

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 AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 10, 2018

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.

TABLE OF CONTENTS

- 4
- 5 Section 1. Short title.
- 6 Section 2. Legislative intent.
- 7 Section 3. Definitions.
- 8 Section 4. Registry.
- 9 Section 5. Powers and duties of department.
- 10 Section 6. Duties and responsibilities of artists.
- 11 Section 7. Minors.
- 12 Section 8. Municipalities.
- 13 Section 9. Unlawful acts.
- 14 Section 10. Tongue splitting limitation.
- 15 Section 11. Disciplinary matters.
- 16 Section 12. Penalties.
- 17 Section 13. Injunctive relief.
- 18 Section 14. Exemptions.

1 Section 15. Effective date.

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 AN individual who performs body <--
24 piercing or operates, conducts or manages a body-piercing
25 establishment.

26 "Corrective cosmetic artist." A AN 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 "OCULAR TATTOOING." ANY METHOD OF PLACING INK OR OTHER INERT <--
10 PIGMENT INTO THE MUCOSA, CORNEA, SCLERA OR IRIS OF THE EYE BY
11 THE AID OF NEEDLES OR ANY OTHER INSTRUMENT USED TO PUNCTURE THE
12 EYE AND WHICH METHOD RESULTS IN PERMANENT COLORATION OF THE EYE
13 OR MUCOSA FOR COSMETIC PURPOSES.

14 "Registry." The Tattoo, ~~Body piercing~~ BODY-PIERCING and <--
15 Corrective Cosmetic Artists Central Registry established under
16 section 4.

17 "Sanitization." The reduction of the population of
18 microorganisms to safe levels as determined by public health
19 officials.

20 "Sterilization." The process of destruction of the forms of
21 life by physical or chemical means.

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

26 "Tattoo artist." ~~A~~ AN individual who performs tattooing or <--
27 operates, conducts or manages a tattoo establishment.

28 "Tattooing." The process by which the skin is marked or
29 colored by insertion of nontoxic dyes or pigments into or under
30 the subcutaneous portion of the skin so as to form indelible

1 marks for cosmetic or figurative purposes.

2 "Temporary establishment." An establishment that:

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

4 (2) is operated by an individual registered under this
5 act; and

6 (3) operates outside of a registered facility at a fixed
7 location for a period of time of not more than seven
8 consecutive days in conjunction with a single event or
9 celebration.

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

12 Section 4. Registry.

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

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

19 Section 5. Powers and duties of department.

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

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

29 (i) Physical location.

30 (ii) Specifications of walls, ceilings, floors,

1 partitions, fixtures, equipment and other appurtenances.

2 (iii) Lighting.

3 (iv) Ventilation.

4 (v) Water supply.

5 (vi) Liquid waste disposal.

6 (vii) Refuse storage and disposal.

7 (viii) Toilets and lavatories.

8 (ix) Sinks.

9 (x) Insect and rodent control.

10 (2) Temporary establishment registration requirements.

11 (3) Tattoo artist and body-piercing artist registration
12 requirements.

13 (4) Apprentice tattoo artist and body-piercing artist
14 registration requirements.

15 (5) Development and maintenance of and registration in
16 the registry.

17 (6) Tattoo artist and body-piercing artist hygiene.

18 (7) Health, sanitization, sterilization and safety
19 standards for tattoo, body-piercing or corrective cosmetic
20 establishments and temporary establishments.

21 (8) Tattoo and body-piercing establishment and temporary
22 establishment recordkeeping.

23 (9) Qualifications for the registration of corrective
24 cosmetic artists.

25 (10) Tongue splitting.

26 (b) Examination.--The department shall require the
27 successful completion of a written examination regarding health,
28 sanitization, sterilization and safety standards prior to
29 issuing a registration to a tattoo artist, body-piercing artist
30 or corrective cosmetic artist. THE DEPARTMENT SHALL PRESCRIBE <--

1 THE SUBJECTS OF EXAMINATION, WHICH SHALL INCLUDE THE
2 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION STANDARD FOR
3 BLOODBORNE PATHOGENS AND OTHER HEALTH, SANITATION, STERILIZATION
4 AND SAFETY STANDARDS.

5 (c) Registration.--The department shall register:

6 (1) An applicant who successfully passes the examination
7 and meets the requirements for registration in accordance
8 with the regulations promulgated under this act.

