

LEGISLATIVE REFERENCE BUREAU

2013D00830DMS : EAZ

L.R.B. Form No. 4 (Rev. 3/25/10)

No. _____

LEGISLATIVE REFERENCE BUREAU

AN ACT

Regulating tattoo, body-piercing and permanent-cosmetic artists; limiting tongue splitting; providing for powers and duties of the Department of Health; establishing the Body Art Regulation Fund; and imposing penalties.

INTRODUCED _____ 20_____

By _____ District NO. _____

By _____ District NO. _____

By _____ District NO. _____

By _____ District NO. _____

See next page for additional co-sponsors.

Referred to Committee on	
Date _____	20_____
Reported _____	20_____
As Committed-Amended	
Recommendation	

By Hon. _____	

AN ACT

1 Regulating tattoo, body-piercing and permanent-cosmetic artists;
2 limiting tongue splitting; providing for powers and duties of
3 the Department of Health; establishing the Body Art
4 Regulation Fund; and imposing penalties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Body Art
9 Establishment Regulation Act.

10 Section 2. Definitions.

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

14 "Apprentice." A person who performs the art of tattooing,
15 permanent cosmetics or body piercing under the direct
16 supervision of a practitioner in order to learn body art
17 procedures.

18 "Body art." The practice of physical body adornment in
19 permitted establishments by operators utilizing, but not limited

1 to, the following techniques:

2 (1) Body piercing.

3 (2) Tattooing.

4 (3) Permanent cosmetics.

5 "Body art establishment." A place or premise, whether public
6 or private, temporary or permanent in nature and location, where
7 body art, whether or not for profit, is performed.

8 "Body piercing." Puncturing or penetrating the skin for the
9 purpose of insertion of any object, including, but not limited
10 to, jewelry for cosmetic purposes. The term does not include ear
11 piercing or nail piercing.

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

13 "Equipment." All machinery, including fixtures, containers,
14 vessels, tools, devices, implements, furniture, display and
15 storage areas, sinks and all other apparatus and appurtenances
16 used in conjunction with the operation of a body art
17 establishment.

18 "Establishment." A physical place of business, permanent in
19 nature, and includes all areas used by a practitioner and the
20 practitioner's customers, including, but not limited to,
21 treatment areas, waiting areas and reception areas.

22 "Infectious disease." A disease of humans or animals that
23 results from a transmissible infection, whether or not patent,
24 apparent, inapparent, latent, clinical or subclinical.

25 "Operator." The owner or an owner's designee who has
26 ownership, control or custody of any place of business or
27 employment and manages the day-to-day operations of a body art
28 establishment.

29 "Person." An individual, partnership, corporation or
30 association.

1 "Permanent cosmetics." The implanting of inert pigments,
2 colors or dyes intradermally which results in permanent
3 alteration of tissue to gain a cosmetic effect.

4 "Practitioner." A person who performs the act of tattooing,
5 permanent cosmetics or body piercing.

6 "Sanitization." The reduction of the population of
7 microorganisms to safe levels as determined by public health
8 officials.

9 "Sterilization." A process that results in the destruction
10 of all forms of microbial life, including, but not limited to,
11 highly resistant bacterial spores.

12 "Tattooing." A method of placing ink or other inert pigment
13 into or under the skin or mucosa by the aid of needles or any
14 other instrument used to puncture the skin and which method
15 results in permanent coloration of the skin or mucosa. This term
16 includes any form of permanent cosmetics.

17 "Temporary establishment." An establishment that performs
18 body art services, is operated by an operator licensed under
19 this act and operates outside of the licensed facility for a
20 period of time of not more than seven consecutive days in
21 conjunction with a single event.

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

24 Section 3. Powers and duties of department.

25 (a) General rule.--The department, in the exercise of its
26 duties under this act, may adopt such regulations as are
27 reasonably necessary to carry out the purposes of this act.
28 Regulations shall be adopted in conformity with the provision of
29 the act of June 25, 1982 (P.L.633, No.181), known as the
30 Regulatory Review Act, and shall include, but not be limited to:

1 (1) Body art establishment license requirements,
2 including, but not limited to:

3 (i) Physical location.

4 (ii) Specifications of walls, ceilings, floors,
5 partitions, fixtures and equipment.

6 (iii) Lighting

7 (iv) Ventilation.

8 (v) Water supply.

9 (vi) Liquid waste disposal.

10 (vii) Refuse storage and disposal.

11 (viii) Toilets and lavatories.

12 (ix) Sinks.

13 (x) Insect and rodent control.

14 (2) Temporary establishment requirements.

