

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1249 Session of  
2013

---

INTRODUCED BY R. BROWN, BOBACK, CALTAGIRONE, COHEN, DAY, DEASY,  
DONATUCCI, FRANKEL, HARKINS, HEFFLEY, MAHER, MILLARD, MUNDY,  
MURT, QUINN, SCAVELLO AND WATSON, APRIL 23, 2013

---

REFERRED TO COMMITTEE ON HEALTH, APRIL 23, 2013

---

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

1 permitted establishments by operators utilizing, but not limited  
2 to, the following techniques:

3 (1) Body piercing.

4 (2) Tattooing.

5 (3) Permanent cosmetics.

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

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

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

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

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

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

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

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

1 association.

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

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

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

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

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

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

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

25 Section 3. Powers and duties of department.

26 (a) General rule.--The department, in the exercise of its  
27 duties under this act, may adopt such regulations as are  
28 reasonably necessary to carry out the purposes of this act.  
29 Regulations shall be adopted in conformity with the provision of  
30 the act of June 25, 1982 (P.L.633, No.181), known as the

1 Regulatory Review Act, and shall include, but not be limited to:

2 (1) Body art establishment license requirements,

3 including, but not limited to:

4 (i) Physical location.

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

6 partitions, fixtures and equipment.

7 (iii) Lighting

8 (iv) Ventilation.

9 (v) Water supply.

10 (vi) Liquid waste disposal.

11 (vii) Refuse storage and disposal.

12 (viii) Toilets and lavatories.

13 (ix) Sinks.

14 (x) Insect and rodent control.

15 (2) Temporary establishment requirements.

16 (3) Operator training requirements.

17 (4) Practitioner training requirements.

18 (5) Apprentice training requirements.

19 (6) Health, sanitization, sterilization and safety

20 standards for body art establishments and temporary

21 establishments.

22 (7) Body art establishment and temporary establishment

23 recordkeeping.

24 Section 4. Licensing and fees.

25 (a) Requirement.--No person may establish, maintain or

26 operate or hold itself out as authorized to establish, maintain

27 or operate a body art establishment without first obtaining a

28 license issued by the department.

29 (b) Application.--A person may apply for a license required

30 under subsection (a) by submitting an application to the

1 department on a form prescribed by the department. The form  
2 shall require all of the following:

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

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

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

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

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

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

30 (c) Determination.--The department shall issue a license to

1 the applicant upon determination that the applicant meets all of  
2 the requirements of this act.

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

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

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

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

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

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

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

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

22 (ii) For conditions that violate this act.

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

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

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

29 (2) (i) Except in cases involving an immediate threat  
30 to public health and safety under section 10(c), the

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

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

8 Section 5. Inspection.

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

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

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

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

18 (3) Operator understanding and competency.

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

20 Section 6. Duties and responsibilities of practitioners.

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

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

1 indicate that:

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

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

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

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

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

10 (c) Notifications.--

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

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

19 Section 7. Minors.

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

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

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

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



1 revocation, whichever is later.

2 Section 8. Inspections, violations and injunctions.

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

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

11 (c) Penalty.--

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

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

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

27 (e) Procedure.--

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

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

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

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

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

14 Section 9. Tongue splitting limitation.

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

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

22 Section 10. Construction.

23 Nothing in this act shall be construed to:

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

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

30 (3) Require the license of permanent cosmetic

1 establishments physically located in a licensed physician's  
2 office, hospital or clinic. Those establishments shall also  
3 be exempt from facility requirements as provided in section  
4 3(a)(1).

5 Section 11. Body Art Establishment Regulation Account.

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

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

14 Section 12. Effective date.

15 This act shall take effect in six months.