

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 814 By: Anderson of the Senate
3 and
4 Enns of the House
5
6

7 [tattooing - tattoo artists, licenses and penalties
8 - consent form - criminal penalty - city regulation
9 notification - administrative fine - denial of
license - suspension or revocation - effective date -
10 emergency]

11
12 AMENDMENT NO. 1. Page 1, line 12, strike the enacting clause

13 Passed the House of Representatives the 8th day of April, 2013.

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16 _____
Presiding Officer of the House of
Representatives

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18 Passed the Senate the ____ day of _____, 2013.

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Presiding Officer of the Senate

1 ENGROSSED SENATE
2 BILL NO. 814

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

13 SECTION 1. AMENDATORY 21 O.S. 2011, Section 842.1, is
14 amended to read as follows:

15 Section 842.1. A. It shall be unlawful for any person to
16 perform or offer to perform body piercing or tattooing in this state
17 without a license. It is unlawful to perform or offer to perform
18 body piercing or tattooing on a ~~child~~ person under eighteen (18)
19 years of age. No person under eighteen (18) years of age shall be
20 allowed to receive a tattoo. No present in any place where tattoos
21 or body piercing is being practiced, except a person under eighteen
22 (18) years of age shall be allowed to receive a body piercing
23 procedure ~~unless~~ and be present in a place licensed to perform body
24 piercing when the parent or legal guardian of such ~~child~~ person

1 gives written consent for the procedure, and the parent or legal
2 guardian ~~of the child is~~ remains present during the procedure. No
3 person shall be allowed to purchase or possess tattoo equipment or
4 supplies without being licensed either as an Oklahoma medical
5 micropigmentologist or as an Oklahoma tattoo artist.

6 B. Any person consenting to body piercing or tattooing shall
7 sign a consent statement acknowledging that the person is over the
8 age of eighteen (18) years and understands and accepts the risks and
9 dangers of injury, illness and permanent mistakes in receiving the
10 body piercings or tattoos. The consent form shall be maintained by
11 the person licensed to perform body piercing and tattooing and shall
12 be subject to inspection by the State Department of Health or any
13 law enforcement officer. Tattooing shall not be performed upon a
14 person impaired by drugs or alcohol. A person impaired by drugs or
15 alcohol is considered incapable of consenting to tattooing and
16 incapable of understanding tattooing procedures and aftercare
17 ~~suggestions~~ recommendations.

18 C. It shall be unlawful for any person to perform or offer to
19 perform scleral tattooing upon a person.

20 D. As used in this section and Sections 842.2 and 842.3 of this
21 title:

22 1. "Body piercing" means a procedure in which an opening is
23 created in a human body solely for the purpose of inserting jewelry
24

1 or other decoration; provided, however, the term does not include
2 ear piercing;

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

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

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

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

24

1 6. "Apprentice" means any person who is training under the
2 supervision of a licensed tattoo artist. That person cannot
3 independently perform the work of tattooing. Apprentice also means
4 any person who is training under the supervision of a licensed body
5 artist. That person cannot independently perform the work of body
6 piercing; and

7 7. "Scleral tattooing" means the practice of producing an
8 indelible mark or figure on the human eye by scarring or inserting a
9 pigment on, in, or under the fornix conjunctiva, bulbar conjunctiva,
10 ocular conjunctive, or other ocular surface using needles, scalpels
11 or other related equipment.

12 E. Sections 842.1 ~~through~~ and 842.3 of this title shall not
13 apply to any act ~~of~~ performed by a licensed practitioner of the
14 healing arts if performed in the course of such practice ~~of the~~
15 ~~practitioner~~ and recognized by this state as a part of the licensed
16 profession.

17 F. Any person violating the provisions of this section or any
18 rules established for licensure shall be punished as provided in
19 Section 842.2 of this title.

