



Sen. Edward D. Maloney

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LRB094 16428 RAS 56429 a

1 AMENDMENT TO SENATE BILL 2229

2 AMENDMENT NO. _____. Amend Senate Bill 2229 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Tattoo 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

1 medical procedures or the puncturing of the outer perimeter or
2 lobe of the ear using a pre-sterilized, single-use stud and
3 clasp ear piercing system.

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

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

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

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

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

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

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

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

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

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

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

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

34 "Tattooing" means making permanent marks on the skin of a

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

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

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

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

13 Section 15. Registration required.

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

21 (1) The applicant's (owner) name, address, telephone
22 number, and age. In order to qualify for a certificate of
23 registration under this Act, an applicant must be at least
24 18 years of age.

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

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

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

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

32 (b) If the owner owns or operates more than one
33 establishment, the owner shall file a separate application for

1 each facility owned or operated.

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

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

10 (1) An establishment must ensure that all body piercing
11 and tattooing procedures are performed in a clean and
12 sanitary environment that is consistent with sanitation
13 techniques established by the Department.

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

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

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

25 Section 30. Prohibitions. Body piercing procedures must
26 not be performed, without medical clearance, on skin surfaces
27 where sunburn, rash, acne, infection, open lesions, or other
28 questionable skin lesions exist and must not be performed on
29 any person who is impaired by drugs or alcohol.

30 Section 35. Duties of the Department; rulemaking.

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

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

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

10 Section 40. Expiration and renewal of registration;
11 display.

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

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

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

20 Section 45. Change of ownership. In the event of a change
21 of ownership, the new owner must apply for a certificate of
22 registration prior to taking possession of the property. A
23 provisional certificate of registration may be issued by the
24 Department until an initial inspection for a certificate of
25 registration can be performed by the Department or its
26 designee.

27 Section 50. Denial; suspension; revocation; nonrenewal of
28 registration. A certificate of registration may be denied,
29 suspended, revoked, or the renewal of a certificate of
30 registration may be denied for any of the following reasons:

31 Violation of any of the provisions of this Act or the rules

1 and regulations adopted by the Department under this Act.

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

6 Revocation of a certificate of registration during the
7 previous 5 years or surrender or expiration of the certificate
8 of registration during the pendency of action by the Department
9 to revoke or suspend the certificate of registration during the
10 previous 5 years, if before the certificate of registration was
11 issued to the individual applicant, a controlling owner or
12 controlling combination of owners of the applicant, or any
13 affiliate of the individual applicant or controlling owner of
14 the applicant or affiliate of the applicant, was a controlling
15 owner of the prior certificate of registration.

16 Section 55. Administration; enforcement.

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

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

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

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

1 Section 60. Investigation; hearing; notice. The Department
2 may, upon its own motion, and shall upon the verified complaint
3 in writing of any person setting forth facts which if proven
4 would constitute grounds for the denial of an application for a
5 certificate of registration, or refusal to renew a certificate
6 of registration, or revocation of a certificate of
7 registration, or suspension of a certificate of registration,
8 investigate the applicant or registrant. The Department, after
9 notice and opportunity for hearing, may deny any application
10 for or suspend or revoke a certificate of registration or may
11 refuse to renew a certificate of registration. Before denying
12 an application or refusing to renew, suspending, or revoking a
13 certificate of registration, the Department shall notify the
14 applicant in writing. The notice shall specify the charges or
15 reasons for the Department's contemplated action. The
16 applicant or registrant must request a hearing within 10 days
17 after receipt of the notice. Failure to request a hearing
18 within 10 days shall constitute a waiver of the right to a
19 hearing.

20 Section 65. Conduct of hearing.

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

31 (b) All subpoenas issued by the Director or hearing officer
32 may be served as provided for in civil actions. The fees of

1 witnesses for attendance and travel shall be the same as the
2 fees for witnesses before the circuit court and shall be paid
3 by the party to the proceedings at whose request the subpoena
4 is issued. If a subpoena is issued at the request of the
5 Department, the witness fee shall be paid as an administrative
6 expense.

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

14 Section 70. Findings of fact; conclusions of law; decision.
15 The Director or hearing officer shall make findings of fact and
16 conclusions of law in a hearing, and the Director shall render
17 his or her decision, or the hearing officer his or her proposal
18 for decision within 45 days after the termination of the
19 hearing unless additional time is required by the Director or
20 hearing officer for a proper disposition of the matter. A copy
21 of the final decision of the Director shall be served upon the
22 applicant or registrant in person or by certified mail.

23 Section 75. Review under Administrative Review Law; venue;
24 costs. All final administrative decisions of the Department
25 under this Act shall be subject to judicial review under the
26 provisions of Article III of the Code of Civil Procedure. The
27 term "administrative decision" is defined under Section 3-101
28 of the Code of Civil Procedure.

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

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

8 Section 80. Administrative Procedure Act; application. The
9 provisions of the Illinois Administrative Procedure Act are
10 hereby expressly adopted and shall apply to all administrative
11 rules and procedures of the Department under this Act, except
12 that in case of conflict between the Illinois Administrative
13 Procedure Act and this Act the provisions of this Act shall
14 control, and except that Section 5 of the Illinois
15 Administrative Procedure Act relating to procedures for
16 rulemaking does not apply to the adoption of any rules required
17 by federal law in connection with which the Department is
18 precluded by law from exercising any discretion.

