

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 806

By: Shurden of the Senate

and

Lindley of the House

COMMITTEE SUBSTITUTE

An Act relating to tattooing; amending 21 O.S. 2001, Sections 842.1, 842.2 and 842.3, which relate to body piercing; prohibiting tattooing or body piercing on certain persons; prohibiting the purchase or possession of certain tattoo equipment or supplies by unlicensed persons; adding and modifying definitions; prohibiting certain acts unless licensed; requiring State Board of Health to include tattooing in rules regulating body piercing; modifying requirements for rules; authorizing cities and counties to provide regulation; restricting location of tattoo and body piercing businesses; providing exception for restrictions; modifying penalty; defining terms; providing for certification fee; providing notice requirements; modifying administrative fine; amending 63 O.S. 2001, Section 1-1457, which relates to medical micropigmentation; decreasing certification fees; repealing 21 O.S. 2001, Sections 841 and 842, which relate to tattooing; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 2001, Section 842.1, is amended to read as follows:

Section 842.1 A. It shall be unlawful for any person to perform or offer to perform body piercing or tattooing on a child under eighteen (18) years of age ~~unless the parent or legal guardian of such child gives written consent for the procedure and the parent or legal guardian of the child is present during the procedure.~~ No person under eighteen (18) years of age shall be allowed to receive a tattoo. No person under eighteen (18) years of age shall be allowed to receive a body piercing procedure. No person shall be

allowed to purchase or possess tattoo equipment or supplies without being licensed either as an Oklahoma medical micropigmentologist or as an Oklahoma tattoo artist.

B. Tattooing shall not be performed upon a person impaired by drugs or alcohol. A person impaired by drugs or alcohol is considered incapable of consenting to tattooing and incapable of understanding tattooing procedures and aftercare suggestions.

C. As used in this section and ~~Section 3~~ Sections 842.2 and 842.3 of this act title:

1. "Body piercing" means a procedure in which an opening is created in a human body solely for the purpose of inserting jewelry or other decoration; provided, however, the term does not include ear piercing;

2. ~~"Operator"~~ "Tattooing" means the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment; provided, that medical micropigmentation, performed pursuant to the provisions of the Oklahoma Medical Micropigmentation Regulation Act, shall not be construed to be tattooing;

3. "Body piercing operator" means any person who owns, controls, operates, conducts, or manages any permanent body piercing establishment, whether actually performing the work of body piercing or not. A mobile unit, including, but not limited to, a mobile home, recreational vehicle, or any other nonpermanent facility, shall not be used as a permanent body piercing establishment; and

~~3.~~ 4. "Tattoo operator" means any person who owns, controls, operates, conducts, or manages any permanent tattooing establishment whether performing the work of tattooing or not, or a temporary location that is a fixed location at which an individual tattoo operator performs tattooing for a specified period of not more than seven (7) days in conjunction with a single event or celebration, where the primary function of the event or celebration is tattooing;

5. "Artist" means the person who actually performs the body piercing or tattooing procedure; and

6. "Apprentice" means any person who is training under the supervision of a licensed tattoo artist. That person cannot independently perform the work of tattooing. Apprentice also means any person who is training under the supervision of a licensed body artist. That person cannot independently perform the work of body piercing.

~~C. The provisions~~ D. Sections 842.1 through 842.3 of this ~~act~~ title shall not apply to any act of a licensed practitioner of the healing arts performed in the course of ~~such practitioner's~~ practice of the practitioner.

SECTION 2. AMENDATORY 21 O.S. 2001, Section 842.2, is amended to read as follows:

Section 842.2 Any person convicted of violating the provisions of Section ~~4~~ 842.1 of this ~~act~~ title or rules promulgated pursuant thereto shall be guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed ninety (90) days, a fine of not more than ~~Five Hundred Dollars (\$500.00)~~ Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

SECTION 3. AMENDATORY 21 O.S. 2001, Section 842.3, is amended to read as follows:

Section 842.3 A. All body piercing operators, tattoo operators and artists shall be prohibited from performing body piercing or tattooing unless licensed in the appropriate category by the State Department of Health. The State Board of Health shall promulgate rules regulating body piercing and tattooing which shall include, but not be limited to:

1. Artist temporary and permanent licensure;
2. Facility operator temporary and permanent licensure;
3. Body piercing and tattoo facility requirements;
4. Equipment setup and requirements;

