

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.; exempting certain personnel who perform tattooing
5 for medical or dental purposes from regulation under
6 specified provisions; creating s. 381.00775, F.S.;
7 prohibiting the practice of tattooing except by a person
8 licensed or registered by the Department of Health;
9 requiring tattoo artists to complete a department-approved
10 education course and pass an examination; providing for
11 the licensure of tattoo artists and the registration of
12 guest tattoo artists licensed in jurisdictions outside
13 this state; creating s. 381.00777, F.S.; requiring the
14 licensure of permanent tattoo establishments and temporary
15 establishments; creating s. 381.00779, F.S.; providing
16 practice requirements for tattoo artists, guest tattoo
17 artists, tattoo establishments, and temporary
18 establishments; requiring the department to inspect the
19 establishments at specified intervals; creating s.
20 381.00781, F.S.; providing for fees for initial licensure
21 or registration and the renewal or reactivation thereof;
22 authorizing the adjustment of fees according to inflation
23 or deflation; creating s. 381.00783, F.S.; specifying acts
24 that constitute grounds for which the department may take
25 disciplinary action; providing penalties; creating s.
26 381.00785, F.S.; providing penalties for certain
27 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; providing
 31 exceptions; creating s. 381.00789, F.S.; requiring the
 32 department to adopt rules to administer the act; creating
 33 s. 381.00791, F.S.; providing that specified provisions do
 34 not preempt certain local laws and ordinances; providing
 35 an effective date.

36

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

38

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

41 381.00771 Definitions of terms used in ss. 381.00771-
 42 381.00791.—As used in ss. 381.00771-381.00791, the term:

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

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

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

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

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

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

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

64 (7) "Tattoo artist" means a person licensed under ss.
 65 381.00771-381.00791 to practice tattooing.

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

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

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

75 381.00773 Application of ss. 381.00771-381.00791;
 76 exemption.—

77 (1) Except for s. 381.00787, which applies to all persons,
 78 ss. 381.00771-381.00791 do not apply to a person licensed to
 79 practice medicine or dentistry under chapter 458, chapter 459,
 80 or chapter 466 who performs tattooing exclusively for medical or
 81 dental purposes.

82 (2) Sections 381.00771-381.00791 apply exclusively to the
 83 tattooing of human beings and do not apply to the tattooing of
 84 any animal.

85 Section 3. Section 381.00775, Florida Statutes, is created
 86 to read:

87 381.00775 Tattoo artists; licensure; registration of guest
 88 tattoo artists.—

89 (1) Except as provided in s. 381.00773, a person may not
 90 tattoo the body of any human being in this state unless the
 91 person is licensed as a tattoo artist or registered as a guest
 92 tattoo artist under this section.

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

- 96 1. The name and residence address of the applicant.
- 97 2. The name and street address of each tattoo
 98 establishment and temporary establishment at which the applicant
 99 intends to practice tattooing in this state.

100 (b) The department shall issue a license to an applicant
 101 who:

- 102 1. Is 18 years of age or older.
- 103 2. Submits a completed application.
- 104 3. Pays the applicable license fee established in s.
 105 381.00781.
- 106 4. Submits proof of successful completion of an education
 107 course approved by the department on blood-borne pathogens and
 108 communicable diseases.
- 109 5. Submits proof of passage of an examination approved by
 110 the department on the material presented in the education
 111 course.

112 (c) The department shall approve one or more education

113 courses and examinations that allows a person to complete the
 114 requirements of subparagraphs (b)4. and 5. in person or through
 115 an Internet website.

116 (d) A tattoo artist must, within 30 days after a change,
 117 notify the department of any change in the following information
 118 disclosed in his or her most recent application for issuance or
 119 renewal of his or her tattoo artist license in the format
 120 prescribed by the department:

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

122 2. The name and street address of each tattoo
 123 establishment in this state at which the tattoo artist has
 124 practiced tattooing for more than 14 days since the most recent
 125 renewal of his or her tattoo artist license or, if the license
 126 has not been renewed, since the license was issued.

127 (3) (a) A person seeking registration as a guest tattoo
 128 artist must apply to the department in the format prescribed by
 129 the department. An application must include:

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

131 2. The name and street address of each tattoo
 132 establishment and temporary establishment at which the applicant
 133 will practice under the guest tattoo artist registration.

134 (b) The department shall issue a guest tattoo artist
 135 registration to an applicant who:

136 1. Is 18 years of age or older.

137 2. Submits a completed application.

138 3. Pays the applicable registration fee established in s.
 139 381.00781.

140 4. Holds an active license, registration, or certification

141 issued by a jurisdiction outside this state, whether by another
 142 state, the District of Columbia, any possession or territory of
 143 the United States, or any foreign jurisdiction, if:

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

147 b. The applicant submits proof of successful completion of
 148 an education course approved by the department under
 149 subparagraph (2)(b)4. and proof of passage of an examination
 150 approved by the department under subparagraph (2)(b)5.

