

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 615 Session of 2003

INTRODUCED BY DeLUCA, BEBKO-JONES, CAPPELLI, CLYMER, CRUZ, DAILEY, J. EVANS, FRANKEL, GABIG, GORDNER, HARHAI, HESS, KIRKLAND, LaGROTTA, LEDERER, MANDERINO, PETRARCA, SAINATO, HORSEY, JAMES, STABACK, TIGUE, TRUE, WALKO, WASHINGTON, WATERS, WILLIAMS, YOUNGBLOOD, MELIO, THOMAS, CIVERA, YEWIC, SCHRODER, McGEEHAN, J. TAYLOR, SCAVELLO AND PALLONE, MARCH 3, 2003

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 13, 2004

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.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Tattoo, Body-
8 piercing and Corrective Cosmetic Artists Act.

9 Section 2. Legislative intent.

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

1 with the Department of Health.

2 Section 3. Definitions.

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

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

10 "Body-piercing artist." Any person who actually performs
11 body piercing or who operates, conducts or manages any body-
12 piercing establishment.

13 "Corrective cosmetic artist." Any person who actually
14 performs corrective cosmetics.

15 "Corrective cosmetics." The application of tattoos on a live
16 human being for medical situations that otherwise could not be
17 corrected or improved, including, but not limited to, burn
18 scars, acne scars, age spots and skin discoloration due to loss
19 of pigmentation.

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

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

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

26 "Registry." The Tattoo, Body-piercing and Corrective
27 Cosmetic Artists Central Registry.

28 "Sanitization." The reduction of the population of
29 microorganisms to safe levels as determined by public health
30 officials.

1 "Sterilization." The process of destruction of all forms of
2 life by physical or chemical means.

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

7 "Tattoo artist." Any person who actually performs tattooing
8 or who operates, conducts or manages any tattoo establishment.

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

13 "Temporary establishment." An establishment which performs
14 tattooing, body piercing, or both, is operated by an individual
15 registered under this act and which operates outside of a
16 registered facility at a fixed location for a period of time of
17 not more than seven consecutive days in conjunction with a
18 single event or celebration.

19 "TONGUE SPLITTING." THE CUTTING OF A HUMAN TONGUE INTO TWO
20 OR MORE PARTS. <—

21 Section 4. Registry.

22 The department shall, by regulation, establish the Tattoo,
23 Body-piercing and Corrective Cosmetic Artists Central Registry.
24 All persons who perform tattooing, body-piercing or corrective
25 cosmetic services within this Commonwealth must meet the
26 requirements of this act and register with the department on
27 forms provided by the department.

28 Section 5. Powers and duties of department.

29 (a) General rule.--The department, in the exercise of its
30 duties under this act, shall have the power to adopt such

1 regulations as are reasonably necessary to carry out the
2 purposes of this act. Regulations shall be adopted in conformity
3 with the provisions of the act of June 25, 1982 (P.L.633,
4 No.181), known as the Regulatory Review Act, and shall include,
5 but not be limited to:

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

9 (i) Physical location.

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

12 (iii) Lighting.

13 (iv) Ventilation.

14 (v) Water supply.

15 (vi) Liquid waste disposal.

16 (vii) Refuse storage and disposal.

17 (viii) Toilets and lavatories.

18 (ix) Sinks.

19 (x) Insect and rodent control.

20 (2) Temporary establishment registration requirements.

21 (3) Tattoo artist and body-piercing artist registration
22 requirements.

23 (4) Apprentice tattoo artist and body-piercing artist
24 registration requirements.

25 (5) Development and maintenance of and registration in
26 the Tattoo, Body-piercing and Corrective Cosmetic Artists
27 Central Registry.

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

29 (7) Health, sanitization, sterilization and safety
30 standards for tattoo, body-piercing or corrective cosmetic

1 establishments and temporary establishments.

2 (8) Tattoo and body-piercing establishment and temporary
3 establishment recordkeeping.

4 (9) Qualifications for the registration of corrective
5 cosmetic artists.

6 (10) TONGUE SPLITTING. ←

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

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

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

16 (2) Any tattoo or body-piercing establishment or
17 temporary establishment which has been inspected and meets
18 facility requirements in accordance with the regulations
19 where tattooing, body-piercing or corrective cosmetic
20 services will be performed.

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

29 (e) Fees.--All fees required under this act shall be fixed
30 by the department by regulation and shall be subject to the act

1 of June 25, 1982 (P.L.633, No.181), known as the Regulatory
2 Review Act.

