

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 456 Session of  
2017INTRODUCED BY DeLUCA, READSHAW, WATSON, MURT, MILLARD, V. BROWN,  
D. COSTA AND IRVIN, FEBRUARY 13, 2017AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES,  
AS AMENDED, DECEMBER 4, 2017

## AN ACT

1 Regulating tattoo, body-piercing and corrective cosmetic  
2 artists; limiting tongue splitting; providing for powers and  
3 duties of the Department of Health; and imposing penalties.

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2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Tattoo, Body-  
6 Piercing and Corrective Cosmetic Artists Act.

7 Section 2. Legislative intent.

8 It is the intent of the General Assembly to direct the  
9 department to establish health standards for the practice of  
10 tattooing, body piercing and corrective cosmetics within this  
11 Commonwealth. The health standards will be achieved through the  
12 imposition of regulations and the registration of all tattoo  
13 artists, body-piercing artists and corrective cosmetic artists  
14 with the department.

15 Section 3. Definitions.

16 The following words and phrases when used in this act shall  
17 have the meanings given to them in this section unless the  
18 context clearly indicates otherwise:

19 "Body piercing." The process of breaching the skin or mucous  
20 membrane for the purpose of insertion of any object, including,  
21 but not limited to, jewelry for cosmetic purposes. The term does  
22 not include ear piercing or nail piercing.

23 "Body-piercing artist." A individual who performs body  
24 piercing or operates, conducts or manages a body-piercing  
25 establishment.

26 "Corrective cosmetic artist." A individual who performs  
27 corrective cosmetics.

28 "Corrective cosmetics." The application of a tattoo on a  
29 live human being for medical situations that otherwise could not  
30 be corrected or improved, including, but not limited to, burn

1 scars, acne scars, age spots and skin discoloration due to loss  
2 of pigmentation.

3 "Department." The Department of Health of the Commonwealth.

4 "Facial tattoo." A tattoo applied above the neck, including,  
5 but not limited to, eyelids, eyebrows or lips.

6 "Infectious disease." A disease of humans or animals  
7 resulting from a transmissible infection, whether or not patent,  
8 apparent, inapparent, latent, clinical or subclinical.

9 "Registry." The Tattoo, Body-piercing and Corrective  
10 Cosmetic Artists Central Registry established under section 4.

11 "Sanitization." The reduction of the population of  
12 microorganisms to safe levels as determined by public health  
13 officials.

14 "Sterilization." The process of destruction of the forms of  
15 life by physical or chemical means.

16 "Tattoo." The indelible mark, figure or decorative design  
17 introduced by insertion of nontoxic dyes or pigments into or  
18 under the subcutaneous portion of the skin or by the production  
19 of scars upon the body of a live human being.

20 "Tattoo artist." A individual who performs tattooing or  
21 operates, conducts or manages a tattoo establishment.

22 "Tattooing." The process by which the skin is marked or  
23 colored by insertion of nontoxic dyes or pigments into or under  
24 the subcutaneous portion of the skin so as to form indelible  
25 marks for cosmetic or figurative purposes.

26 "Temporary establishment." An establishment that:

27 (1) performs tattooing, body piercing or both;

28 (2) is operated by an individual registered under this  
29 act; and

30 (3) operates outside of a registered facility at a fixed

location for a period of time of not more than seven consecutive days in conjunction with a single event or celebration.

"Tongue splitting." The cutting of a human tongue into two or more parts.

#### Section 4. Registry.

The department shall, by regulation, establish the Tattoo, Body-Piercing and Corrective Cosmetic Artists Central Registry.

A individual who performs tattooing, body-piercing or corrective cosmetic services within this Commonwealth must meet the requirements of this act and register with the department on forms provided by the department.

#### Section 5. Powers and duties of department.

(a) General rule.--The department ~~may~~ SHALL adopt regulations as are reasonably necessary to carry out the provisions of this act. A regulation must be adopted in conformity with the provisions of the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, and must include, but not be limited to:

(1) Tattoo, body-piercing and corrective cosmetic establishment registration and facility registration requirements, including, but not limited to:

(i) Physical location.

(ii) Specifications of walls, ceilings, floors, partitions, fixtures, equipment and other appurtenances.