5. ~~Recommended procedures~~ Procedures for sanitary body piercing and tattooing;

6. Forms to be completed prior to performing body piercing and tattooing including, but not limited to, applications and parental consent forms;

7. Hand washing and general health;

8. Body piercing and tattoo site preparation and application;

9. Procedure following body piercing and tattoo application;

10. Limits and prohibitions concerning body piercing and tattooing;

11. Facility inspection documents including, but not limited to, equipment inspection; ~~and~~

12. Administrative fines structure;

13. Education and training; and

14. A surety bond in the principal sum of One Hundred Thousand Dollars (\$100,000.00) to be in a form approved by the Attorney General and filed in the Office of the Secretary of State for all body piercing and tattoo operators.

B. A city or county may adopt any regulations that do not conflict with, or are more comprehensive than, the provisions of this section or with the rules promulgated by the Department. This section does not limit the ability of a city or county to require an applicant to obtain any further business licenses or permits that the city or county deems appropriate.

C. 1. The State Department of Health shall not grant or issue a license to a body piercing or tattoo operator if the place of business of the body piercing or tattoo operator is within one thousand (1,000) feet of a church, school, or playground.

2. The provisions of this subsection shall not apply to the renewal of licenses or to new applications for locations where body piercing or tattoo operators are licensed at the time the application is filed with the Department.

3. As used in this subsection:

- a. "church" means an establishment, other than a private dwelling, where religious services are usually conducted,
- b. "school" means an establishment, other than a private dwelling, where the usual processes of education are usually conducted, and
- c. "playground" means a place, other than grounds at a private dwelling, that is provided by the public or members of a community for recreation.

D. A body piercing or tattoo operator applying for license renewal or for a new license to perform at an existing body piercing or tattoo place of business shall pay a certification fee established by the Department by rule to determine if the exemptions provided for in paragraph 2 of subsection C of this section apply.

E. A body piercing or tattoo operator applying for license renewal or for a new license under subsection C of this section shall publish notice of the license application or renewal at least once a week for three (3) consecutive weeks in a newspaper of general circulation nearest to the proposed location of the business and most likely to give notice to interested citizens of the county, city, and community in which the applicant proposes to engage in business. The publication shall identify the exact location at which the proposed business is to be operated.

F. The ~~Board~~ State Department of Health may notify the district attorney of any violation of Section ~~±~~ 842.1 of this ~~act~~ title or rules promulgated pursuant thereto and, in addition to any criminal penalty imposed, the ~~Board~~ Department may impose an administrative fine not to exceed ~~Five Hundred Dollars (\$500.00)~~ Five Thousand Dollars (\$5,000.00) per violation per day, and may suspend, revoke or deny the ~~establishment's~~ license of the establishment, or may

impose both such administrative fine and suspension, revocation or denial for any such violation.

SECTION 4. AMENDATORY 63 O.S. 2001, Section 1-1457, is amended to read as follows:

Section 1-1457. A. Certificates to perform medical micropigmentation shall be valid for one (1) year from the date of issuance.

B. ~~Until July 1, 2003, fees~~ Fees for certification to perform medical micropigmentation as promulgated by the State Board of Health shall not exceed:

Application for Certification	\$1,000.00	<u>\$500.00</u>
Annual Renewal of Certification	\$500.00	<u>\$100.00</u>
Reinstatement of Certification	\$750.00	<u>\$375.00</u>
Replacement of Certificate	\$250.00	<u>\$125.00</u>

C. ~~On or before January 1, 2003, the~~ The State Board of Health shall make recommendations to the Legislature as to the proper and necessary fees for the regulation of the performance of medical micropigmentation pursuant to the Oklahoma Medical Micropigmentation Regulation Act.

D. All fees collected pursuant to the provisions of this section shall be deposited in the Public Health Special Fund and shall be used in implementing the provisions of the Oklahoma Medical Micropigmentation Regulation Act. Excess funds shall be available to the State Department of Health for expenditures pursuant to Section 1-107 of Title 63 of the Oklahoma Statutes.

E. Every person holding a current certificate to perform medical micropigmentation shall display the certificate in a conspicuous place in the area where medical micropigmentation is being performed.

SECTION 5. REPEALER 21 O.S. 2001, Sections 841 and 842, are hereby repealed.

SECTION 6. This act shall become effective November 1, 2006.

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