

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Tattoo
5 and Body Piercing Establishment Registration Act.

6 Section 5. Purpose. It has been established that
7 non-sterile needles can lead to the spread of certain
8 blood-borne illnesses such as Hepatitis and HIV. Tattoo and
9 body piercing practices affect the health, safety, and welfare
10 of the public, therefore, the General Assembly finds that the
11 regulation of tattoo and body piercing establishments by the
12 State is necessary to ensure public health, safety, and
13 welfare. It is further declared that the purpose of this Act is
14 to provide for a safe and adequate blood supply. This Act shall
15 be liberally construed to carry out these objectives and
16 purposes.

17 Section 10. Definitions. In this Act:

18 "Aseptic technique" means a practice that prevents and
19 hinders the transmission of disease-producing microorganisms
20 from one person or place to another.

21 "Body piercing" means penetrating the skin to make a hole,
22 mark, or scar that is generally permanent in nature. "Body
23 piercing" does not include practices that are considered
24 medical procedures or the puncturing of the outer perimeter or
25 lobe of the ear using a pre-sterilized, single-use stud and
26 clasp ear piercing system.

27 "Client" means the person, customer, or patron whose skin
28 will be tattooed or pierced.

29 "Communicable disease" means a disease that can be
30 transmitted from person to person directly or indirectly,
31 including diseases transmitted via blood or body fluids.

1 "Department" means the Department of Public Health or other
2 health authority designated as its agent.

3 "Director" means the Director of Public Health or his or
4 her designee.

5 "Establishment" means a body-piercing operation, a
6 tattooing operation, or a combination of both operations in a
7 multiple-type establishment.

8 "Ink cup" means a small container for an individual portion
9 of pigment that may be installed in a holder or palette and in
10 which a small amount of pigment of a given color is placed.

11 "Multi-type establishment" means an operation encompassing
12 both body piercing and tattooing on the same premises and under
13 the same management.

14 "Procedure area" means the immediate area where
15 instruments and supplies are placed during a procedure.

16 "Operator" means an individual, partnership, corporation,
17 association, or other entity engaged in the business of owning,
18 managing, or offering services of body piercing or tattooing.

19 "Sanitation" means the effective bactericidal and
20 veridical treatment of clean equipment surfaces by a process
21 that effectively destroys pathogens.

22 "Single use" means items that are intended for one time and
23 one person use only and are to then be discarded.

24 "Sterilize" means to destroy all living organisms
25 including spores.

26 "Tattooing" means making permanent marks on the skin of a
27 live human being by puncturing the skin and inserting indelible
28 colors. "Tattooing" includes imparting permanent makeup on the
29 skin, such as permanent lip coloring and permanent eyeliner.

30 "Tattooing" does not include any of the following:

31 (1) The practice of electrology as defined in the
32 Electrology Licensing Act.

33 (2) The practice of acupuncture as defined in the
34 Acupuncture Licensing Act.

35 (3) The use, by a physician licensed to practice
36 medicine in all its branches, of colors, dyes, or pigments

1 for the purpose of obscuring scar tissue or imparting color
2 to the skin for cosmetic, medical, or figurative purposes.

3 Section 15. Registration required.

4 (a) A certificate of registration issued by the Department
5 shall be required prior to the operation of any establishment
6 or multi-type establishment. The owner of the facility shall
7 file an application for a certificate of registration with the
8 Department that shall be accompanied by the requisite fee, as
9 determined by the Department, and include all of the following
10 information:

11 (1) The applicant's (owner) name, address, telephone
12 number, and age. In order to qualify for a certificate of
13 registration under this Act, an applicant must be at least
14 18 years of age.

15 (2) The name, address, and phone number of the
16 establishment.

17 (3) The type and year of manufacture of the equipment
18 proposed to be used for tattooing or body piercing.

19 (4) The sterilization and operation procedures to be
20 used by the establishment.

21 (5) Any other information required by the Department.

22 (b) If the owner owns or operates more than one
23 establishment, the owner shall file a separate application for
24 each facility owned or operated.

25 Section 20. Temporary registration. A temporary
26 certificate of registration may be issued by the Department for
27 educational, trade show, or product demonstration purposes
28 only. The temporary certificate of registration shall be valid
29 for a maximum of 14 calendar days.

30 Section 25. Operating requirements. All establishments
31 registered under this Act must comply with the following
32 requirements:

33 (1) An establishment must ensure that all body piercing

1 and tattooing procedures are performed in a clean and
2 sanitary environment that is consistent with sanitation
3 techniques established by the Department.

4 (2) An establishment must ensure that all body piercing
5 and tattooing procedures are performed in a manner that is
6 consistent with an aseptic technique established by the
7 Department.