(iii) Lighting.

(iv) Ventilation.

(v) Water supply.

(vi) Liquid waste disposal.

(vii) Refuse storage and disposal.

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- (viii) Toilets and lavatories.
- (ix) Sinks.
- (x) Insect and rodent control.
- (2) Temporary establishment registration requirements.
- (3) Tattoo artist and body-piercing artist registration requirements.
- (4) Apprentice tattoo artist and body-piercing artist registration requirements.
- (5) Development and maintenance of and registration in the registry.
- (6) Tattoo artist and body-piercing artist hygiene.
- (7) Health, sanitization, sterilization and safety standards for tattoo, body-piercing or corrective cosmetic establishments and temporary establishments.
- (8) Tattoo and body-piercing establishment and temporary establishment recordkeeping.
- (9) Qualifications for the registration of corrective cosmetic artists.
- (10) Tongue splitting.
- (b) Examination.--The department shall require the successful completion of a written examination regarding health, sanitization, sterilization and safety standards prior to issuing a registration to a tattoo artist, body-piercing artist or corrective cosmetic artist.
- (c) Registration.--The department shall register:
  - (1) An applicant who successfully passes the examination and meets the requirements for registration in accordance with the regulations promulgated under this act.
  - (2) A tattoo or body-piercing establishment or temporary establishment that has been inspected and meets facility

1 requirements in accordance with the regulations where  
2 tattooing, body-piercing or corrective cosmetic services will  
3 be performed.

4 (d) Inspection.--The department shall inspect an  
5 establishment at which tattooing, body piercing or corrective  
6 cosmetics are performed prior to issuing a facility  
7 registration. The department may conduct inspections of  
8 registered facilities and temporary establishments. The  
9 inspection shall insure that required sterilization, sanitation  
10 and safety standards are maintained.

11 (e) Fees.--Any fee required under this act shall be fixed by  
12 the department by regulation and shall be subject to the  
13 Regulatory Review Act.

14 (f) Limitation.--This act may not be construed to permit the  
15 department to regulate artistic aspects of tattooing, body  
16 piercing or corrective cosmetics that are unrelated to health,  
17 sanitization, sterilization or safety standards.

18 (g) Departmental actions.--An action of the department in  
19 accordance with this act that results in a refusal to issue a  
20 registration for a reason other than failure to pass the written  
21 examination required under subsection (b) or action that  
22 suspends or revokes a registration shall be subject to the right  
23 of notice, hearing and adjudication and the right of appeal  
24 therefrom in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating  
25 to practice and procedure of Commonwealth agencies).

26 Section 6. Duties and responsibilities of artists.

27 (a) Health of tattoo artists and body-piercing artists.--The  
28 department shall establish, by regulation, minimum health  
29 standards for the registrants and individuals working in an area  
30 of a tattoo or body-piercing establishment that may be necessary

1 to prevent the contamination of tattoo or body-piercing  
2 equipment, supplies or work surfaces with pathogenic organisms.

3 (b) Infectious disease.--A notarized statement from a  
4 licensed physician shall be provided to the department, prior to  
5 the issuance of a registration under this act, confirming that  
6 the artist was examined by the physician, a test of the artist's  
7 blood was made and the results of the test indicate that:

8 (1) the artist is free from all contagious and  
9 infectious diseases, including hepatitis B;

10 (2) the artist has either completed or was offered and  
11 declined a vaccination series;

12 (3) antibody testing reveals that the artist is immune  
13 to certain diseases; or

14 (4) a vaccine is contradicted for medical reasons.

15 (c) Notifications.--Verbal and written instructions for the  
16 care of the tattooed or pierced site on the body shall be  
17 provided to a customer by the tattoo artist or body-piercing  
18 artist upon the completion of the procedure. The written  
19 instructions shall advise the customer to consult a physician at  
20 the first sign of infection and contain the name, address and  
21 telephone number of the tattoo or body-piercing establishment.

22 Section 7. Minors.

23 (a) Prohibitions.--A individual may not perform a tattooing  
24 or body-piercing service on another individual under 18 years of  
25 age without the written consent of a parent or legal guardian of  
26 the other individual.

