

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Health Regulation (Sobel) recommended the following:

Senate Amendment (with title amendment)

Delete lines 50 - 371

and insert:

(3) "Convention promoter" means a person or business that promotes, operates, or conducts a tattoo convention.

(4) "Convention tattoo license" means a license required to promote, operate, or conduct a tattoo convention.

(5) "Department" means the Department of Health.

(6) "Direct supervision" means supervision by a licensed tattooist who is physically on the premises of the tattoo establishment.

(7) "Guest tattooist" means a person who has a professional background in tattooing in another state, who

is registered with the department, and whose registration expires after 14 days and may be renewed every 14 days thereafter.

(8) "In-service hours" means the number of hours that an autoclave is in operation.

(9) "Tattoo" means a mark or design made on or under the skin by a process of piercing and engraving a pigment, dye, or ink in the skin.

(10) "Tattoo convention" means any location, place, or area in a permanent structure where a convention or exposition for tattooing is temporarily held.

(11) "Tattoo establishment" means any permanent location, place, area, structure, or business used for the practice of tattooing or the instruction of tattooing.

(12) "Tattooist" means a person licensed under this part to practice tattooing or provide instruction on tattooing.

468.852 License required.-

(1) (a) A person may not practice tattooing in this state unless the person is licensed as a tattooist or is registered as an apprentice tattooist or a guest tattooist under this part.

(b) A business may not be identified as a tattoo establishment unless the establishment is licensed in accordance with this part.

(c) A person or business may not conduct, promote, or operate a tattoo convention unless the person or business is licensed to conduct or operate a tattoo convention in accordance with this part.

(2) The department shall establish requirements for licensure and registration, in consultation with the professional tattooing industry in this state, and shall develop forms by which to verify an applicant's training and employment prior to licensure or registration.

468.853 Exemption.-This part does not apply to a physician licensed under chapter 458 or to an osteopathic physician licensed under chapter 459 when the physician is

practicing his or her profession.

468.854 Prohibited acts.—A person may not:

(1) Operate a tattoo establishment, conduct or operate a tattoo convention, or practice tattooing unless the person holds an active license or registration and practices in accordance with this part.

(2) Practice tattooing on a minor.

(3) Practice tattooing when the tattooist has exuding sores, weeping dermatitis, or a contagious disease, excluding the common cold.

(4) Use tobacco or other smoking materials, eat food, or drink any beverages in the booth or tattooing room of a tattoo convention.

468.855 Qualifications for licensure; license renewal.—

(1) Any person who desires to be licensed as a tattooist or registered as a guest tattooist or apprentice tattooist must apply to the department for a license or registration.

(2) An applicant for licensure as a tattooist must meet the following requirements:

(a) Successfully pass the licensure examination for tattooing from the department.

(b) Submit a completed application to the department and pay the application fee.

(c) Submit proof of completion of an education course on blood-borne pathogens and communicable diseases.

(3) Any person who has been practicing tattooing in this state on or before December 31, 2009, shall be licensed as a tattooist by providing proof of status as a professional tattooist by one of the following methods:

(a) Submitting an occupational license as a tattooist from any municipality or county;

(b) Providing proof of employment in or ownership of property that has an occupational license for the purpose of tattooing; or

(c) Submitting copies of prior federal income tax filings as a professional tattooist.

(4) An applicant for registration as a guest tattooist must submit to the department a completed application and the application fee.

(5) An applicant for registration as an apprentice tattooist must submit to the department:

(a) A completed application and the application fee.

(b) Proof of direct supervision by a licensed tattooist.

(6) An applicant may obtain licensure of a tattoo establishment if the applicant submits a completed application and application fee to the department and the department verifies that:

(a) The establishment, furnishings, and equipment are clean and in good repair.

(b) The floors, tables, and chairs in the tattoo station and sterilization area are constructed of smooth surfaces that can be sanitized.

(c) Running water is installed in the establishment in compliance with local ordinances.

