

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 992 Session of
2001

INTRODUCED BY GREENLEAF, M. WHITE, FUMO, COSTA, HELFRICK,
LEMMOND, O'PAKE AND SCHWARTZ, JUNE 14, 2001

REFERRED TO PUBLIC HEALTH AND WELFARE, JUNE 14, 2001

AN ACT

1 Establishing health standards for the practice of tattooing and
2 body piercing.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Tattoo and
7 Body Piercing Artists Act.

8 Section 2. Legislative intent.

9 It is the intent of the General Assembly to direct the
10 Department of Health to establish health standards for the
11 practice of tattooing and body piercing within this
12 Commonwealth. This will be achieved through the imposition of
13 regulations and the registration of all tattoo artists and body
14 piercing artists with the Department of Health.

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

1 context clearly indicates otherwise:

2 "Body piercing." The puncturing of a part of the body of a
3 live human being so as to create a permanent hole for cosmetic
4 purposes. The term does not include ear piercing or nail
5 piercing.

6 "Body piercing artist." A person who actually performs body
7 piercing or who operates, conducts or manages a body piercing
8 establishment.

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

10 "Infectious disease." A disease of humans or animals
11 resulting from a transmissible infection, whether or not patent,
12 apparent, inapparent, latent, clinical or subclinical.

13 "Registry." The Tattoo and Body Piercing Artists Registry.

14 "Sanitization." The reduction of the population of micro-
15 organisms to safe levels as determined by public health
16 officials.

17 "Sterilization." The process of destruction of all forms of
18 life by physical or chemical means.

19 "Tattoo." The process by which indelible marks or decorative
20 designs are created by introducing pigments beneath the surface
21 of the skin through the use of needles.

22 "Tattoo artist." A person who actually performs tattooing or
23 who operates, conducts or manages a tattoo establishment.

24 "Temporary establishment." An establishment which performs
25 tattooing, body piercing or both, is operated by an individual
26 registered under this act and operates outside of a registered
27 facility at a fixed location for a period of time of not more
28 than seven consecutive days in conjunction with a single event
29 or celebration.

30 Section 4. Registry.

1 The department shall, by regulation, establish the Tattoo and
2 Body Piercing Artist Registry. All persons who perform tattooing
3 or body piercing services within this Commonwealth shall meet
4 the requirements of this act and shall register with the
5 department on forms provided by the department.

6 Section 5. Powers and duties of department.

7 (a) General rule.--The department shall adopt such
8 regulations as are reasonably necessary to carry out the
9 purposes of this act. Regulations shall be adopted in conformity
10 with the provisions of the act of June 25, 1982 (P.L.633,
11 No.181), known as the Regulatory Review Act, and shall include,
12 but not be limited to:

13 (1) Tattoo and body piercing establishment registration
14 and facility registration requirements, including, but not
15 limited to:

16 (i) Physical location.

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

19 (iii) Lighting.

20 (iv) Ventilation.

21 (v) Water supply.

22 (vi) Liquid waste disposal.

23 (vii) Refuse storage and disposal.

24 (viii) Toilets and lavatories.

25 (ix) Sinks.

26 (x) Insect and rodent control.

27 (2) Temporary establishment registration requirements.

28 (3) Tattoo artist and body piercing artist registration
29 requirements.

30 (4) Apprentice tattoo artist and body piercing artist

1 registration requirements.

2 (5) Development and maintenance of and registration in
3 the Tattoo and Body Piercing Artists Registry.

4 (6) Tattoo artist and body piercing artist hygiene.

5 (7) Health, sanitization, sterilization and safety
6 standards for tattoo or body piercing establishments and
7 temporary establishments.

8 (8) Tattoo and body piercing establishment and temporary
9 establishment recordkeeping.

10 (b) Examination.--The department shall require the
11 successful completion of a written examination regarding health,
12 sanitization, sterilization and safety standards prior to
13 issuing a registration to any tattoo artist or body piercing
14 artist.

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

16 (1) Any applicant who successfully passes the
17 examination and meets the requirements for registration in
18 accordance with the regulations promulgated under this act.

19 (2) Any tattoo or body piercing establishment or
20 temporary establishment which has been inspected and meets
21 facility requirements in accordance with the regulations
22 where tattooing or body piercing services will be performed.