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

153 (b) A guest tattoo artist registration is valid for 14
 154 days. A guest tattoo artist may apply for reregistration before
 155 or after expiration of his or her current registration.

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

158 Section 4. Section 381.00777, Florida Statutes, is created
 159 to read:

160 381.00777 Tattoo establishments; licensure; temporary
 161 establishments.—

162 (1)(a) Except as provided in s. 381.00773, a person may
 163 not tattoo the body of any human being in this state except at a
 164 tattoo establishment or temporary establishment licensed under
 165 this section.

166 (b) A person may not operate a tattoo establishment or
 167 temporary establishment in this state unless the establishment
 168 is licensed under this section.

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

172 (a) The registered business name, including any fictitious
 173 names under which the tattoo establishment conducts business in
 174 the state.

175 (b) The street address and telephone number of the tattoo
 176 establishment.

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

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

181 (3) The department shall issue a tattoo establishment
 182 license to an applicant, if:

183 (a) The applicant submits a completed application.

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

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

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

190 (5) (a) A license is valid only for the location listed on
 191 the license. A tattoo establishment must notify the department
 192 in the format prescribed by the department before any change of
 193 the licensed location. A tattoo establishment with more than one
 194 location must obtain a separate license for each location.

195 (b) A tattoo establishment license is valid for 1 year and
 196 must be renewed annually.

197 (c) A temporary establishment license is valid for the
 198 duration of a convention or other similar event for which the
 199 license is issued not to exceed 14 consecutive days.

200 (6) A license issued by the department under this section
 201 is not transferable.

202 Section 5. Section 381.00779, Florida Statutes, is created
 203 to read:

204 381.00779 Practice requirements.—

205 (1) A tattoo establishment or temporary establishment
 206 must:

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

210 (b) Ensure that each tattoo artist and guest tattoo
 211 artist, while practicing tattooing at the establishment, meets
 212 all applicable requirements of ss. 381.00771-381.00791.

213 (c) Maintain sanitary conditions of the establishment at
 214 all times.

215 (d) Comply with all state and local health codes and
 216 ordinances.

217 (e) Allow the department to inspect the establishment
 218 pursuant to subsection (4).

219 (f) Comply with s. 381.0098 and rules adopted under that
 220 section.

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

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

225 (b) Practice tattooing exclusively at an establishment
 226 licensed under ss. 381.00771-381.00791.

227 (c) Maintain sanitary conditions of the establishment at
 228 all times.

229 (d) Comply with all state and local health codes and
 230 ordinances.

231 (3) A tattoo artist or guest tattoo artist may tattoo the
 232 body of a minor child only to the extent authorized in s.
 233 381.00787. A tattoo establishment or temporary establishment
 234 must keep, for the period prescribed by the department, each
 235 written notarized consent submitted under s. 381.00787(2)(c) by
 236 the parent or legal guardian of a minor child who is tattooed at
 237 the establishment.

238 (4) The department may inspect and investigate each tattoo
 239 establishment and temporary establishment as necessary to ensure
 240 compliance with ss. 381.00771-381.00791. However, the department
 241 shall inspect each tattoo establishment at least annually and
 242 shall inspect each temporary establishment before and, as
 243 necessary, during a convention or similar event with which the
 244 establishment is connected.

245 Section 6. Section 381.00781, Florida Statutes, is created
 246 to read:

247 381.00781 Fees; disposition.—

248 (1) The department shall establish by rule the following
 249 fees:

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

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

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

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

261 (e) Fee for reactivation of an inactive tattoo
 262 establishment license or tattoo artist license. A license
 263 becomes inactive if it is not renewed before the expiration of
 264 the current license.

265 (2) The department may annually adjust the maximum fees
 266 authorized under subsection (1) according to the rate of
 267 inflation or deflation indicated by the Consumer Price Index for
 268 All Urban Consumers, U.S. City Average, All Items, as reported
 269 by the United States Department of Labor.

270 Section 7. Section 381.00783, Florida Statutes, is created
 271 to read:

272 381.00783 Grounds for discipline; administrative
 273 penalties.—

274 (1) The following acts constitute grounds for which
 275 disciplinary action specified in subsection (2) may be taken by
 276 the department against any tattoo establishment, temporary
 277 establishment, tattoo artist, guest tattoo artist, operator of a
 278 tattoo establishment, or unlicensed person engaged in activities
 279 regulated under ss. 381.00771-381.00791:

280 (a) Providing false information on an application for

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281 licensure or registration.

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

283 (c) Violating any provision of ss. 381.00771-381.00791,
284 rule adopted under those sections, or lawful order of the
285 department.

286 (d) Being found guilty of or pleading nolo contendere to,
287 regardless of adjudication, a crime in any jurisdiction which
288 relates to the practice of tattooing or the operation of a
289 tattoo establishment or temporary establishment.

290 (e) Committing fraud, deceit, negligence, or misconduct in
291 the practice of tattooing or the operation of a tattoo
292 establishment or temporary establishment.

