



Sen. Edward D. Maloney

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1 AMENDMENT TO SENATE BILL 927

2 AMENDMENT NO. _____. Amend Senate Bill 927 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Tattoo 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

1 medical procedures or the puncturing of the outer perimeter or
2 lobe of the ear using a pre-sterilized, single-use stud and
3 clasp ear piercing system.

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

6 "Communicable disease" means a disease that can be
7 transmitted from person to person directly or indirectly,
8 including diseases transmitted via blood or body fluids.

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

11 "Director" means the Director of Public Health or his or
12 her designee.

13 "Establishment" means body-piercing operation, a tattooing
14 operation, or a combination of both operations in a
15 multiple-type establishment.

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

19 "Multi-type establishment" means an operation encompassing
20 both body piercing and tattooing on the same premises and under
21 the same management.

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

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

27 "Sanitation" means the effective bactericidal and
28 veridical treatment of clean equipment surfaces by a process
29 that effectively destroys pathogens.

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

32 "Sterilize" means to destroy all living organisms
33 including spores.

34 "Tattooing" means making permanent marks on the skin of a

1 live human being by puncturing the skin and inserting indelible
2 colors. "Tattooing" includes imparting permanent makeup on the
3 skin, such as permanent lip coloring and permanent eyeliner.
4 "Tattooing" does not include any of the following:

5 (1) The practice of electrology as defined in the
6 Electrology Licensing Act.

7 (2) The practice of acupuncture as defined in the
8 Acupuncture Licensing Act.

9 (3) The use, by a physician licensed to practice
10 medicine in all its branches, of colors, dyes, or pigments
11 for the purpose of obscuring scar tissue or imparting color
12 to the skin for cosmetic, medical, or figurative purposes.

13 Section 15. Registration required.

14 (a) A certificate of registration issued by the Department
15 shall be required prior to the operation of any establishment
16 or multi-type establishment. The owner of the facility shall
17 file an application for a certificate of registration with the
18 Department that shall be accompanied by the requisite fee, as
19 determined by the Department, and include all of the following
20 information:

21 (1) The applicant's (owner) name, address, telephone
22 number, and age. In order to qualify for a certificate of
23 registration under this Act, an applicant must be at least
24 18 years of age.

25 (2) The name, address, and phone number of the
26 establishment.

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

29 (4) The sterilization and operation procedures to be
30 used by the establishment.

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

32 (b) If the owner owns or operates more than one
33 establishment, the owner shall file a separate application for

1 each facility owned or operated.

2 Section 20. Temporary registration. A temporary
3 certificate of registration may be issued by the Department for
4 educational, trade show, or product demonstration purposes
5 only. The temporary certificate of registration shall be valid
6 for a maximum of 14 calendar days.

7 Section 25. Operating requirements. All establishments
8 registered under this Act must comply with the following
9 requirements:

10 (1) An establishment must ensure that all body piercing
11 and tattooing procedures are performed in a clean and
12 sanitary environment that is consistent with sanitation
13 techniques established by the Department.

14 (2) An establishment must ensure that all body piercing
15 and tattooing procedures are performed in a manner that is
16 consistent with an aseptic technique established by the
17 Department.

18 (3) An establishment must ensure that all equipment and
19 instruments used in body piercing and tattooing procedures
20 are either single use and pre-packaged instruments or in
21 compliance with sterilization techniques established by
22 the Department.

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

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

30 Section 30. Duties of the Department; rulemaking.

1 (a) Before issuing a certificate of registration to an
2 applicant, the Department, or its designee, shall inspect the
3 premises of the establishment to insure compliance under the
4 requirements of this Act.

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

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

10 Section 35. Expiration and renewal of registration;
11 display.

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

14 (b) Registration is valid for a single location and only
15 for the operator named on the certificate. Registration is not
16 transferable.

17 (c) The certificate of registration issued by the
18 Department shall be conspicuously displayed within the sight of
19 clients upon entering the establishment.

20 Section 40. Change of ownership. In the event of a change
21 of ownership, the new owner must apply for a certificate of
22 registration prior to taking possession of the property. A
23 provisional certificate of registration may be issued by the
24 Department until an initial inspection for a certificate of
25 registration can be performed by the Department or its
26 designee.

27 Section 45. Denial; suspension; revocation; nonrenewal of
28 registration. A certificate of registration may be denied,
29 suspended, revoked, or the renewal of a certificate of
30 registration may be denied for any of the following reasons:

31 Violation of any of the provisions of this Act or the rules

1 and regulations adopted by the Department under this Act.

2 Conviction of an applicant or registrant of an offense
3 arising from false, fraudulent, deceptive, or misleading
4 advertising. The record of conviction or a certified copy shall
5 be conclusive evidence of the conviction.

6 Revocation of a certificate of registration during the
7 previous 5 years or surrender or expiration of the certificate
8 of registration during the pendency of action by the Department
9 to revoke or suspend the certificate of registration during the
10 previous 5 years, if before the certificate of registration was
11 issued to the individual applicant, a controlling owner or
12 controlling combination of owners of the applicant, or any
13 affiliate of the individual applicant or controlling owner of
14 the applicant or affiliate of the applicant, was a controlling
15 owner of the prior certificate of registration.

16 Section 50. Administration; enforcement.

17 (a) The Department may establish a training program for the
18 Department agents for administration and enforcement of this
19 Act.

20 (b) In the administration and enforcement of this Act, the
21 Department may designate and use State-certified, local public
22 health departments as its agents in the administration and
23 enforcement of this Act and rules.

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

29 (d) The Department or a State-certified, local public
30 health department acting as an agent of the Department in the
31 administration and enforcement of this Act may use the local
32 administrative review process of the State-certified, local
33 public health department to resolve disputes.