23 (d) Inspection.--The department shall inspect every
24 establishment at which tattooing or body piercing is performed
25 prior to issuing a facility registration. The department may
26 also conduct inspections of registered facilities and temporary
27 establishments, as the department deems necessary to carry out
28 this act. The inspection shall ensure that required
29 sterilization, sanitation and safety standards are maintained.

30 (e) Fees.--All fees required under this act shall be fixed

1 by the department by regulation and shall be subject to the
2 Regulatory Review Act.

3 (f) Limitation.--Nothing in this act shall be construed to
4 permit the department to regulate artistic aspects of tattooing
5 or body piercing which are unrelated to health, sanitization,
6 sterilization or safety standards.

7 (g) Departmental actions.--All actions of the department in
8 accordance with this act which result in a refusal to issue a
9 registration for reasons other than failure to pass a written
10 examination required by this act or action which suspends or
11 revokes a registration shall be subject to the right of notice,
12 hearing and adjudication and the right of appeal therefrom in
13 accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice
14 and procedure of Commonwealth agencies).

15 Section 6. Duties and responsibilities of artists.

16 (a) Health of tattoo artists and body piercing artists.--The
17 department shall establish by regulation minimum health
18 standards for all registrants and persons working in any area of
19 a tattoo or body piercing establishment which may be necessary
20 to prevent the contamination of tattoo or body piercing
21 equipment, supplies or work surfaces with pathogenic organisms.

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

27 (1) the artist is free from all contagious and
28 infectious diseases, include hepatitis B;

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

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

3 (4) a vaccine is contraindicated for medical reasons.

4 (c) Notifications.--Verbal and written instructions for the
5 care of the tattooed or pierced site on the body shall be
6 provided to each customer by the tattoo artist or body piercing
7 artist upon the completion of the procedure. The written
8 instructions shall advise the customer to consult a physician at
9 the first sign of infection and contain the name, address and
10 telephone number of the tattoo or body piercing establishment.

11 Section 7. Powers of municipalities.

12 (a) Municipal ordinances preserved.--Nothing in this act
13 shall supersede the power of a municipality to inspect tattoo or
14 body piercing establishments or temporary establishments to
15 regulate the manner in which tattooing or body piercing may be
16 performed, to levy lawful taxes and fees and to require the
17 purchase of a business privilege license unrelated to competence
18 in the practice of tattooing or body piercing. No municipality
19 shall require a tattoo artist or body piercing artist registered
20 under this act to obtain a municipal license to engage in
21 tattoo, temporary tattoo or body piercing services in the
22 municipality. Nothing in this act shall preclude a municipality
23 from denying or revoking a local permit for failure to comply
24 with a local ordinance not inconsistent with this act or
25 regulations of the department promulgated under this act.

26 (b) Failure to comply with local ordinance.--A registrant
27 under this act who fails to comply with a municipal ordinance
28 concerning the inspection of tattoo or body piercing
29 establishments or temporary establishments, or the manner in
30 which the municipality requires tattoo and body piercing

1 services to be performed, shall be subject to disciplinary
2 proceedings under this act.

3 Section 8. Unlawful acts.

4 (a) Unregistered practice.--It is unlawful for any person to
5 practice tattooing or body piercing, to hold himself out as a
6 practitioner of or entitled or authorized to practice tattooing
7 or body piercing or to assume any title of "tattooist," "tattoo
8 artist," "body piercer," "body piercing artist" or other letters
9 or titles in connection with that person's name which in any way
10 represents himself as being engaged in the practice of tattooing
11 or body piercing, or authorized to do so, unless that person has
12 been duly registered and authorized to engage in the practice
13 under this act.

14 (b) Unregistered facilities.--It is unlawful for any person
15 to operate a tattoo or body piercing establishment or temporary
16 establishment that is not registered with the department.

17 (c) Injections.--It is unlawful for a tattoo artist or body
18 piercing artist to administer anesthetic injections or other
19 medications and prescription drugs.

20 (d) Intoxication.--It is unlawful for a tattoo artist or
21 body piercing artist to tattoo or give a body piercing to an
22 individual who is visibly intoxicated.

