



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2229

Introduced 1/11/2006, by Sen. Edward D. Maloney

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.663 new

Creates the Tattoo and Body Piercing Establishment Registration Act. Provides for the registration of tattoo and body piercing establishments by the Department of Public Health to ensure the health, safety, and welfare of the public, including the provision of a safe and adequate blood supply. Sets forth provisions concerning registration, operating requirements, duties of the Department, and administrative procedures. Amends the State Finance Act to create the Tattoo and Body Piercing Establishment Registration Fund.

LRB094 16428 RAS 51688 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

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 "Body Piercing" means penetrating the skin to make a hole,
19 mark, or scar that is generally permanent in nature.

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

22 "Communicable disease" means a disease that can be
23 transmitted from person to person directly or indirectly,
24 including diseases transmitted via blood or body fluids.

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

27 "Director" means the Director of Public Health or his or
28 her designee.

29 "Establishment" means body-piercing operation, a tattooing
30 operation, or a combination of both operations in a
31 multiple-type establishment.

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

4 "Multi-type establishment" means an operation encompassing
5 both body piercing and tattooing on the same premises and under
6 the same management.

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

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

12 "Sterilize" means to treat an object or surface with a
13 procedure that kills or irreversibly inactivates all
14 microorganisms, including bacteria, viruses, and pathogenic
15 fungi and their spores.

16 "Tattooing" means making permanent marks on the skin of a
17 live human being by puncturing the skin and inserting indelible
18 colors. "Tattooing" includes imparting permanent makeup on the
19 skin, such as permanent lip coloring and permanent eyeliner.
20 "Tattooing" does not include any of the following:

21 (1) The practice of electrology as defined in the
22 Electrology Licensing Act.

23 (2) The practice of acupuncture as defined in the
24 Acupuncture Licensing Act.

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

29 Section 15. Registration required.

30 (a) A certificate of registration issued by the Department
31 shall be required prior to the operation of any establishment
32 or multi-type establishment. The owner of the facility shall
33 file an application for a certificate of registration with the
34 Department that shall be accompanied by the requisite fee, as
35 determined by the Department, and include all of the following

1 information:

2 (1) The applicant's (owner) name, address, telephone
3 number, and age. In order to qualify for a certificate of
4 registration under this Act, an applicant must be at least
5 18 years of age.

6 (2) The name, address, and phone number of the
7 establishment.

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

10 (4) The sterilization and operation procedures to be
11 used by the establishment.

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

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

16 Section 20. Operating requirements. All establishments
17 registered under this Act must comply with the following
18 requirements:

19 (1) An establishment must use single use disposable
20 needles on each client, or, if the same needle is used on
21 more than one client, then the needles used must undergo
22 sterilization procedures established by the Department
23 after each use.

24 (2) Single use ink must be used for tattoos.

25 (3) Any additional requirements established by the
26 Department.

27 Section 25. Duties of the Department; rulemaking.

28 (a) Before issuing a certificate of registration to an
29 applicant, the Department, or its designee, shall inspect the
30 premises of the establishment to insure compliance under the
31 requirements of this Act.

32 (b) Once a certificate of registration is issued, the
33 Department shall periodically inspect each establishment
34 registered under this Act to ensure compliance.

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

3 Section 30. Expiration and renewal of registration;
4 display.

5 (a) A certificate of registration issued under this Act
6 shall expire and may be renewed every 2 years.

7 (b) Registration is valid for a single location and only
8 for the operator named on the certificate. Registration is not
9 transferable.

10 (c) The certificate of registration issued by the
11 Department shall be conspicuously displayed within the sight of
12 clients upon entering the establishment.

13 Section 35. Change of ownership. In the event of a change
14 of ownership, the new owner must apply for a certificate of
15 registration prior to taking possession of the property. A
16 provisional certificate of registration may be issued by the
17 Department until an initial inspection for a certificate of
18 registration can be performed by the Department or its
19 designee.

20 Section 40. Denial; suspension; revocation; nonrenewal of
21 registration. A certificate of registration may be denied,
22 suspended, revoked, or the renewal of a certificate of
23 registration may be denied for any of the following reasons:

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

26 Conviction of an applicant or registrant of an offense
27 arising from false, fraudulent, deceptive, or misleading
28 advertising. The record of conviction or a certified copy shall
29 be conclusive evidence of the conviction.