293 (f) Aiding, procuring, or assisting a person to unlawfully
294 practice tattooing or unlawfully operate a tattoo establishment
295 or temporary establishment.

296 (g) Failing to keep the written notarized consent of the
297 parent or legal guardian of a minor child who is tattooed at a
298 tattoo establishment or temporary establishment for the period
299 specified pursuant to s. 381.00779(3) or knowingly making false
300 entries in a parent's or legal guardian's written notarized
301 consent.

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

305 (a) Refusal to issue a license or registration or renew a
306 license.

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

308 (c) Imposition of an administrative fine not to exceed

309 \$1,500 for each count or separate violation.

310 (d) Issuance of a reprimand.

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

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

315 (g) Corrective action.

316 (3) The department shall impose stricter penalties for the
 317 repetition of violations and as the severity of violations
 318 escalate, distinguishing lesser violations from those that
 319 endanger the public health.

320 (4) Disciplinary proceedings shall be conducted as
 321 provided in chapter 120.

322 Section 8. Section 381.00785, Florida Statutes, is created
 323 to read:

324 381.00785 Criminal penalties.—

325 (1) A person may not:

326 (a) Operate a tattoo establishment or temporary
 327 establishment in this state without a license.

328 (b) Practice tattooing in this state without a tattoo
 329 artist license or guest tattoo artist registration, except as
 330 provided in s. 381.00773.

331 (c) Practice tattooing in this state at any place other
 332 than a tattoo establishment or temporary establishment, except
 333 as provided in s. 381.00773.

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

336 (2) A person who violates this section commits a

337 misdemeanor of the second degree, punishable as provided in s.
 338 775.082 or s. 775.083.

339 Section 9. Section 877.04, Florida Statutes, is
 340 transferred, renumbered as section 381.00787, Florida Statutes,
 341 and amended to read:

342 381.00787 877.04 Tattooing prohibited; penalty.—

343 (1) A ~~It is unlawful for any person~~ may not ~~to~~ tattoo the
 344 body of a minor child younger than 16 years of age unless the
 345 ~~any human being; except that~~ tattooing is ~~may be performed for~~
 346 medical or dental purposes by a person licensed to practice
 347 medicine or dentistry under chapter ~~chapters~~ 458, chapter ~~and~~
 348 459, or chapter 466, or by a person under his or her general
 349 supervision as defined by the Board of Medicine.

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

353 ~~(2)(3)~~ A person may not tattoo the ~~No~~ body of a minor
 354 child who is at least 16 years of age, but younger than 18 years
 355 of age, unless:

356 (a) The minor child is accompanied by his or her parent or
 357 legal guardian;

358 (b) The minor child and his or her parent or legal
 359 guardian each submit proof of his or her identity by producing a
 360 government-issued photo identification;

361 (c) The parent or legal guardian submits his or her ~~shall~~
 362 ~~be tattooed without the written notarized consent~~ in the format
 363 prescribed by the department; ~~of~~

364 (d) The parent or legal guardian submits proof that he or

365 she is the parent or legal guardian of the minor child; and
 366 (e) The tattooing is performed by a tattoo artist or guest
 367 tattoo artist licensed under ss. 381.00771-381.00791 or a person
 368 licensed to practice medicine or dentistry under chapter 458,
 369 chapter 459, or chapter 466.

370 (3) A person who violates this section commits a
 371 misdemeanor of the second degree, punishable as provided in s.
 372 775.082 or s. 775.083. However, a person who tattoos the body of
 373 a minor child younger than 18 years of age does not violate this
 374 section, if:

375 (a) The person carefully inspects what appears to be a
 376 government-issued photo identification that represents that the
 377 minor child is 18 years of age or older.

378 (b) The minor child falsely represents himself or herself
 379 as being 18 years of age or older and presents a fraudulent
 380 identification.

381 (c) A reasonable person of average intelligence would
 382 believe that the minor child is 18 years of age or older and
 383 that the photo identification is genuine, was issued to the
 384 minor child, and truthfully represents the minor child's age.

385 Section 10. Section 381.00789, Florida Statutes, is
 386 created to read:

387 381.00789 Rulemaking.—The department shall adopt rules to
 388 administer ss. 381.00771-381.00791. Such rules may include, but
 389 are not limited to, rules defining terms; prescribing
 390 educational requirements for tattoo artists and guest tattoo
 391 artists, health and safety requirements, sanitation practices,
 392 and sterilization requirements and procedures; and providing

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393 requirements for tattoo equipment, customer notification, the
394 contents of customer records, the retention of records, and
395 physical plants. The department shall consult with
396 representatives of the tattooing industry in this state during
397 the development of such rules.

398 Section 11. Section 381.00791, Florida Statutes, is
399 created to read:

400 381.00791 Local laws and ordinances.—Sections 381.00771-
401 381.00791 do not preempt any local law or ordinance of a county
402 or municipality that imposes regulations on tattoo
403 establishments, temporary establishments, tattoo artists, or the
404 practice of tattooing which are in addition to those sections.

405 Section 12. This act shall take effect January 1, 2012.