3 (f) Limitation.--Nothing in this act shall be construed to
4 permit the department to regulate artistic aspects of tattooing,
5 body piercing or corrective cosmetics which are unrelated to
6 health, sanitization, 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, including 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 contradicted 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 phone number of the tattoo or body-piercing establishment.

11 Section 7. Minors.

12 (a) Prohibitions.--It shall be unlawful for any person to
13 perform tattooing or body-piercing services on any other person
14 under 18 years of age without the written consent of a parent or
15 legal guardian of that other person.

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

19 (c) Revocation.--Any person who performs tattooing or body-
20 piercing services on any body part of a person under 18 years of
21 age without proper consent as established in subsection (a)
22 shall have the registration under this act revoked for two
23 years.

24 (d) Registration.--Any person who violates subsection (a)
25 may not be registered for two years from the date of violation
26 or revocation, whichever is later.

27 Section 8. Powers of municipalities.

28 (a) Municipal ordinances preserved.--Nothing in this act
29 shall supersede the power of a municipality to inspect tattoo or
30 body-piercing establishments or temporary establishments, to

1 regulate the manner in which tattooing or body piercing may be
2 performed, to levy lawful taxes and fees and to require the
3 purchase of a business privilege license unrelated to competence
4 in the practice of tattooing or body piercing. No municipality
5 shall require a tattoo artist or body-piercing artist registered
6 under this act to obtain a municipal license to engage in
7 tattoo, temporary tattoo or body-piercing services in the
8 municipality. Nothing in this act shall preclude a municipality
9 from denying or revoking a local permit for failure to comply
10 with a local ordinance not inconsistent with this act or
11 regulations of the department promulgated under this act.

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

19 Section 9. Unlawful acts.

20 (a) Unregistered practice.--It is unlawful for any person to
21 practice tattooing, body piercing or corrective cosmetics, or to
22 hold himself out as a practitioner of or entitled or authorized
23 to practice tattooing, body piercing or corrective cosmetics, or
24 to assume any title of "tattooist," "tattoo artist," "body-
25 piercer," "body-piercing artist," "corrective cosmetics artist"
26 or other letters or titles in connection with that person's name
27 which in any way represents himself as being engaged in the
28 practice of tattooing, body piercing or corrective cosmetics, or
29 authorized to do so, unless that person has been duly registered
30 and authorized to engage in the practice under this act.

1 (b) Unregistered facilities.--It is unlawful for any person
2 to operate a tattoo, body-piercing or corrective cosmetic
3 establishment or temporary establishment that is not registered
4 with the department.

5 (c) Injections.--It is unlawful for a tattoo artist, body-
6 piercing artist or corrective cosmetic artist to administer
7 anesthetic injections or other medications and prescription
8 drugs.

9 (d) Facial tattoos.--It is unlawful for any person other
10 than a corrective cosmetic artist registered under this act, or
11 a physician or surgeon licensed in this Commonwealth, to perform
12 facial tattoo services on any other person.

13 SECTION 9.1. TONGUE SPLITTING LIMITATION. ←

14 (A) GENERAL RULE.--A PERSON SHALL NOT PERFORM TONGUE
15 SPLITTING ON ANOTHER PERSON UNLESS THE TONGUE SPLITTING IS
16 PERFORMED BY A PHYSICIAN OR DENTIST LICENSED IN THIS
17 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. Disciplinary matters.

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

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

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

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

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

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

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

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

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

30 (1) Deny the application for a registration or any other

1 privilege granted by the department.

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

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

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

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

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

26 Section 11. Penalties.

27 Any persons who violates any provision of this act commits a
28 misdemeanor of the third degree and shall, upon conviction, be
29 sentenced to pay a fine of not more than \$1,000 or to
30 imprisonment for not more than three months, or both.

1 Section 12. Injunctive relief.

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

18 Section 13. Exemptions.

19 (a) General rule.--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 (b) Physician-based corrective cosmetics establishments.--
27 Nothing in this act shall require the registration of corrective
28 cosmetics establishments physically located in a licensed
29 physician's office, hospital or clinic. Those establishments
30 shall also be exempt from facility requirements as provided for

1 in section 5(a)(1).

2 Section 14. Effective date.

3 This act shall take effect as follows:

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

5 (2) SECTION 9.1 SHALL TAKE EFFECT IN 60 DAYS. <—

6 ~~(2)~~ (3) This section shall take effect immediately. <—

7 ~~(3)~~ (4) The remainder of this act shall take effect in <—

8 180 days.