin.

63 (7) "Tattoo artist" means a person licensed under ss.
 64 381.00771-381.00791 to practice tattooing.

65 (8) "Tattoo establishment" means any permanent location,
 66 place, area, structure, or business where tattooing is
 67 performed.

68 (9) "Temporary establishment" means any location, place,
 69 area, or structure where tattooing is performed during, and in
 70 conjunction with, a convention or other similar event that does
 71 not exceed 14 consecutive days.

72 Section 2. Section 381.00773, Florida Statutes, is created
 73 to read:

74 381.00773 Tattoo artists; licensure; registration of guest
 75 tattoo artists.-

76 (1) Effective July 1, 2011, except as provided in s.
 77 381.00775, a person may not tattoo the body of any human being
 78 in this state unless the person is licensed as a tattoo artist
 79 or registered as a guest tattoo artist under this section.

80 (2) (a) A person seeking licensure as a tattoo artist must
 81 apply to the department in the format prescribed by the
 82 department. An application must include:

- 83 1. The name and residence address of the applicant.
 84 2. The name and street address of each tattoo

85 establishment and temporary establishment at which the applicant
 86 intends to practice tattooing in this state.

87 (b) Effective July 1, 2011, the department shall issue a
 88 license to an applicant who:

89 1. Is 18 years of age or older.

90 2. Submits a completed application.

91 3. Pays the applicable license fee established in s.
 92 381.00781.

93 4. Submits proof of successful completion of an education
 94 course approved by the department on blood-borne pathogens and
 95 communicable diseases.

96 5. Submits proof of passage of an examination approved by
 97 the department on the material presented in the education
 98 course.

99 (c) The department shall approve one or more education
 100 courses and examinations which shall allow a person to complete
 101 the requirements of subparagraphs (b)4. and 5. in person or
 102 through an Internet website.

103 (d) A tattoo artist must, within 30 days after a change,
 104 notify the department of any change in the following information
 105 disclosed in his or her most recent application for issuance or
 106 renewal of his or her tattoo artist license in the format
 107 prescribed by the department:

108 1. The name and residence address of the tattoo artist.

109 2. The name and street address of each tattoo
 110 establishment in this state at which the tattoo artist has
 111 practiced tattooing for more than 14 days since the most recent
 112 renewal of his or her tattoo artist license or, if the license

113 has not been renewed, since the licensed was issued.

114 (3) (a) A person seeking registration as a guest tattoo
 115 artist must register with the department in the format
 116 prescribed by the department. An application must include:

117 1. The name and residence address of the applicant.

118 2. The name and street address of each tattoo
 119 establishment and temporary establishment at which the applicant
 120 will practice under the guest tattoo artist registration.

121 (b) Effective July 1, 2011, the department shall issue a
 122 guest tattoo artist registration to an applicant who:

123 1. Is 18 years of age or older.

124 2. Submits a completed application.

125 3. Pays the applicable registration fee established in s.
 126 381.00781.

127 4. Holds an active license, registration, or certification
 128 issued by a jurisdiction outside of this state, whether by
 129 another state, the District of Columbia, any possession or
 130 territory of the United States, or any foreign jurisdiction, if:

131 a. The education and examination requirements of the
 132 license, registration, or certification substantially meet or
 133 exceed the requirements of subparagraphs (2) (b)4. and 5.; or

134 b. The applicant submits proof of successful completion of
 135 an education course approved by the department under
 136 subparagraph (2) (b)4. and proof of passage of an examination
 137 approved by the department under subparagraph (2) (b)5.

138 (4) (a) A tattoo artist license is valid for 1 year and
 139 must be renewed annually.

140 (b) A guest tattoo artist registration is valid for 14

141 days. A guest tattoo artist may reregister before or after
 142 expiration of his or her current registration.

143 (5) A license or registration issued by the department
 144 under this section is not transferable.

145 Section 3. Section 381.00775, Florida Statutes, is created
 146 to read:

147 381.00775 Application of ss. 381.00771-381.00791;
 148 exemption.—Except for s. 381.00789, which applies to all
 149 persons, ss. 381.00771-381.00791 do not apply to a person
 150 licensed to practice medicine or dentistry under chapter 458,
 151 chapter 459, or chapter 466 who performs tattooing exclusively
 152 for medical or dental purposes.

153 Section 4. Section 381.00777, Florida Statutes, is created
 154 to read:

155 381.00777 Tattoo establishments; licensure; temporary
 156 establishments.—

157 (1) Effective July 1, 2011:

158 (a) Except as provided in s. 381.00775, a person may not
 159 tattoo the body of any human being in this state except in a
 160 tattoo establishment or temporary establishment licensed under
 161 this section.

162 (b) A person may not operate a tattoo establishment or
 163 temporary establishment in this state unless the establishment
 164 is licensed under this section.

165 (2) A person seeking licensure of a tattoo establishment
 166 must apply to the department in the format prescribed by the
 167 department. An application must include:

168 (a) The fictitious or business name and any other name

169 under which the tattoo establishment conducts business in
170 this state.

