

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 "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  
24 medical procedures or the puncturing of the outer perimeter or  
25 lobe of the ear using a pre-sterilized, single-use stud and  
26 clasp ear piercing system.

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

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

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

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

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

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

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

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

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

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

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

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

26 "Tattooing" means making permanent marks on the skin of a  
27 live human being by puncturing the skin and inserting indelible  
28 colors. "Tattooing" includes imparting permanent makeup on the  
29 skin, such as permanent lip coloring and permanent eyeliner.

30 "Tattooing" does not include any of the following:

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

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

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

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

3 Section 15. Registration required.

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

11 (1) The applicant's (owner) name, address, telephone  
12 number, and age. In order to qualify for a certificate of  
13 registration under this Act, an applicant must be at least  
14 18 years of age.

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

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

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

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

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

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

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

33 (1) An establishment must ensure that all body piercing

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

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

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

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

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

20 Section 30. Duties of the Department; rulemaking.

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

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

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

30 Section 35. Expiration and renewal of registration;  
31 display.

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

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

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

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

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

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

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

24 Revocation of a certificate of registration during the  
25 previous 5 years or surrender or expiration of the certificate  
26 of registration during the pendency of action by the Department  
27 to revoke or suspend the certificate of registration during the  
28 previous 5 years, if before the certificate of registration was  
29 issued to the individual applicant, a controlling owner or  
30 controlling combination of owners of the applicant, or any  
31 affiliate of the individual applicant or controlling owner of  
32 the applicant or affiliate of the applicant, was a controlling  
33 owner of the prior certificate of registration.

1 Section 50. Administration; enforcement.

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

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

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

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

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

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

3 Section 60. Conduct of hearing.

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

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

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

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

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

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

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

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

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

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



1 for violations of this Act or regulations adopted under this  
2 Act. In no circumstance will any penalties or fines exceed  
3 \$1,000 per day for each day the registrant remains in  
4 violation.

5 Section 85. Public nuisance.

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

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

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

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

30 Section 905. The State Finance Act is amended by adding  
31 Section 5.663 and by changing Section 8h as follows:

32 (30 ILCS 105/5.663 new)

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

3           (30 ILCS 105/8h)

4           Sec. 8h. Transfers to General Revenue Fund.

5           (a) Except as provided in subsection (b), notwithstanding  
6 any other State law to the contrary, the Governor may, through  
7 June 30, 2007, from time to time direct the State Treasurer and  
8 Comptroller to transfer a specified sum from any fund held by  
9 the State Treasurer to the General Revenue Fund in order to  
10 help defray the State's operating costs for the fiscal year.  
11 The total transfer under this Section from any fund in any  
12 fiscal year shall not exceed the lesser of (i) 8% of the  
13 revenues to be deposited into the fund during that fiscal year  
14 or (ii) an amount that leaves a remaining fund balance of 25%  
15 of the July 1 fund balance of that fiscal year. In fiscal year  
16 2005 only, prior to calculating the July 1, 2004 final  
17 balances, the Governor may calculate and direct the State  
18 Treasurer with the Comptroller to transfer additional amounts  
19 determined by applying the formula authorized in Public Act  
20 93-839 to the funds balances on July 1, 2003. No transfer may  
21 be made from a fund under this Section that would have the  
22 effect of reducing the available balance in the fund to an  
23 amount less than the amount remaining unexpended and unreserved  
24 from the total appropriation from that fund estimated to be  
25 expended for that fiscal year. This Section does not apply to  
26 any funds that are restricted by federal law to a specific use,  
27 to any funds in the Motor Fuel Tax Fund, the Intercity  
28 Passenger Rail Fund, the Hospital Provider Fund, the Medicaid  
29 Provider Relief Fund, the Teacher Health Insurance Security  
30 Fund, the Reviewing Court Alternative Dispute Resolution Fund,  
31 ~~or~~ the Voters' Guide Fund, the Foreign Language Interpreter  
32 Fund, the Lawyers' Assistance Program Fund, the Supreme Court  
33 Federal Projects Fund, the Supreme Court Special State Projects  
34 Fund, ~~or~~ the Low-Level Radioactive Waste Facility Development  
35 and Operation Fund, ~~or~~ the Hospital Basic Services Preservation

1 Fund, or the Tattoo and Body Piercing Establishment  
2 Registration Fund, or to any funds to which subsection (f) of  
3 Section 20-40 of the Nursing and Advanced Practice Nursing Act  
4 applies. No transfers may be made under this Section from the  
5 Pet Population Control Fund. Notwithstanding any other  
6 provision of this Section, for fiscal year 2004, the total  
7 transfer under this Section from the Road Fund or the State  
8 Construction Account Fund shall not exceed the lesser of (i) 5%  
9 of the revenues to be deposited into the fund during that  
10 fiscal year or (ii) 25% of the beginning balance in the fund.  
11 For fiscal year 2005 through fiscal year 2007, no amounts may  
12 be transferred under this Section from the Road Fund, the State  
13 Construction Account Fund, the Criminal Justice Information  
14 Systems Trust Fund, the Wireless Service Emergency Fund, or the  
15 Mandatory Arbitration Fund.

16 In determining the available balance in a fund, the  
17 Governor may include receipts, transfers into the fund, and  
18 other resources anticipated to be available in the fund in that  
19 fiscal year.

20 The State Treasurer and Comptroller shall transfer the  
21 amounts designated under this Section as soon as may be  
22 practicable after receiving the direction to transfer from the  
23 Governor.

24 (b) This Section does not apply to: (i) the Ticket For The  
25 Cure Fund; (ii) or to any fund established under the Community  
26 Senior Services and Resources Act; or (iii) ~~(ii)~~ on or after  
27 January 1, 2006 (the effective date of Public Act 94-511) ~~this~~  
28 ~~amendatory Act of the 94th General Assembly~~, the Child Labor  
29 and Day and Temporary Labor Enforcement Fund.

30 (c) This Section does not apply to the Demutualization  
31 Trust Fund established under the Uniform Disposition of  
32 Unclaimed Property Act.

33 (d) ~~(e)~~ This Section does not apply to moneys set aside in  
34 the Illinois State Podiatric Disciplinary Fund for podiatric  
35 scholarships and residency programs under the Podiatric  
36 Scholarship and Residency Act.

1 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674,  
2 eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04;  
3 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; 93-1067, eff.  
4 1-15-05; 94-91, eff. 7-1-05; 94-120, eff. 7-6-05; 94-511, eff.  
5 1-1-06; 94-535, eff. 8-10-05; 94-639, eff. 8-22-05; 94-645,  
6 eff. 8-22-05; 94-648, eff. 1-1-06; 94-686, eff. 11-2-05;  
7 94-691, eff. 11-2-05; 94-726, eff. 1-20-06; revised 1-23-06.)