(d) There is a functioning toilet that is easily accessible to customers.

(e) There is at least one sink for hand washing which is easily accessible to the tattooist and equipped with running water, antibacterial soap, and single-use disposable towels.

(f) There are a sufficient number of trash containers that are easily accessible to the tattooist for the disposal of towels or other absorbent material, and for the disposal of dyes, inks, or pigments previously used on a customer.

(g) The establishment is in compliance with the local building, occupational, zoning, and health codes.

(h) All water-carried sewage is disposed of by a public

sewage system or a sewage system that is constructed and operating in conformance with local ordinances.

(i) There is a functioning autoclave on the premises of the establishment for sterilizing tattoo-related equipment.

(7) An applicant may obtain convention tattoo license if the applicant submits a completed application and application fee to the department and the department verifies that:

(a) A negative growth spore destruction test is submitted and documented by an independent testing laboratory within the last 90 days before the first day of the convention.

(b) All peel-back sterilizer bags are dated no later than 14 days before the first day of the convention and show a positive indication of sterilization.

(c) Any peel-back sterilizer bags not dated 14 days before the first day of the convention are repackaged and sterilized by an approved on-site sterilizer.

(d) All peel-back sterilizer bags that have been opened or have the sterility compromised in any way are re-packaged and sterilized by an approved on-site sterilizer.

(e) All peel-back sterilizer bags show proof of positive sterilization by an indicator.

(f) The tattoo convention, furnishings, and equipment are clean and in good repair.

(g) Each booth in the tattoo convention is 8 feet by 8 feet, and no more than two tattooists are working at any given time in a booth. Each tattooist must have a dedicated space of at least one-half of a booth.

(h) Each booth has at least one sharps disposal container, a bio bag, a garbage bag, sani-wipes, hand sanitizer, germicidal solution, and waste receptacles that

are easily accessible.

(i) There are a sufficient number of trash containers that are easily accessible for each booth for the disposal of towels or other absorbent material, and for the disposal of dyes, inks, or pigments previously used on a client.

(j) The tattoo convention is in compliance with the local building, occupational, zoning, and health codes.

(k) All water-carried sewage is disposed of by a public sewage system or a sewage system that is constructed and operating in conformance with local ordinances.

(l) There is a functioning autoclave on the premises of the tattoo convention for sterilizing tattoo-related equipment. There must be at least one operating sink that has hot and cold running water in the area where the autoclave is located.

(8) The applicant for licensure or registration must provide proof to the department of meeting the requirements for licensure or registration.

(9) The department shall renew a license or registration according to rules adopted by the department. A tattooist must complete a course of continuing education on blood-borne pathogens and communicable diseases, as prescribed by the department.

(10) A license or registration issued by the department under this part is not transferable.

468.856 Practice requirements for tattooists and convention promoters; requirements for tattoo establishments.-

(1) A licensed tattooist must:

(a) Provide direct supervision to an apprentice tattooist who is registered with the department as being under the supervision of the licensed tattooist.

(b) Display a current license in a manner that is easily visible to the public.

(c) Practice tattooing only in a licensed tattoo establishment that complies with the requirements of this part.

(d) Before applying a tattoo, provide the customer with information on procedures for follow-up care after receiving the tattoo and obtain written acknowledgement from the customer of receipt of such information.

(e) Ensure that each person applying a tattoo under the supervision of the licensed tattooist washes his or her hands before and after each application.

(f) Maintain sanitary conditions at all times in the tattoo establishment, as defined by department rule.

(g) Use gas sterilization as needed.

(h) Use sterilized needles and tubes that have been sterilized in an autoclave before use on a customer for at least:

1. Twenty minutes at 15 pounds of pressure per square inch at a temperature of 240° Fahrenheit or 116° Celsius; or

2. Fifteen minutes at 20 pounds of pressure per square inch at a temperature of 250° Fahrenheit or 121° Celsius.

Sterilizing by use of an autoclave is not necessary for any pre-sterilized, disposable equipment that is used once in the process of applying a tattoo.