171 (b) The street address and telephone number of the tattoo
172 establishment. A license is valid only for the location listed
173 in the license. A tattoo establishment must notify the
174 department in the format prescribed by the department before any
175 change of the licensed location. A tattoo establishment with
176 more than one location must obtain a separate license for each
177 location.

178 (c) The name, mailing address, and telephone number of the
179 tattoo establishment's operator.

180 (d) The name and address of the tattoo establishment's
181 registered agent for service of process in the state.

182 (3) Effective July 1, 2011, the department shall issue a
183 tattoo establishment license to an applicant, if:

184 (a) The applicant submits a completed application.

185 (b) The applicant pays the applicable license fee
186 established in s. 381.00781.

187 (c) The establishment complies with all applicable local
188 building, occupational, zoning, and health codes.

189 (4) A temporary establishment must meet the same
190 requirements for licensure as a permanent tattoo establishment.

191 (5) (a) A tattoo establishment license is valid for 1 year
192 and must be renewed annually.

193 (b) A temporary establishment license is valid for the
194 duration of the convention or other similar event for which the
195 license is issued not to exceed 14 consecutive days.

196 (6) A license issued by the department under this section

197 is not transferable.

198 Section 5. Section 381.00779, Florida Statutes, is created
 199 to read:

200 381.00779 Practice requirements.—

201 (1) A tattoo establishment or temporary establishment
 202 must:

203 (a) Display an active license for the establishment in a
 204 manner that is easily visible to the public at all times while
 205 tattooing is performed in the establishment.

206 (b) Ensure that each tattoo artist and guest tattoo
 207 artist, while practicing tattooing in the establishment, meets
 208 all applicable requirements of ss. 381.00771-381.00791.

209 (c) Maintain sanitary conditions at all times in the
 210 establishment.

211 (d) Comply with all state and local health codes and
 212 ordinances.

213 (e) Allow periodic inspections and enforcement by
 214 authorized agents of the department.

215 (2) A tattoo artist or guest tattoo artist must:

216 (a) Display his or her active license in a manner that is
 217 easily visible to the public at all times while practicing
 218 tattooing.

219 (b) Practice tattooing exclusively in an establishment
 220 licensed under ss. 381.00771-381.00791.

221 (c) Maintain sanitary conditions at all times in an
 222 establishment.

223 (d) Comply with all state and local health codes and
 224 ordinances.

HB 729

2010

225 (3) A tattoo artist or guest tattoo artist may tattoo the
226 body of a minor child only to the extent authorized in s.
227 381.00789. A tattoo establishment or temporary establishment
228 must keep, for the period prescribed by the department, each
229 written notarized consent submitted under s. 381.00789(2)(c) by
230 the parent or legal guardian of a minor child who is tattooed in
231 the establishment.

232 Section 6. Section 381.00781, Florida Statutes, is created
233 to read:

234 381.00781 Fees; disposition.—

235 (1) The department shall establish by rule the following
236 fees:

237 (a) Fee for the initial licensure of a tattoo
238 establishment and the renewal of such license, which, except as
239 provided in subsection (2), may not exceed \$250 per year.

240 (b) Fee for licensure of a temporary establishment, which,
241 except as provided in subsection (2), may not exceed \$250.

242 (c) Fee for the initial licensure of a tattoo artist and
243 the renewal of such license, which, except as provided in
244 subsection (2), may not exceed \$150 per year.

245 (d) Fee for registration or reregistration of a guest
246 tattoo artist, which, except as provided in subsection (2), may
247 not exceed \$45.

248 (e) Fee for reactivation of an inactive tattoo
249 establishment license or tattoo artist license. A license
250 becomes inactive if it is not renewed before the expiration of
251 the current license.

252 (2) The department may annually adjust the maximum fees

HB 729

2010

253 authorized under subsection (1) according to the rate of
254 inflation or deflation indicated by the Consumer Price Index for
255 All Urban Consumers, U.S. City Average, All Items, as reported
256 by the United States Department of Labor.

257 Section 7. Section 381.00783, Florida Statutes, is created
258 to read:

259 381.00783 Grounds for discipline; administrative
260 penalties.—

261 (1) The following acts constitute grounds for which
262 disciplinary action specified in subsection (2) may be taken by
263 the department against any tattoo establishment, temporary
264 establishment, tattoo artist, guest tattoo artist, operator of a
265 tattoo establishment, or unlicensed person engaged in activities
266 regulated under ss. 381.00771-381.00791:

267 (a) Providing false information on an application for
268 licensure or registration.

269 (b) Violating a state or local health code or ordinance.

270 (c) Violating any provision of ss. 381.00771-381.00791,
271 rule adopted under those sections, or lawful order of the
272 department.

273 (d) Being found guilty of or pleading nolo contendere to,
274 regardless of adjudication, a crime in any jurisdiction which
275 relates to the practice of tattooing or the operation of a
276 tattoo establishment or temporary establishment.