9 (2) A tattoo or body-piercing establishment or temporary
10 establishment that has been inspected and meets facility
11 requirements in accordance with the regulations where
12 tattooing, body-piercing or corrective cosmetic services will
13 be performed.

14 (d) Inspection.--The department shall inspect an
15 establishment at which tattooing, body piercing or corrective
16 cosmetics are performed prior to issuing a AN INITIAL facility <--
17 ~~registration. The department may conduct inspections of~~ <--
18 ~~registered facilities and temporary establishments.~~ REGISTRATION <--
19 AND SHALL RANDOMLY INSPECT 20% OF ALL REGISTERED FACILITIES EACH
20 YEAR THEREAFTER. The inspection shall ~~insure~~ ENSURE that <--
21 required sterilization, sanitation and safety standards are
22 maintained.

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

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

30 (g) Departmental actions.--An action of the department in

1 accordance with this act that results in a refusal to issue a
2 registration for a reason other than failure to pass the written
3 examination required under subsection (b) or action that
4 suspends or revokes a registration shall be subject to the right
5 of notice, hearing and adjudication and the right of appeal
6 therefrom in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating
7 to practice and procedure of Commonwealth agencies).

8 Section 6. Duties and responsibilities of artists.

9 (a) Health of tattoo artists and body-piercing artists.--The
10 department shall establish, by regulation, minimum health
11 standards for the registrants and individuals working in an area
12 of a tattoo or body-piercing establishment that may be necessary
13 to prevent the contamination of tattoo or body-piercing
14 equipment, supplies or work surfaces with pathogenic organisms.

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

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

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

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

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

27 (c) Notifications.--Verbal and written instructions for the
28 care of the tattooed or pierced site on the body shall be
29 provided to a customer by the tattoo artist or body-piercing
30 artist upon the completion of the procedure. The written

1 instructions shall advise the customer to consult a physician at
2 the first sign of infection and contain the name, address and
3 telephone number of the tattoo or body-piercing establishment.

4 Section 7. Minors.

5 ~~(a) Prohibitions. A individual may not perform a tattooing~~ <--

6 (A) PROHIBITIONS.-- <--

7 (1) AN INDIVIDUAL MAY NOT PERFORM A TATTOOING or body-
8 piercing service on another individual under 18 years of age
9 without the written consent of a parent or legal guardian of
10 the other individual.

11 (2) NOTWITHSTANDING PARAGRAPH (1), AN INDIVIDUAL MAY NOT <--
12 PERFORM A TATTOOING OR BODY-PIERCING SERVICE ON THE GENITALS
13 OF ANOTHER INDIVIDUAL WHO IS UNDER 18 YEARS OF AGE AND IS NOT
14 EMANCIPATED.

15 (b) Regulations.--The department shall promulgate
16 regulations establishing standards for verification of age and
17 documentation of consent.

18 (c) Revocation.--~~A~~ AN individual who performs a tattooing or <--
19 body-piercing service on a body part of ~~a~~ AN individual under 18 <--
20 years of age without proper consent as established under
21 subsection (a) shall have the registration under this act
22 revoked for two years.

23 (d) Registration.--~~A~~ AN individual who violates subsection <--
24 (a) may not be registered for two years from the date of
25 violation or revocation, whichever is later.

26 Section 8. Municipalities.

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

28 (1) This act shall not supersede the power of a
29 municipality to:

30 (i) inspect a tattoo or body-piercing establishment

1 or temporary establishment;

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

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

5 (iv) require the purchase of a business privilege
6 license unrelated to competence in the practice of
7 tattooing or body piercing.

8 (2) A municipality may not require a tattoo artist or
9 body-piercing artist registered under this act to obtain a
10 municipal license to engage in a tattoo, temporary tattoo or
11 body-piercing service in the municipality.

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

16 (b) Failure to comply with local ordinance.--A registrant
17 under this act who fails to comply with a municipal ordinance
18 concerning the inspection of tattoo or body-piercing
19 establishments or temporary establishments, or the manner in
20 which the municipality requires tattoo and body-piercing
21 services to be performed, shall be subject to disciplinary
22 proceedings under this act.