15 (3) Operator training requirements.

16 (4) Practitioner training requirements.

17 (5) Apprentice training requirements.

18 (6) Health, sanitization, sterilization and safety
19 standards for body art establishments and temporary
20 establishments.

21 (7) Body art establishment and temporary establishment
22 recordkeeping.

23 Section 4. Licensing and fees.

24 (a) Requirement.--No person may establish, maintain or
25 operate or hold itself out as authorized to establish, maintain
26 or operate a body art establishment without first obtaining a
27 license issued by the department.

28 (b) Application.--A person may apply for a license required
29 under subsection (a) by submitting an application to the
30 department on a form prescribed by the department. The form

1 shall require all of the following:

2 (1) The applicant's legal name, home address and
3 telephone number, full business name, business address and
4 business telephone number. The applicant shall state whether
5 the applicant is an individual, partnership, firm or
6 corporation. If the applicant is a partnership, the names and
7 addresses of the partners shall be included on the
8 application. If the applicant is a corporation, the names and
9 addresses of all corporate offices shall be included on the
10 application.

11 (2) Plans and specifications that illustrate the
12 location of the proposed establishment and a floor plan of
13 the establishment as it is proposed to be operated. The plans
14 shall indicate the layout of the reception area, procedure
15 areas, cleaning and sterilization area, storage area and
16 toilet facilities.

17 (3) A complete description of all services to be
18 provided, the proposed hours of operation, the name of the
19 operator and the names of all practitioners and their exact
20 duties. The applicant shall include a copy of the informed
21 consent for each procedure.

22 (4) The names and addresses of all manufacturers of
23 processing equipment, instruments, jewelry and inks used for
24 any and all body art procedures.

25 (5) A signed and dated certification that the applicant
26 has read and understands the requirements of this act.

27 (6) Any additional information required by the
28 department.

29 (c) Determination.--The department shall issue a license to
30 the applicant upon determination that the applicant meets all of

1 the requirements of this act.

2 (d) Fees.--An applicant must pay a license fee of \$100 per
3 body art establishment. The department may increase fees by
4 regulation in an amount sufficient to cover the cost of annual
5 inspection and administration of this act.

6 (e) Posting.--A licensee shall post its license in a
7 location clearly visible to its customers.

8 (f) Expiration.--A license shall expire annually on the date
9 specified in the license.

10 (g) Renewal.--A licensee must file an application for
11 renewal on a form prescribed by the department prior to
12 expiration of its current license.

13 (h) Nontransferable.--A license shall not be transferable
14 from one person or one body art establishment to another.

15 (i) Denial, suspension or revocation.--The following shall
16 apply to the denial, suspension or revocation of a license:

17 (1) The department may deny, suspend or revoke licensure
18 for any of the following reasons:

19 (i) Submission of false statements in applications,
20 reports, plans or specifications.

21 (ii) For conditions that violate this act.

22 (iii) Operation of the body art establishment in a
23 manner that threatens public health or safety.

24 (iv) Failure to allow the department to enter the
25 body art establishment at reasonable hours for inspection
26 or investigation.

27 (v) Failure to pay the required license fee.

28 (2) (i) Except in cases involving an immediate threat
29 to public health and safety under section 10(c), the
30 department shall, prior to suspension or revocation of a

1 license, provide written notice to the licensee of the
2 facts or conduct which may warrant suspension or
3 revocation and shall provide the licensee with an
4 opportunity to demonstrate or achieve compliance.

5 (ii) The licensee may request an administrative
6 hearing upon receipt of the written notice.

7 Section 5. Inspection.

8 (a) Time.--The department may conduct an initial inspection
9 of a body art establishment after receipt of an application for
10 a license under section 4 and shall randomly inspect licensed
11 facilities each year thereafter.

12 (b) Conduct.--Inspections conducted by the department under
13 this section shall encompass all of the following matters:

14 (1) The operation of the body art establishment.

15 (2) Review of required records and training
16 documentation.

17 (3) Operator understanding and competency.

18 (4) Any other area that is required by this act.

19 Section 6. Duties and responsibilities of practitioners.

20 (a) General health.--The department shall establish by
21 regulation minimum health standards for all practitioners and
22 persons working in any area of a body art establishment which
23 may be necessary to prevent the contamination of body art
24 equipment, supplies or work surfaces with pathogenic organisms.