8 (3) An establishment must ensure that all equipment and
9 instruments used in body piercing and tattooing procedures
10 are either single use and pre-packaged instruments or in
11 compliance with sterilization techniques established by
12 the Department.

13 (4) An establishment must ensure that single use ink is
14 used in all tattooing procedures.

15 Section 27. Prohibitions. Body piercing procedures must
16 not be performed, without medical clearance, on skin surfaces
17 where sunburn, rash, acne, infection, open lesions, or other
18 questionable skin lesions exist and must not be performed on
19 any person who is impaired by drugs or alcohol.

20 Section 30. Duties of the Department; rulemaking.

21 (a) Before issuing a certificate of registration to an
22 applicant, the Department, or its designee, shall inspect the
23 premises of the establishment to insure compliance under the
24 requirements of this Act.

25 (b) Once a certificate of registration is issued, the
26 Department may periodically inspect each establishment
27 registered under this Act to ensure compliance.

28 (c) The Department shall adopt any rules deemed necessary
29 for the implementation and administration of this Act.

30 Section 35. Expiration and renewal of registration;
31 display.

32 (a) A certificate of registration issued under this Act
33 shall expire and may be renewed annually.

1 (b) Registration is valid for a single location and only
2 for the operator named on the certificate. Registration is not
3 transferable.

4 (c) The certificate of registration issued by the
5 Department shall be conspicuously displayed within the sight of
6 clients upon entering the establishment.

7 Section 40. Change of ownership. In the event of a change
8 of ownership, the new owner must apply for a certificate of
9 registration prior to taking possession of the property. A
10 provisional certificate of registration may be issued by the
11 Department until an initial inspection for a certificate of
12 registration can be performed by the Department or its
13 designee.

14 Section 45. Denial; suspension; revocation; nonrenewal of
15 registration. A certificate of registration may be denied,
16 suspended, revoked, or the renewal of a certificate of
17 registration may be denied for any of the following reasons:

18 Violation of any of the provisions of this Act or the rules
19 and regulations adopted by the Department under this Act.

20 Conviction of an applicant or registrant of an offense
21 arising from false, fraudulent, deceptive, or misleading
22 advertising. The record of conviction or a certified copy shall
23 be conclusive evidence of the conviction.

24 Revocation of a certificate of registration during the
25 previous 5 years or surrender or expiration of the certificate
26 of registration during the pendency of action by the Department
27 to revoke or suspend the certificate of registration during the
28 previous 5 years, if before the certificate of registration was
29 issued to the individual applicant, a controlling owner or
30 controlling combination of owners of the applicant, or any
31 affiliate of the individual applicant or controlling owner of
32 the applicant or affiliate of the applicant, was a controlling
33 owner of the prior certificate of registration.

1 Section 50. Administration; enforcement.

2 (a) The Department may establish a training program for the
3 Department agents for administration and enforcement of this
4 Act.

5 (b) In the administration and enforcement of this Act, the
6 Department may designate and use State-certified, local public
7 health departments as its agents in the administration and
8 enforcement of this Act and rules.

9 (c) The Department shall issue grants to State-certified,
10 local public health departments acting as agents of the
11 Department based on 75% of the total fees and fines collected
12 in the jurisdiction of the State-certified, local public health
13 department for the enforcement and administration of this Act.

14 (d) The Department or a State-certified, local public
15 health department acting as an agent of the Department in the
16 administration and enforcement of this Act may use the local
17 administrative review process of the State-certified, local
18 public health department to resolve disputes.

19 Section 55. Investigation; hearing; notice. The Department
20 may, upon its own motion, and shall upon the verified complaint
21 in writing of any person setting forth facts which if proven
22 would constitute grounds for the denial of an application for a
23 certificate of registration, or refusal to renew a certificate
24 of registration, or revocation of a certificate of
25 registration, or suspension of a certificate of registration,
26 investigate the applicant or registrant. The Department, after
27 notice and opportunity for hearing, may deny any application
28 for or suspend or revoke a certificate of registration or may
29 refuse to renew a certificate of registration. Before denying
30 an application or refusing to renew, suspending, or revoking a
31 certificate of registration, the Department shall notify the
32 applicant in writing. The notice shall specify the charges or
33 reasons for the Department's contemplated action. The
34 applicant or registrant must request a hearing within 10 days
35 after receipt of the notice. Failure to request a hearing

1 within 10 days shall constitute a waiver of the right to a
2 hearing.

3 Section 60. Conduct of hearing.

4 (a) The hearing shall be conducted by the Director, or an
5 individual designated in writing by the Director as a hearing
6 officer. The Director or hearing officer may compel by subpoena
7 or subpoena duces tecum the attendance and testimony of
8 witnesses and the production of books and papers, and
9 administer oaths to witnesses. The hearing shall be conducted
10 at a place designated by the Department. The procedures
11 governing hearings and the issuance of final orders under this
12 Act shall be in accordance with rules adopted by the
13 Department.