27 (b) Regulations.--The department shall promulgate  
28 regulations establishing standards for verification of age and  
29 documentation of consent.

30 (c) Revocation.--A individual who performs a tattooing or

1 body-piercing service on a body part of a individual under 18  
2 years of age without proper consent as established under  
3 subsection (a) shall have the registration under this act  
4 revoked for two years.

5 (d) Registration.--A individual who violates subsection (a)  
6 may not be registered for two years from the date of violation  
7 or revocation, whichever is later.

8 Section 8. Municipalities.

9 (a) Authority of municipality.--The following shall apply:

10 (1) This act shall not supersede the power of a  
11 municipality to:

12 (i) inspect a tattoo or body-piercing establishment  
13 or temporary establishment;

14 (ii) regulate the manner in which tattooing or body  
15 piercing may be performed;

16 (iii) levy a lawful tax or fee; and

17 (iv) require the purchase of a business privilege  
18 license unrelated to competence in the practice of  
19 tattooing or body piercing.

20 (2) A municipality may not require a tattoo artist or  
21 body-piercing artist registered under this act to obtain a  
22 municipal license to engage in a tattoo, temporary tattoo or  
23 body-piercing service in the municipality.

24 (3) This act shall not preclude a municipality from  
25 denying or revoking a local permit for failure to comply with  
26 a local ordinance that is consistent with this act or  
27 regulations of the department promulgated under this act.

28 (b) Failure to comply with local ordinance.--A registrant  
29 under this act who fails to comply with a municipal ordinance  
30 concerning the inspection of tattoo or body-piercing



1 establishments or temporary establishments, or the manner in  
2 which the municipality requires tattoo and body-piercing  
3 services to be performed, shall be subject to disciplinary  
4 proceedings under this act.

5 Section 9. Unlawful acts.

6 (a) Unregistered practice.--Unless a individual has been  
7 duly registered and authorized to engage in practice under this  
8 act, the individual may not:

9 (1) practice tattooing, body piercing or corrective  
10 cosmetics;

11 (2) hold himself out as a practitioner of or entitled or  
12 authorized to practice tattooing, body piercing or corrective  
13 cosmetics; or

14 (3) assume the title of "tattooist," "tattoo artist,"  
15 "body piercer," "body-piercing artist," "corrective cosmetics  
16 artist" or other letters or titles in connection with the  
17 individual's name that represents himself as being engaged or  
18 authorized in the practice of tattooing, body piercing or  
19 corrective cosmetics.

20 (b) Unregistered facilities.--A individual may not operate a  
21 tattoo, body-piercing or corrective cosmetic establishment or  
22 temporary establishment that is not registered with the  
23 department.

24 (c) Injections.--A tattoo artist, body-piercing artist or  
25 corrective cosmetic artist may not administer an anesthetic  
26 injection or other medication or prescription drug.

27 (d) Facial tattoos.--Other than a corrective cosmetic artist  
28 registered under this act, or a physician or surgeon licensed in  
29 this Commonwealth, a individual may not perform a facial tattoo  
30 service on another individual.

1 Section 10. Tongue splitting limitation.

2 (a) General rule.--A individual may not perform tongue  
3 splitting on another individual unless the tongue splitting is  
4 performed by a physician or dentist licensed in this  
5 Commonwealth.

6 (b) Grading.--A individual who violates the provisions of  
7 this section commits a misdemeanor of the first degree for a  
8 first offense and a felony of the third degree for a second or  
9 subsequent offense.

10 Section 11. Disciplinary matters.

11 (a) General.--The department may suspend or revoke a  
12 registration issued under this act for any of the following  
13 reasons:

14 (1) Failing to demonstrate the qualifications or  
15 standards for a registration contained in this act or  
16 regulations of the department.

17 (2) Making misleading, deceptive, untrue or fraudulent  
18 representations in obtaining a registration.

19 (3) Being unable to practice with reasonable skill and  
20 safety to the public by reason of illness, addiction to drugs  
21 or alcohol, having been convicted of a felonious act  
22 prohibited by the act of April 14, 1972 (P.L.233, No.64),  
23 known as The Controlled Substance, Drug, Device and Cosmetic  
24 Act, or convicted of a felony relating to a controlled  
25 substance in a court of law of the United States or another  
26 state, territory, possession or country, or of mental  
27 incompetency. An applicant's statement on the application  
28 declaring the absence of a conviction shall be deemed  
29 satisfactory evidence of the absence of a conviction unless  
30 the department has evidence to the contrary.