23 Section 9. Unlawful acts.

24 (a) Unregistered practice.--Unless ~~a~~ AN individual has been <--
25 duly registered and authorized to engage in practice under this
26 act, the individual may not:

27 (1) practice tattooing, body piercing or corrective
28 cosmetics;

29 (2) hold himself out as a practitioner of or entitled or
30 authorized to practice tattooing, body piercing or corrective

cosmetics; or

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

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

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

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

(D) OCULAR TATTOOING.--AN INDIVIDUAL MAY NOT PERFORM OCULAR TATTOOING UNLESS THE PROCEDURE IS PERFORMED UNDER THE DIRECTION OF A PHYSICIAN OR OTHER AUTHORIZED HEALTH CARE PRACTITIONER. <--

Section 10. Tongue splitting limitation.

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

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

1 Section 11. Disciplinary matters.

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

5 (1) Failing to demonstrate the qualifications or
6 standards for a registration contained in this act or
7 regulations of the department.

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

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

22 (4) Violating a lawful regulation promulgated by the
23 department or violating a lawful order of the department
24 previously entered by the department in a disciplinary
25 proceeding.

26 (5) Knowingly maintaining a professional connection or
27 association with a AN individual who is in violation of this <--
28 act or regulation of the department or knowingly aiding,
29 assisting, procuring or advising an unregistered individual
30 to practice a profession contrary to this act or regulations

1 of the department.

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

4 (7) Making a false or deceptive biennial registration
5 with the department.

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

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

11 (2) Revoke, suspend, limit or otherwise restrict a
12 registration.

13 (3) Stay enforcement of a suspension and place a
14 registrant on probation with the right to vacate the
15 probationary order for noncompliance.

16 (c) Failure to comply with conditions.--Failure of a
17 registrant to comply with the conditions required by the
18 department shall be grounds for reconsideration of the matter
19 and institution of formal charges against the registrant.

20 (d) Reinstatement of registration.--Unless ordered to do so
21 by the Commonwealth Court or on appeal therefrom, the department
22 may not reinstate the registration of ~~a~~ AN individual that has <--
23 been revoked for two years from the date of violation or
24 revocation, whichever is later. ~~A~~ AN individual whose <--
25 registration has been revoked may apply for reinstatement, after
26 a period of at least two years, but must meet the registration
27 requirements of this act, including the examination requirement,
28 if the individual desires to practice the art of tattooing, body
29 piercing or corrective cosmetics under this act after the
30 revocation.

1 (e) Surrender of suspended or revoked registration.--The
2 department shall require a AN individual whose registration has <--
3 been suspended or revoked to return the registration in the
4 manner as the department directs.

5 Section 12. Penalties.

6 A AN individual who violates a provision of this act ~~commits~~ <--
7 ~~a misdemeanor of the third degree and shall, upon conviction, be~~
8 ~~sentenced to pay a fine of not more than \$1,000 or to~~
9 ~~imprisonment for not more than three months, or both.~~ SHALL BE <--

10 SUBJECT TO THE FOLLOWING PENALTIES:

11 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2):

12 (I) FOR A FIRST VIOLATION, A MONETARY PENALTY OF NOT
13 MORE THAN \$500.

14 (II) FOR A SECOND VIOLATION, A MONETARY PENALTY OF
15 NOT MORE THAN \$1,000.

16 (III) FOR A THIRD OR SUBSEQUENT VIOLATION IN A TWO-
17 YEAR PERIOD, A MONETARY PENALTY OF \$1,000 AND REVOCATION
18 OF REGISTRATION FOR THE NEXT CALENDAR YEAR.

19 (2) IF THE VIOLATION CONSTITUTES INTENTIONAL
20 ENDANGERMENT OF THE PUBLIC HEALTH AND SAFETY, A MISDEMEANOR
21 OF THE THIRD DEGREE.

22 Section 13. Injunctive relief.

23 A AN individual may not practice or attempt to offer to <--
24 practice tattooing, body piercing or corrective cosmetics
25 without having at the time of so doing a valid, unexpired,
26 unrevoked and unsuspended registration issued under this act.
27 The unlawful practice of tattooing, body piercing or corrective
28 cosmetics may be enjoined by a court on petition of the
29 department. It shall be unnecessary to show that a AN individual <--
30 is individually injured by the actions complained of in the

proceeding. If it is found that the respondent has engaged in the unlawful practice of tattooing or body piercing, a court of competent jurisdiction shall enjoin the respondent from so practicing unless and until 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~~ <--
OR OTHER HEALTH CARE PRACTITIONER LICENSED, REGISTERED OR <--
CERTIFIED IN THIS COMMONWEALTH, ACTING WITHIN THE PHYSICIAN'S
OR PRACTITIONER'S SCOPE OF PRACTICE, 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

1 days.