14 (b) All subpoenas issued by the Director or hearing officer
15 may be served as provided for in civil actions. The fees of
16 witnesses for attendance and travel shall be the same as the
17 fees for witnesses before the circuit court and shall be paid
18 by the party to the proceedings at whose request the subpoena
19 is issued. If a subpoena is issued at the request of the
20 Department, the witness fee shall be paid as an administrative
21 expense.

22 (c) In cases of refusal of a witness to attend or testify,
23 or to produce books or papers, concerning any matter upon which
24 he or she might be lawfully examined, the circuit court of the
25 county wherein the hearing is held, upon application of any
26 party to the proceeding, may compel obedience by proceeding as
27 for contempt as in cases of a like refusal to obey a similar
28 order of the court.

29 Section 65. Findings of fact; conclusions of law; decision.
30 The Director or hearing officer shall make findings of fact and
31 conclusions of law in a hearing, and the Director shall render
32 his or her decision, or the hearing officer his or her proposal
33 for decision within 45 days after the termination of the
34 hearing unless additional time is required by the Director or

1 hearing officer for a proper disposition of the matter. A copy
2 of the final decision of the Director shall be served upon the
3 applicant or registrant in person or by certified mail.

4 Section 70. Review under Administrative Review Law; venue;
5 costs. All final administrative decisions of the Department
6 under this Act shall be subject to judicial review under the
7 provisions of Article III of the Code of Civil Procedure. The
8 term "administrative decision" is defined under Section 3-101
9 of the Code of Civil Procedure.

10 Proceedings for judicial review shall be commenced in the
11 circuit court of the county in which the party applying for
12 review resides; provided, that if the party is not a resident
13 of this State, the venue shall be in Sangamon County.

14 The Department shall not be required to certify any record
15 or file any answer or otherwise appear in any proceeding for
16 judicial review unless the party filing the complaint deposits
17 with the clerk of the court the sum of 95¢ per page
18 representing costs of certification of the record or file.
19 Failure on the part of the plaintiff to make the deposit shall
20 be grounds for dismissal of the action.

21 Section 75. Administrative Procedure Act; application. The
22 provisions of the Illinois Administrative Procedure Act are
23 hereby expressly adopted and shall apply to all administrative
24 rules and procedure of the Department under this Act, except
25 that in case of conflict between the Illinois Administrative
26 Procedure Act and this Act the provisions of this Act shall
27 control, and except that Section 5 of the Illinois
28 Administrative Procedure Act relating to procedures for
29 rulemaking does not apply to the adoption of any rules required
30 by federal law in connection with which the Department is
31 precluded by law from exercising any discretion.

32 Section 80. Penalties; fines. The Department is authorized
33 to establish and assess penalties or fines against a registrant

1 for violations of this Act or regulations adopted under this
2 Act. In no circumstance will any penalties or fines exceed
3 \$1,000 per day for each day the registrant remains in
4 violation.

5 Section 85. Public nuisance.

6 (a) The operation or maintenance of an establishment in
7 violation of this Act or any rule adopted by the Department
8 under this Act constitutes a public nuisance inimical to the
9 public welfare.

10 (b) A person convicted of knowingly maintaining a public
11 nuisance commits a Class A misdemeanor. Each subsequent offense
12 under this Section is a Class 4 felony.

13 (c) The Director, in the name of the people of the State
14 and through the Attorney General or State's Attorney of the
15 county in which the establishment is located, may, in addition
16 to the other remedies set forth in this Act, bring an action
17 for an injunction to restrain the violation of this Act or to
18 enjoin the future operation or maintenance of any establishment
19 in violation of this Act.

20 Section 90. Tattoo and Body Piercing Establishment
21 Registration Fund. There is hereby created in the State
22 treasury a special fund to be known as the Tattoo and Body
23 Piercing Establishment Registration Fund. All fees and fines
24 collected by the Department under this Act and any agreement
25 for the implementation of this Act and rules under this Act and
26 any federal funds collected pursuant to the administration of
27 this Act shall be deposited into the Fund. The amount deposited
28 shall be appropriated by the General Assembly to the Department
29 for the purpose of conducting activities relating to tattooing
30 and body piercing establishments.

31 Section 905. The State Finance Act is amended by adding
32 Section 5.663 as follows:

1 (30 ILCS 105/5.663 new)

2 Sec. 5.663. The Tattoo and Body Piercing Establishment
3 Registration Fund.

4 Section 999. Effective date. This Act takes effect July 1,
5 2007.