277 (e) Committing fraud, deceit, negligence, or misconduct in
278 the practice of tattooing or the operation of a tattoo
279 establishment or temporary establishment.

280 (f) Aiding, procuring, or assisting a person to unlawfully

HB 729

2010

281 practice tattooing or unlawfully operate a tattoo establishment
282 or temporary establishment.

283 (g) Failing to keep the written notarized consent of the
284 parent or legal guardian of a minor child who is tattooed in a
285 tattoo establishment or temporary establishment for the period
286 specified pursuant to s. 381.00779(3) or knowingly making false
287 entries in a parent's or legal guardian's written notarized
288 consent.

289 (2) When the department determines that a person commits
290 any of the acts set forth in subsection (1), the department may
291 enter an order imposing one or more of the following penalties:

292 (a) Refusal to issue a license or registration or renew a
293 license.

294 (b) Suspension or revocation of a license or registration.

295 (c) Imposition of an administrative fine not to exceed
296 \$1,500 for each count or separate violation.

297 (d) Issuance of a reprimand.

298 (e) Placement of the licensee or registrant on probation
299 for a specified period and subject to the conditions that the
300 department may specify.

301 (f) Issuance of a stop-use order.

302 (g) Corrective action.

303 (3) The department shall impose stricter penalties for the
304 repetition of violations and as the severity of violations
305 escalate, distinguishing lesser violations from those that
306 endanger the public health.

307 (4) Disciplinary proceedings shall be conducted as
308 provided in chapters 120.

HB 729

2010

309 Section 8. Section 381.00785, Florida Statutes, is created
 310 to read:

311 381.00785 Rulemaking.—The department shall adopt rules to
 312 administer ss. 381.00771-381.00791. The department shall consult
 313 with representatives of the tattooing industry in this state
 314 during the development of such rules.

315 Section 9. Section 381.00787, Florida Statutes, is created
 316 to read:

317 381.00787 Criminal penalties.—

318 (1) Effective July 1, 2011, a person may not:

319 (a) Operate a tattoo establishment or temporary
 320 establishment in this state without a license.

321 (b) Practice tattooing in this state without a tattoo
 322 artist license or guest tattoo artist registration, except as
 323 provided in s. 381.00775.

324 (c) Practice tattooing in this state at any place other
 325 than a tattoo establishment or temporary establishment, except
 326 as provided in s. 381.00775.

327 (d) Obtain or attempt to obtain a license or registration
 328 by means of fraud, misrepresentation, or concealment.

329 (2) A person who violates this section commits a felony of
 330 the third degree, punishable as provided in s. 775.082, s.
 331 775.083, or s. 775.084.

332 Section 10. Section 877.04, Florida Statutes, is
 333 transferred, renumbered as section 381.00789, Florida Statutes,
 334 and amended to read:

335 381.00789 ~~877.04~~ Tattooing of minor children prohibited;
 336 penalty.—

HB 729

2010

337 (1) ~~A It is unlawful for any person~~ may not ~~to~~ tattoo the
338 body of a minor child younger than 16 years of age unless the
339 ~~any human being; except that~~ tattooing is ~~may be~~ performed for
340 medical or dental purposes by a person licensed to practice
341 medicine or dentistry under chapter ~~chapters~~ 458, chapter and
342 459, or chapter 466, ~~or by a person under his or her general~~
343 ~~supervision as defined by the Board of Medicine.~~

344 ~~(2) Any person who violates the provisions of this section~~
345 ~~shall be guilty of a misdemeanor of the second degree,~~
346 ~~punishable as provided in s. 775.082 or s. 775.083.~~

347 ~~(2)(3)~~ A person may not tattoo the ~~No~~ body of a minor
348 child who is at least 16 years of age, but younger than 18 years
349 of age, unless:

350 (a) The minor child is accompanied by his or her parent or
351 legal guardian.

352 (b) The minor child and his or her parent or legal
353 guardian each submit proof of his or her identity by producing a
354 government-issued photo identification.

355 (c) The parent or legal guardian submits his or her ~~shall~~
356 ~~be tattooed without the~~ written notarized consent in the format
357 prescribed by the department ~~of the parent or legal guardian.~~

358 (d) The parent or legal guardian submits proof that he or
359 she is the parent or legal guardian of the minor child.

360 (e) The tattooing is performed by a tattoo artist or guest
361 tattoo artist licensed under ss. 381.00771-381.00791 or a person
362 licensed to practice medicine or dentistry under chapter 458,
363 chapter 459, or chapter 466.

HB 729

2010

364 (3) A person who violates this section commits a felony of
365 the third degree, punishable as provided in s. 775.082, s.
366 775.083, or s. 775.084.

367 Section 11. Section 381.00791, Florida Statutes, is
368 created to read:

369 381.00791 Local laws and ordinances.—Sections 381.00771-
370 381.00791 do not preempt any local law or ordinance of a county
371 or municipality that imposes regulations on tattoo
372 establishments, temporary establishments, tattoo artists, or the
373 practice of tattooing which are in addition to those sections.

374 Section 12. This act shall take effect July 1, 2010.