23 Section 9. Disciplinary matters.

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

27 (1) Failing to demonstrate the qualifications or
28 standards for a registration contained in this act or
29 regulations of the department.

30 (2) Making misleading, deceptive, untrue or fraudulent

1 representations in obtaining a registration.

2 (3) Being unable to practice with reasonable skill and
3 safety to the public by reason of illness, addiction to drugs
4 or alcohol, conviction of a felonious act prohibited by the
5 act of April 14, 1972 (P.L.233, No.64), known as The
6 Controlled Substance, Drug, Device and Cosmetic Act, or
7 conviction of a felony relating to a controlled substance in
8 a court of law of the United States or any other state,
9 territory, possession or country, or of mental incompetency.

10 An applicant's statement on the application declaring the
11 absence of a conviction shall be deemed satisfactory evidence
12 of the absence of a conviction unless the department has some
13 evidence to the contrary.

14 (4) Violating a lawful regulation promulgated by the
15 department or violating a lawful order of the department
16 previously entered by the department in a disciplinary
17 proceeding.

18 (5) Knowingly maintaining a professional connection or
19 association with any person who is in violation of this act
20 or regulation of the department or knowingly aiding,
21 assisting, procuring or advising any unregistered person to
22 practice a profession contrary to this act or regulations of
23 the department.

24 (6) Acting in such manner as to present an immediate and
25 clear danger to public health or safety.

26 (7) Making a false or deceptive biennial registration
27 with the department.

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

1 (1) Deny the application for a registration or any other
2 privilege granted by the department.

3 (2) Revoke, suspend, limit or otherwise restrict a
4 registration.

5 (3) Stay enforcement of any suspension and place a
6 registrant on probation with the right to vacate the
7 probationary order for noncompliance.

8 (c) Failure to comply with conditions.--Failure of a
9 registrant to comply with the conditions required by the
10 department shall be grounds for reconsideration of the matter
11 and institution of formal charges against the registrant.

12 (d) Reinstatement of registration.--Unless ordered to do so
13 by the Commonwealth Court or on appeal therefrom, the department
14 may not reinstate the registration of a person which has been
15 revoked for two years from the date of violation or revocation,
16 whichever is later. Any person whose registration has been
17 revoked may apply for reinstatement, after a period of at least
18 two years, but must meet all of the registration requirements of
19 this act, including the examination requirement, if that person
20 desires to practice the art of tattooing, body piercing or
21 corrective cosmetics under this act at any time after such
22 revocation.

23 (e) Surrender of suspended or revoked registration.--The
24 department shall require a person whose registration has been
25 suspended or revoked to return the registration in such manner
26 as the department directs.

27 Section 10. Penalties.

28 A person who violates any provision of this act commits a
29 misdemeanor of the third degree and shall, upon conviction, be
30 sentenced to pay a fine of not more than \$1,000 or to

1 imprisonment for not more than three months, or both.

2 Section 11. Injunctive relief.

3 It shall be unlawful for any person to practice or attempt to
4 offer to practice tattooing or body piercing without having at
5 the time of so doing a valid, unexpired, unrevoked and
6 unsuspended registration issued under this act. The unlawful
7 practice of tattooing or body piercing may be enjoined by the
8 courts on petition of the department. In any such proceeding, it
9 shall not be necessary to show that any person is individually
10 injured by the actions complained of. If it is found that the
11 respondent has engaged in the unlawful practice of tattooing or
12 body piercing, the court shall enjoin the respondent from so
13 practicing unless and until the respondent registers with the
14 department. This procedure in such cases shall be the same as in
15 any other injunction suit. The remedy by injunction authorized
16 by this section shall be in addition to any other civil or
17 criminal prosecution and punishment authorized by law.

18 Section 12. Exemptions.

19 Nothing in this act shall prevent:

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

23 (2) a funeral director licensed in this Commonwealth
24 from performing body piercing or tattooing services as
25 required by that profession.

26 Section 13. Effective date.

27 This act shall take effect as follows:

28 (1) Section 5(a) shall take effect immediately.

29 (2) This section shall take effect immediately.

30 (3) The remainder of this act shall take effect in 180

1 days.