(i) At least once every 90 days or 40 in-service hours, whichever comes first, verify that the autoclave is properly sterilizing needles and tubes by use of the KILIT Ampule Sterilization Test or its equivalent. A tattooist must maintain an autoclave log for each use and list the amount of equipment placed in the autoclave, the time the equipment is placed into and removed from the autoclave, the temperature of the autoclave, the pressure used by the autoclave, the final results, and the signature of his or her name or initials when removing the equipment from the autoclave. A tattooist must also maintain records of

autoclave verification for at least 3 years, and the records are subject to inspection by the department.

(j) Use only single-use towels or other absorbent material for drying, cleaning, disinfecting, scrubbing, or bandaging the skin of the tattooist or the customer. The towel or material must be immediately disposed of after use.

(k) Use only single-use containers for dyes, inks, or pigments. The containers of dyes, inks, or pigments must be disposed of immediately after use.

(l) Use single-use razors and dispose of each razor immediately after use, or use a shaver that is disinfected after each use.

(m) Comply with all state and local health codes and ordinances.

(n) Report to the department any person or establishment in violation of this part.

(o) Store all stencils, needles, and tubes when not in use in clean, closed cabinets or containers.

(2) A guest tattooist must:

(a) Display a current registration in a manner that is easily visible to the public.

(b) Identify himself or herself as a guest tattooist in oral or written communication to the public which is intended to promote the guest tattooist's practice or recognition as a tattooist.

(c) Comply with the requirements for practice as a licensed tattooist enumerated in paragraphs (1)(c)-(n).

(3) An apprentice tattooist must:

(a) Practice tattooing only under the direct supervision of a licensed tattooist.

(b) Display a current registration in a manner that is easily visible to the public.

(c) Comply with the requirements for practice as a licensed tattooist enumerated in paragraphs (1)(c)-(n).

(4) A tattooist who operates a tattoo establishment must:

(a) Comply with the requirements for licensure

enumerated in s. 468.855.

(b) Display a current license for the establishment in a manner that is easily visible to the public.

(c) Display a copy of procedures for follow-up care after receiving a tattoo and provide a copy to all customers.

(d) Ensure that each tattooist who operates in the tattoo establishment meets all applicable requirements of this part.

(e) Maintain copies of autoclave sterilization tests for at least 3 years. Copies of the tests from the previous year must be maintained on the premises of the tattoo establishment.

(f) Allow periodic inspection and enforcement by authorized agents of the department.

(g) Report to the department any person or tattoo establishment in violation of this part.

(5) A convention promoter must:

(a) Comply with the requirements for licensure enumerated in s. 468.855.

(b) Display a current license for the tattoo convention in a manner that is easily visible to the public.

(c) Display a copy of procedures.

(d) Ensure that each tattooist, guest tattooist, and apprentice tattooist who operates in the tattoo convention meet all applicable requirements of this part.

(e) Allow inspection and enforcement by authorized agents of the department.

(f) Report to the department any person or tattoo convention operating in violation of this part.

(6) Any person who is licensed or registered under this part must notify the department within 14 days following any

change in the name or address of the licensee or registrant.

468.857 Practice requirements at tattoo conventions.-

(1) Each tattooist, guest tattooist, and apprentice tattooist who operates at a tattoo convention shall:

(a) Prominently display his or her active license or registration as a tattooist, guest tattooist, or apprentice tattooist which is easily visible by the public.

(b) Have sufficient hand sanitizer.

(c) Be aware of the location of approved hand wash and service sinks and use them as required.

(d) Wear clean, disposable gloves for each tattoo. Gloves must be changed between patrons and disposed of after each use.

(e) Clean and disinfect any procedure areas and procedure surfaces. Materials used to clean and disinfect must be on site and available for inspection.

(f) Practice precautions with respect to blood and body fluids when the potential for contact with body fluid exists in any tattooing procedure.

(g) Provide written and verbal instructions to each client for follow-up care after receiving a tattoo.