1 Section 55. Investigation; hearing; notice. The Department
2 may, upon its own motion, and shall upon the verified complaint
3 in writing of any person setting forth facts which if proven
4 would constitute grounds for the denial of an application for a
5 certificate of registration, or refusal to renew a certificate
6 of registration, or revocation of a certificate of
7 registration, or suspension of a certificate of registration,
8 investigate the applicant or registrant. The Department, after
9 notice and opportunity for hearing, may deny any application
10 for or suspend or revoke a certificate of registration or may
11 refuse to renew a certificate of registration. Before denying
12 an application or refusing to renew, suspending, or revoking a
13 certificate of registration, the Department shall notify the
14 applicant in writing. The notice shall specify the charges or
15 reasons for the Department's contemplated action. The
16 applicant or registrant must request a hearing within 10 days
17 after receipt of the notice. Failure to request a hearing
18 within 10 days shall constitute a waiver of the right to a
19 hearing.

20 Section 60. Conduct of hearing.

21 (a) The hearing shall be conducted by the Director, or an
22 individual designated in writing by the Director as a hearing
23 officer. The Director or hearing officer may compel by subpoena
24 or subpoena duces tecum the attendance and testimony of
25 witnesses and the production of books and papers, and
26 administer oaths to witnesses. The hearing shall be conducted
27 at a place designated by the Department. The procedures
28 governing hearings and the issuance of final orders under this
29 Act shall be in accordance with rules adopted by the
30 Department.

31 (b) All subpoenas issued by the Director or hearing officer
32 may be served as provided for in civil actions. The fees of

1 witnesses for attendance and travel shall be the same as the
2 fees for witnesses before the circuit court and shall be paid
3 by the party to the proceedings at whose request the subpoena
4 is issued. If a subpoena is issued at the request of the
5 Department, the witness fee shall be paid as an administrative
6 expense.

7 (c) In cases of refusal of a witness to attend or testify,
8 or to produce books or papers, concerning any matter upon which
9 he or she might be lawfully examined, the circuit court of the
10 county wherein the hearing is held, upon application of any
11 party to the proceeding, may compel obedience by proceeding as
12 for contempt as in cases of a like refusal to obey a similar
13 order of the court.

14 Section 65. Findings of fact; conclusions of law; decision.
15 The Director or hearing officer shall make findings of fact and
16 conclusions of law in a hearing, and the Director shall render
17 his or her decision, or the hearing officer his or her proposal
18 for decision within 45 days after the termination of the
19 hearing unless additional time is required by the Director or
20 hearing officer for a proper disposition of the matter. A copy
21 of the final decision of the Director shall be served upon the
22 applicant or registrant in person or by certified mail.

23 Section 70. Review under Administrative Review Law; venue;
24 costs. All final administrative decisions of the Department
25 under this Act shall be subject to judicial review under the
26 provisions of Article III of the Code of Civil Procedure. The
27 term "administrative decision" is defined under Section 3-101
28 of the Code of Civil Procedure.

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

1 The Department shall not be required to certify any record
2 or file any answer or otherwise appear in any proceeding for
3 judicial review unless the party filing the complaint deposits
4 with the clerk of the court the sum of 95¢ per page
5 representing costs of certification of the record or file.
6 Failure on the part of the plaintiff to make the deposit shall
7 be grounds for dismissal of the action.

8 Section 75. Administrative Procedure Act; application. The
9 provisions of the Illinois Administrative Procedure Act are
10 hereby expressly adopted and shall apply to all administrative
11 rules and procedure of the Department under this Act, except
12 that in case of conflict between the Illinois Administrative
13 Procedure Act and this Act the provisions of this Act shall
14 control, and except that Section 5 of the Illinois
15 Administrative Procedure Act relating to procedures for
16 rulemaking does not apply to the adoption of any rules required
17 by federal law in connection with which the Department is
18 precluded by law from exercising any discretion.

19 Section 80. Penalties; fines. The Department is authorized
20 to establish and assess penalties or fines against a registrant
21 for violations of this Act or regulations adopted under this
22 Act. In no circumstance will any penalties or fines exceed
23 \$1,000 per day for each day the registrant remains in
24 violation.

25 Section 85. Public nuisance.

26 (a) The operation or maintenance of an establishment in
27 violation of this Act or any rule adopted by the Department
28 under this Act constitutes a public nuisance inimical to the
29 public welfare.

30 (b) A person convicted of knowingly maintaining a public
31 nuisance commits a Class A misdemeanor. Each subsequent offense

1 under this Section is a Class 4 felony.

2 (c) The Director, in the name of the people of the State
3 and through the Attorney General or State's Attorney of the
4 county in which the establishment is located, may, in addition
5 to the other remedies set forth in this Act, bring an action
6 for an injunction to restrain the violation of this Act or to
7 enjoin the future operation or maintenance of any establishment
8 in violation of this Act.

9 Section 90. Tattoo and Body Piercing Establishment
10 Registration Fund. There is hereby created in the State
11 Treasury a special fund to be known as the Tattoo and Body
12 Piercing Establishment Registration Fund. All fees and fines
13 collected by the Department under this Act and any agreement
14 for the implementation of this Act and rules under this Act and
15 any federal funds collected pursuant to the administration of
16 this Act shall be deposited into the Fund. The amount deposited
17 shall be appropriated by the General Assembly to the Department
18 for the purpose of conducting activities relating to tattooing
19 and body piercing establishments.

20 Section 905. The State Finance Act is amended by adding
21 Section 5.663 as follows:

22 (30 ILCS 105/5.663 new)

23 Sec. 5.663. The Tattoo and Body Piercing Establishment
24 Registration Fund.

25 Section 999. Effective date. This Act takes effect July 1,
26 2007.".