

AN ACT concerning regulation.

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

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

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

Section 10. Definitions. In this Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 15. Registration required.

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

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

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

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

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

(5) Any other information required by the Department.

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

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

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

(1) An establishment must ensure that all body piercing

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

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

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

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

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

Section 30. Duties of the Department; rulemaking.

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

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

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

Section 35. Expiration and renewal of registration; display.

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

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

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

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

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

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

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

Revocation of a certificate of registration during the previous 5 years or surrender or expiration of the certificate of registration during the pendency of action by the Department to revoke or suspend the certificate of registration during the previous 5 years, if before the certificate of registration was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant, or any affiliate of the individual applicant or controlling owner of the applicant or affiliate of the applicant, was a controlling owner of the prior certificate of registration.

Section 50. Administration; enforcement.

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

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

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

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

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

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

Section 60. Conduct of hearing.

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

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

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

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

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

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

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

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

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

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

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

Section 85. Public nuisance.

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

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

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

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

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

Public Act 094-1040

SB0927 Enrolled

LRB094 04534 LJB 34563 b

(30 ILCS 105/5.663 new)

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

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