

By the Committee on Health Regulation; and Senator Sobel

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

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30 amending s. 877.04, F.S.; prohibiting the tattooing of
31 a minor child except under certain circumstances;
32 providing penalties; providing exceptions; creating s.
33 381.00789, F.S.; requiring the department to adopt
34 rules to administer the act; creating s. 381.00791,
35 F.S.; providing that specified provisions do not
36 preempt certain local laws and ordinances; providing
37 an effective date.

38
39 Be It Enacted by the Legislature of the State of Florida:

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

43 381.00771 Definitions of terms used in ss. 381.00771-
44 381.00791.-As used in ss. 381.00771-381.00791, the term:

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

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

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

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

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

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

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

66 (7) "Tattoo artist" means a person licensed under ss.
67 381.00771-381.00791 to practice tattooing.

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

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

75 Section 2. Section 381.00773, Florida Statutes, is created
76 to read:

77 381.00773 Application of ss. 381.00771-381.00791;
78 exemption.-

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

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

87 Section 3. Section 381.00775, Florida Statutes, is created

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88 to read:

89 381.00775 Tattoo artists; licensure; registration of guest
90 tattoo artists.-91 (1) Except as provided in s. 381.00773, a person may not
92 tattoo the body of any human being in this state unless the
93 person is licensed as a tattoo artist or registered as a guest
94 tattoo artist under this section.95 (2) (a) A person seeking licensure as a tattoo artist must
96 apply to the department in the format prescribed by the
97 department. An application must include:98 1. The name and residence address of the applicant.99 2. The name and street address of each tattoo establishment
100 and temporary establishment at which the applicant intends to
101 practice tattooing in this state.102 (b) The department shall issue a license to an applicant
103 who:104 1. Is 18 years of age or older.105 2. Submits a completed application.106 3. Pays the applicable license fee established in s.
107 381.00781.108 4. Submits proof of successful completion of an education
109 course approved by the department on blood-borne pathogens and
110 communicable diseases.111 5. Submits proof of passage of an examination approved by
112 the department on the material presented in the education
113 course.114 (c) The department shall approve one or more education
115 courses and examinations that allows a person to complete the
116 requirements of subparagraphs (b)4. and 5. in person or through

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117 an Internet website.

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

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

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

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

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

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

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

138 1. Is 18 years of age or older.

139 2. Submits a completed application.

140 3. Pays the applicable registration fee established in s.
141 381.00781.

142 4. Holds an active license, registration, or certification
143 issued by a jurisdiction outside this state, whether by another
144 state, the District of Columbia, any possession or territory of
145 the United States, or any foreign jurisdiction, if:

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

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

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

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

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

160 Section 4. Section 381.00777, Florida Statutes, is created
161 to read:

162 381.00777 Tattoo establishments; licensure; temporary
163 establishments.—

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

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

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

174 (a) The registered business name, including any fictitious

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175 names under which the tattoo establishment conducts business in
176 the state.

177 (b) The street address and telephone number of the tattoo
178 establishment.

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

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

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

185 (a) The applicant submits a completed application.

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

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

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

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

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

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

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

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204 Section 5. Section 381.00779, Florida Statutes, is created
205 to read:

206 381.00779 Practice requirements.-

207 (1) A tattoo establishment or temporary establishment must:

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

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

214 (c) Maintain sanitary conditions at all times in the
215 establishment.

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

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

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

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

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

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

228 (c) Maintain sanitary conditions at all times in an
229 establishment.

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

232 (3) A tattoo artist or guest tattoo artist may tattoo the

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

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

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

248 381.00781 Fees; disposition.—

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

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

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

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

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

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

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

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

273 381.00783 Grounds for discipline; administrative
274 penalties.—

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

281 (a) Providing false information on an application for
282 licensure or registration.

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

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

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

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

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

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

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

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

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

309 (c) Imposition of an administrative fine not to exceed
310 \$1,500 for each count or separate violation.

311 (d) Issuance of a reprimand.

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

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

316 (g) Corrective action.

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

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320 endanger the public health.

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

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

325 381.00785 Criminal penalties.—

326 (1) A person may not:

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

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

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

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

337 (2) A person who violates this section commits a
338 misdemeanor of the second degree, punishable as provided in s.
339 775.082 or s. 775.083.

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

343 381.00787 ~~877.04~~ Tattooing prohibited; penalty.—

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

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349 459, or chapter 466, ~~or by a person under his or her general~~
350 ~~supervision as defined by the Board of Medicine.~~

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

354 (3) A person may not tattoo the ~~Ne~~ body of a minor child
355 who is at least 16 years of age, but younger than 18 years of
356 age, unless:

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

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

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

365 (d) The parent or legal guardian submits proof that he or
366 she is the parent or legal guardian of the minor child; and

367 (e) The tattooing is performed by a tattoo artist or guest
368 tattoo artist licensed under ss. 381.00771-381.00791 or a person
369 licensed to practice medicine or dentistry under chapter 458,
370 chapter 459, or chapter 466.

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

376 (a) The person carefully inspects what appears to be a
377 government-issued photo identification that represents that the

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378 minor child is 18 years of age or older.

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

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

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

388 381.00789 Rulemaking.—The department shall adopt rules to
389 administer ss. 381.00771-381.00791. Such rules may include, but
390 are not limited to, rules defining terms; prescribing
391 educational requirements for tattoo artists and guest tattoo
392 artists, health and safety requirements, sanitation practices,
393 and sterilization requirements and procedures; and providing
394 requirements for tattoo equipment, customer notification, the
395 contents of customer records, the retention of records, and
396 physical plants. The department shall consult with
397 representatives of the tattooing industry in this state during
398 the development of such rules.

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

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

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