20 SECTION 2. AMENDATORY 21 O.S. 2011, Section 842.2, is
21 amended to read as follows:

22 Section 842.2. Any person convicted of violating the provisions
23 of Section 842.1 of this title or of any rules promulgated pursuant
24 ~~thereto~~ to Section 842.1 or 842.3 of this title shall be guilty of a

1 misdemeanor punishable by imprisonment in the county jail for a term
2 ~~not to exceed~~ more than ninety (90) days, by a fine ~~of not more than~~
3 exceeding Five Thousand Dollars (\$5,000.00), or by both such fine
4 and imprisonment. Any criminal penalty imposed pursuant to this
5 section shall be in addition to the administrative fines imposed for
6 a license violation.

7 SECTION 3. AMENDATORY 21 O.S. 2011, Section 842.3, is
8 amended to read as follows:

9 Section 842.3. A. All body piercing operators, tattoo
10 operators and artists shall be prohibited from performing body
11 piercing or tattooing unless ~~licensed~~ such person has been issued a
12 valid license in the appropriate category by the State Department of
13 Health. The State Board of Health shall promulgate rules regulating
14 body piercing and tattooing which shall include, but not be limited
15 to:

- 16 1. Artist temporary and permanent licensure;
- 17 2. Facility operator temporary and permanent licensure;
- 18 3. Body piercing and tattoo facility requirements;
- 19 4. Equipment setup and requirements;
- 20 5. Procedures for sanitary body piercing and tattooing;
- 21 6. Forms to be completed prior to performing body piercing and
22 tattooing including, but not limited to, applications and parental
23 consent forms;
- 24 7. Hand washing and general health;

1 8. Body piercing and tattoo site preparation and application;

2 9. Procedure following body piercing and tattoo application;

3 10. Limits and prohibitions concerning body piercing and
4 tattooing;

5 11. Facility inspection documents including, but not limited
6 to, equipment inspection;

7 12. Administrative fines structure;

8 13. Education and training; and

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

13 B. A In addition to a state license required by subsection A of
14 this section, a city or county may adopt ~~any~~ regulations that do not
15 conflict with, or are more comprehensive than, the provisions of
16 this section or with the rules promulgated by the Department. This
17 section does not limit the ability of a city or county to require an
18 applicant to obtain any further business licenses or permits that
19 the city or county deems appropriate.

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

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

5 3. As used in this subsection:

6 a. "church" means an establishment, other than a private
7 dwelling, where religious services are usually
8 conducted,

9 b. "school" means an establishment, other than a private
10 dwelling, where the usual processes of education are
11 usually conducted, and

12 c. "playground" means a place, other than grounds at a
13 private dwelling, that is provided by the public or
14 members of a community for recreation.

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

20 E. A body piercing or tattoo operator applying for license
21 renewal or for a new license under subsection C of this section
22 shall publish notice of the license application or renewal at least
23 once a week for three (3) consecutive weeks in a newspaper of
24 general circulation nearest to the proposed location of the business

1 and most likely to give notice to interested citizens of the county,
2 city, and community in which the applicant proposes to engage in
3 business. The publication shall identify the exact location at
4 which the proposed business is to be operated.

5 F. The State Department of Health ~~may~~ shall notify the district
6 attorney of any violation of Section 842.1 of this title ~~or rules~~
7 ~~promulgated pursuant thereto~~ and, in addition to any criminal
8 penalty imposed, the Department ~~may~~ shall impose an administrative
9 fine for all violations of rule or law in an amount not to exceed
10 Five Thousand Dollars (\$5,000.00) per violation per day, ~~and may.~~
11 The State Department of Health shall deny a license for violation of
12 law and may suspend, or revoke or deny the a license of the
13 establishment, or may for violation of law or rule. The Department
14 may impose both ~~such~~ an administrative fine and suspension,
15 revocation or denial for any ~~such~~ violation.

16 SECTION 4. This act shall become effective July 1, 2013.

17 SECTION 5. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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1 Passed the Senate the 11th day of March, 2013.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2013.

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8 _____
9 Presiding Officer of the House
10 of Representatives