30 Revocation of a certificate of registration during the
31 previous 5 years or surrender or expiration of the certificate
32 of registration during the pendency of action by the Department
33 to revoke or suspend the certificate of registration during the

1 previous 5 years, if before the certificate of registration was
2 issued to the individual applicant, a controlling owner or
3 controlling combination of owners of the applicant, or any
4 affiliate of the individual applicant or controlling owner of
5 the applicant or affiliate of the applicant, was a controlling
6 owner of the prior certificate of registration.

7 Section 45. Administration; enforcement.

8 (a) The Department may establish a training program for the
9 Department agents for administration and enforcement of this
10 Act.

11 (b) In the administration and enforcement of this Act the
12 Department may designate and use full-time municipal,
13 district, county, or multi-county health departments as its
14 agents in the administration and enforcement of this Act and
15 rules.

16 Section 50. Investigation; hearing; notice. The Department
17 may, upon its own motion, and shall upon the verified complaint
18 in writing of any person setting forth facts which if proven
19 would constitute grounds for the denial of an application for a
20 certificate of registration, or refusal to renew a certificate
21 of registration, or revocation of a certificate of
22 registration, or suspension of a certificate of registration,
23 investigate the applicant or registrant. The Department, after
24 notice and opportunity for hearing, may deny any application
25 for or suspend or revoke a certificate of registration or may
26 refuse to renew a certificate of registration. Before denying
27 an application or refusing to renew, suspending, or revoking a
28 certificate of registration, the Department shall notify the
29 applicant in writing. The notice shall specify the charges or
30 reasons for the Department's contemplated action. The
31 applicant or registrant must request a hearing within 10 days
32 after receipt of the notice. Failure to request a hearing
33 within 10 days shall constitute a waiver of the right to a
34 hearing.

1 Section 55. Conduct of hearing.

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

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

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

27 Section 60. Findings of fact; conclusions of law; decision.
28 The Director or hearing officer shall make findings of fact and
29 conclusions of law in a hearing, and the Director shall render
30 his or her decision, or the hearing officer his or her proposal
31 for decision within 45 days after the termination of the
32 hearing unless additional time is required by the Director or
33 hearing officer for a proper disposition of the matter. A copy
34 of the final decision of the Director shall be served upon the

1 applicant or registrant in person or by certified mail.

2 Section 65. Review under Administrative Review Law; venue;
3 costs. All final administrative decisions of the Department
4 under this Act shall be subject to judicial review under the
5 provisions of Article III of the Code of Civil Procedure. The
6 term "administrative decision" is defined under Section 3-101
7 of the Code of Civil Procedure.

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

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

19 Section 70. Administrative Procedure Act; application. The
20 provisions of the Illinois Administrative Procedure Act are
21 hereby expressly adopted and shall apply to all administrative
22 rules and procedure of the Department under this Act, except
23 that in case of conflict between the Illinois Administrative
24 Procedure Act and this Act the provisions of this Act shall
25 control, and except that Section 5 of the Illinois
26 Administrative Procedure Act relating to procedures for
27 rulemaking does not apply to the adoption of any rules required
28 by federal law in connection with which the Department is
29 precluded by law from exercising any discretion.

30 Section 75. Penalties; fines. The Department is authorized
31 to establish and assess penalties or fines against a registrant
32 for violations of this Act or regulations adopted under this
33 Act. In no circumstance will any penalties or fines exceed

1 \$1,000 per day for each day the registrant remains in
2 violation.

3 Section 80. Public nuisance.

4 (a) Any establishment operating without a valid
5 certificate of registration or operating on a revoked
6 certificate of registration shall be guilty of committing a
7 public nuisance.

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

11 (c) The Attorney General of this State or the States
12 Attorney of the county wherein the nuisance exists may commence
13 an action to abate the nuisance. The court may without notice
14 or bond enter a temporary restraining order or a preliminary
15 injunction to enjoin the defendant from operating in violation
16 of this Act.

17 Section 85. Tattoo and Body Piercing Establishment
18 Registration Fund. There is hereby created in the State
19 Treasury a special fund to be known as the Tattoo and Body
20 Piercing Establishment Registration Fund. All fees and fines
21 collected by the Department under this Act and any agreement
22 for the implementation of this Act and rules under Section
23 40(b) and any federal funds collected pursuant to the
24 administration of this Act shall be deposited into the Fund.
25 The amount deposited shall be appropriated by the General
26 Assembly to the Department for the purpose of conducting
27 activities relating to tattooing and body piercing
28 establishments.

29 Section 90. The State Finance Act is amended by adding
30 Section 5.663 as follows:

31 (30 ILCS 105/5.663 new)

32 Sec. 5.663. The Tattoo and Body Piercing Establishment

1 Registration Fund.