19 Section 85. Penalties; fines. The Department is authorized
20 to establish and assess penalties or fines against a registrant
21 for violations of this Act or regulations adopted under this
22 Act. In no circumstance will any penalties or fines exceed
23 \$1,000 per day for each day the registrant remains in
24 violation.

25 Section 90. Public nuisance.

26 (a) Any establishment operating without a valid
27 certificate of registration or operating on a revoked
28 certificate of registration shall be guilty of committing a
29 public nuisance.

30 (b) A person convicted of knowingly maintaining a public
31 nuisance commits a Class A misdemeanor. Each subsequent offense

1 under this Section is a Class 4 felony.

2 (c) The Attorney General of this State or the State's
3 Attorney of the county wherein the nuisance exists may commence
4 an action to abate the nuisance. The court may without notice
5 or bond enter a temporary restraining order or a preliminary
6 injunction to enjoin the defendant from operating in violation
7 of this Act.

8 Section 95. Tattoo and Body Piercing Establishment
9 Registration Fund. There is hereby created in the State
10 Treasury a special fund to be known as the Tattoo and Body
11 Piercing Establishment Registration Fund. All fees and fines
12 collected by the Department under this Act and any agreement
13 for the implementation of this Act and rules under this Act and
14 any federal funds collected pursuant to the administration of
15 this Act shall be deposited into the Fund. The amount deposited
16 shall be appropriated by the General Assembly to the Department
17 for the purpose of conducting activities relating to tattooing
18 and body piercing establishments.

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

21 (30 ILCS 105/5.663 new)

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

24 (30 ILCS 105/8h)

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

26 (a) Except as provided in subsection (b), notwithstanding
27 any other State law to the contrary, the Governor may, through
28 June 30, 2007, from time to time direct the State Treasurer and
29 Comptroller to transfer a specified sum from any fund held by
30 the State Treasurer to the General Revenue Fund in order to

1 help defray the State's operating costs for the fiscal year.
2 The total transfer under this Section from any fund in any
3 fiscal year shall not exceed the lesser of (i) 8% of the
4 revenues to be deposited into the fund during that fiscal year
5 or (ii) an amount that leaves a remaining fund balance of 25%
6 of the July 1 fund balance of that fiscal year. In fiscal year
7 2005 only, prior to calculating the July 1, 2004 final
8 balances, the Governor may calculate and direct the State
9 Treasurer with the Comptroller to transfer additional amounts
10 determined by applying the formula authorized in Public Act
11 93-839 to the funds balances on July 1, 2003. No transfer may
12 be made from a fund under this Section that would have the
13 effect of reducing the available balance in the fund to an
14 amount less than the amount remaining unexpended and unreserved
15 from the total appropriation from that fund estimated to be
16 expended for that fiscal year. This Section does not apply to
17 any funds that are restricted by federal law to a specific use,
18 to any funds in the Motor Fuel Tax Fund, the Intercity
19 Passenger Rail Fund, the Hospital Provider Fund, the Medicaid
20 Provider Relief Fund, the Teacher Health Insurance Security
21 Fund, the Reviewing Court Alternative Dispute Resolution Fund,
22 ~~or~~ the Voters' Guide Fund, the Foreign Language Interpreter
23 Fund, the Lawyers' Assistance Program Fund, the Supreme Court
24 Federal Projects Fund, the Supreme Court Special State Projects
25 Fund, ~~or~~ the Low-Level Radioactive Waste Facility Development
26 and Operation Fund, ~~or~~ the Hospital Basic Services Preservation
27 Fund, or the Tattoo and Body Piercing Establishment
28 Registration Fund, or to any funds to which subsection (f) of
29 Section 20-40 of the Nursing and Advanced Practice Nursing Act
30 applies. No transfers may be made under this Section from the
31 Pet Population Control Fund. Notwithstanding any other
32 provision of this Section, for fiscal year 2004, the total
33 transfer under this Section from the Road Fund or the State
34 Construction Account Fund shall not exceed the lesser of (i) 5%

1 of the revenues to be deposited into the fund during that
2 fiscal year or (ii) 25% of the beginning balance in the fund.
3 For fiscal year 2005 through fiscal year 2007, no amounts may
4 be transferred under this Section from the Road Fund, the State
5 Construction Account Fund, the Criminal Justice Information
6 Systems Trust Fund, the Wireless Service Emergency Fund, or the
7 Mandatory Arbitration Fund.

8 In determining the available balance in a fund, the
9 Governor may include receipts, transfers into the fund, and
10 other resources anticipated to be available in the fund in that
11 fiscal year.

12 The State Treasurer and Comptroller shall transfer the
13 amounts designated under this Section as soon as may be
14 practicable after receiving the direction to transfer from the
15 Governor.

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

22 (c) This Section does not apply to the Demutualization
23 Trust Fund established under the Uniform Disposition of
24 Unclaimed Property Act.

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

29 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674,
30 eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04;
31 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; 93-1067, eff.
32 1-15-05; 94-91, eff. 7-1-05; 94-120, eff. 7-6-05; 94-511, eff.
33 1-1-06; 94-535, eff. 8-10-05; 94-639, eff. 8-22-05; 94-645,
34 eff. 8-22-05; 94-648, eff. 1-1-06; 94-686, eff. 11-2-05;

1 94-691, eff. 11-2-05; 94-726, eff. 1-20-06; revised
2 1-23-06.)".