25 (b) Infectious disease.--A notarized statement from a
26 licensed physician shall be provided to the department, prior to
27 the issuance of a license under this act, that confirms that the
28 practitioner was examined by the physician, a test of the
29 practitioner's blood was made and the results of that test
30 indicate that:

1 (1) the practitioner is free from all contagious and
2 infectious diseases, including hepatitis B;

3 (2) the practitioner has completed a vaccination series;

4 (3) antibody testing reveals that the practitioner is
5 immune to certain diseases;

6 (4) a vaccine is contradicted for medical reasons; or

7 (5) the practitioner has a Blood Borne Pathogen
8 Certification.

9 (c) Notifications.--

10 (1) Verbal and written instructions for the care of the
11 tattooed or pierced site on the body shall be provided to
12 each customer by the practitioner upon the completion of the
13 procedure.

14 (2) The written instructions shall advise the customer
15 to consult a physician at the first sign of infection and
16 contain the name, address and telephone number of the body
17 art establishment.

18 Section 7. Minors.

19 (a) Prohibitions.--It shall be unlawful for any person to
20 perform body art services on any other person 18 years of age or
21 younger without the presence, written consent and proper
22 identification of the other person's parent or legal guardian.

23 (b) Regulations.--The department shall promulgate
24 regulations establishing standards for verification of age and
25 documentation of consent.

26 (c) Revocation.--Any person who violates subsection (a)
27 shall have the license under this act revoked for two years.

28 (d) License.--Any person who violates subsection (a) may not
29 be licensed for two years from the date of the violation or
30 revocation, whichever is later.

1 Section 8. Inspections, violations and injunctions.

2 (a) Access.--The department shall have access at reasonable
3 times to any body art establishment, including its records, to
4 inspect and determine whether a violation of this act has or
5 will occur.

6 (b) Violations.--It is a violation of this act for an
7 operator or practitioner or apprentice to administer anesthetic
8 injections or other medications and prescription drugs to a
9 customer of any body art establishment.

10 (c) Penalty.--

11 (1) A person who operates a body art establishment in
12 violation of this act commits a misdemeanor and shall be
13 subject to suspension or revocation of the body art
14 establishment's license. A person who operates a body art
15 establishment in violation of this act commits a misdemeanor.

16 (2) A person who violates section 7 shall be subject to
17 a civil penalty of not more than \$500 for the first
18 violation, up to \$1,000 for the second violation and up to
19 \$2,000 for each subsequent violation. The penalty shall be
20 paid to the Department of Health for deposit in the State
21 Treasury.

22 (d) Suspension or revocation.--If the department finds that
23 a violation of this act creates an immediate threat to the
24 health and safety of the public, the department may suspend or
25 revoke the body art establishment's license to operate.

26 (e) Procedure.--

27 (1) The department may take the following action, in
28 writing or by using any other act or regulation, to enforce
29 the provisions of this act:

30 (i) Cite each section of the act violated.

1 (ii) Specify the manner in which the operator or
2 practitioner failed to comply with this act.

3 (iii) Require a corrective action plan, including a
4 reasonable time schedule for completion. The department
5 shall review the corrective action plan and approve or
6 require modification of the plan.

7 (2) If a body art establishment fails to comply with the
8 conditions of the written notice provided under paragraph
9 (1), the department shall notify the operator, by certified
10 mail, that unless action is taken within five days of receipt
11 of the written notice, the body art establishment's license
12 shall be suspended or revoked.

13 Section 9. Tongue splitting limitation.

14 (a) General rule.--No person may perform tongue splitting on
15 another person unless the person is a physician or dentist
16 licensed in this Commonwealth.

17 (b) Grading.--Any person who violates the provisions of this
18 section commits a misdemeanor of the first degree for a first
19 offense and a felony of the third degree for a second or
20 subsequent offense.

21 Section 10. Construction.

22 Nothing in this act shall be construed to:

23 (1) Prevent a physician or surgeon licensed in this
24 Commonwealth from performing body art services for medical
25 reasons.

26 (2) Prevent a funeral director licensed in this
27 Commonwealth from performing body art services as required by
28 that profession.

29 (3) Require the license of permanent cosmetic
30 establishments physically located in a licensed physician's

1 office, hospital or clinic. Those establishments shall also
2 be exempt from facility requirements as provided in section
3 3(a)(1).

4 Section 11. Body Art Establishment Regulation Account.

5 (a) Establishment.--The Body Art Establishment Regulation
6 Account is established as a restricted account in the State
7 Treasury.

8 (b) Disposition of moneys.--All fees, fines and civil
9 penalties imposed in accordance with this act shall be paid into
10 the Body Art Establishment Regulation Account and are hereby
11 appropriated to the department on a continuing basis for use in
12 the performance of its duties under this act.

13 Section 12. Effective date.

14 This act shall take effect in six months.