1           (4) Violating a lawful regulation promulgated by the  
2           department or violating a lawful order of the department  
3           previously entered by the department in a disciplinary  
4           proceeding.

5           (5) Knowingly maintaining a professional connection or  
6           association with a individual who is in violation of this act  
7           or regulation of the department or knowingly aiding,  
8           assisting, procuring or advising an unregistered individual  
9           to practice a profession contrary to this act or regulations  
10          of the department.

11          (6) Acting in a manner that presents an immediate and  
12          clear danger to public health or safety.

13          (7) Making a false or deceptive biennial registration  
14          with the department.

15          (b) Authorized actions.--In addition to taking disciplinary  
16          or corrective action against a registrant under this act or  
17          under other statutory authority, the department may:

18               (1) Deny the application for a registration or another  
19               privilege granted by the department.

20               (2) Revoke, suspend, limit or otherwise restrict a  
21               registration.

22               (3) Stay enforcement of a suspension and place a  
23               registrant on probation with the right to vacate the  
24               probationary order for noncompliance.

25          (c) Failure to comply with conditions.--Failure of a  
26          registrant to comply with the conditions required by the  
27          department shall be grounds for reconsideration of the matter  
28          and institution of formal charges against the registrant.

29          (d) Reinstatement of registration.--Unless ordered to do so  
30          by the Commonwealth Court or on appeal therefrom, the department

1 may not reinstate the registration of a individual that has been  
2 revoked for two years from the date of violation or revocation,  
3 whichever is later. A individual whose registration has been  
4 revoked may apply for reinstatement, after a period of at least  
5 two years, but must meet the registration requirements of this  
6 act, including the examination requirement, if the individual  
7 desires to practice the art of tattooing, body piercing or  
8 corrective cosmetics under this act after the revocation.

9 (e) Surrender of suspended or revoked registration.--The  
10 department shall require a individual whose registration has  
11 been suspended or revoked to return the registration in the  
12 manner as the department directs.

#### 13 Section 12. Penalties.

14 A individual who violates a provision of this act commits a  
15 misdemeanor of the third degree and shall, upon conviction, be  
16 sentenced to pay a fine of not more than \$1,000 or to  
17 imprisonment for not more than three months, or both.

#### 18 Section 13. Injunctive relief.

19 A individual may not practice or attempt to offer to practice  
20 tattooing, body piercing or corrective cosmetics without having  
21 at the time of so doing a valid, unexpired, unrevoked and  
22 unsuspended registration issued under this act. The unlawful  
23 practice of tattooing, body piercing or corrective cosmetics may  
24 be enjoined by a court on petition of the department. It shall  
25 be unnecessary to show that a individual is individually injured  
26 by the actions complained of in the proceeding. If it is found  
27 that the respondent has engaged in the unlawful practice of  
28 tattooing or body piercing, a court of competent jurisdiction  
29 shall enjoin the respondent from so practicing unless and until  
30 the respondent registers with the department. The procedure in

such cases shall be the same as in any other injunction suit.  
The remedy by injunction authorized by this section shall be in addition to any other civil or criminal prosecution and punishment authorized by law.

Section 14. Exemptions.

(a) General rule.--This act shall not prevent:

(1) a physician or surgeon licensed in this Commonwealth from performing body-piercing or tattooing services for medical reasons; or

(2) a funeral director licensed in this Commonwealth from performing body-piercing or tattooing services as required by the profession.

(b) Physician-based corrective cosmetics establishments.-- This act shall not require the registration of corrective cosmetics establishments physically located in a licensed physician's office, hospital or clinic. The establishments shall be exempt from facility requirements as provided for in section 5(a)(1).

Section 15. Effective date.

This act shall take effect as follows:

(1) Section 5(a) shall take effect in two years.

(2) Section 10 shall take effect in 60 days.

(3) This section shall take effect immediately.

(4) The remainder of this act shall take effect in 180 days.