(h) Use sterilized or new disposable razors for each client when it is necessary to shave the area to be tattooed.

(i) Clean the site of a tattoo with a germicidal solution, which the tattooist shall apply in a circular centrifugal manner before the design is placed on the skin. If the area to be tattooed is shaved, this cleaning shall be preformed after shaving the area.

(j) Properly disposed of any other sterile, individual towels or gauze used in preparing the site to be tattooed after use on each client.

(k) Use only clean, disposable stencils for transferring the design to the skin. A stencil may not be used on more than one person.

(l) After completing the tattoo, clean the tattooed area with a clean tissue or paper towel, apply an ointment

or lotion to the tattooed area, and cover it with a dressing.

(m) Use only single-service, individual containers of dye or ink on each client and discard the containers immediately after completing work on a client. Any ink or dye in which needles are dipped shall be treated likewise so as not be used on another client.

(n) Keep retrievable records on each client and require each client to provide and verify his or her name, address, phone number, date of birth, and signature. These records must be kept for at least 2 years, made available to the department on demand, and kept confidential.

(o) Report any infections resulting from the practice of tattooing which become known to the tattooist to the local health department within 48 hours.

(2) Tattooing instruments and other equipment used at a tattoo convention must be cared for in the following manner:

(a) All clean and ready-to-use instruments, dyes, carbons, and stencils shall be kept in a closed container, case, or storage cabinet while in use. The storage cabinet must be maintained in a sanitary manner at all times.

(b) Sterile instruments must be kept in sterile packages or containers

(c) Only disposable needles shall be used in the tattooing process, and a new needle or set of needles shall be used on each client.

(d) Autoclaving shall be used for sterilization of the needle bar tube and needle bar of the tattoo machine before use of each client. The needle bar tube of the tattoo machine shall be cleaned after each use and before being sterilized for use on the next client.

(e) The needles and instruments required to be sterile

shall be handled with aseptic technique during the tattooing procedure so that they are not contaminated before use.

(f) All used sharps shall be stored and disposed of in an appropriate sharps container.

486.858 Fees; disposition.—The department shall establish by rule fees for initial licensure or registration, annual renewal fees, and reactivation fees for an inactive license or registration in accordance with ss. 456.004 and 456.025. A license or registration that is not timely renewed becomes inactive.

(1) The annual fee for a tattoo establishment license may not exceed \$500.

(2) The annual fee for licensure as a tattooist may not exceed \$250.

(3) The annual fee for registration as an apprentice tattooist may not exceed \$150.

(4) The fee for registration as a guest tattooist may not exceed \$45 per registration.

(5) The fee for a convention tattoo license may not exceed \$150 per tattoo convention.

468.859 Disciplinary grounds.—

(1) In addition to the grounds set forth in s. 456.072, the following acts constitute grounds for which the department may take disciplinary action against a person licensed or registered under this part:

(a) Violating a state or local health code or ordinance.

(b) Making a false, deceptive, or misleading advertisement or deceptively failing to identify oneself as an apprentice or guest tattooist.

(c) Providing false information on an application for licensure or registration or on an autoclave test.

(d) Violating any applicable provision of this part, a rule adopted under this part, a lawful order of the department, or any applicable provision of chapter 456 or rule adopted under chapter 456.

(e) Having a comparable license, registration, or

certification revoked, suspended, or otherwise acted against by the licensing authority of another state, territory, or country.

(f) Being found guilty of or pleading nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to practicing tattooing; conducting, operating, or promoting a tattoo convention; or operating a tattoo establishment.

(g) Committing fraud, deceit, negligence, or misconduct in practicing tattooing; operating a tattoo establishment; or conducting, operating, or promoting a tattoo convention.

(h) Aiding, assisting, procuring, or advising any unlicensed person in practicing tattooing; operating a tattoo establishment; or conducting, operating, or promoting a tattoo convention.

(2) The department may revoke, suspend, fine, place on probation with conditions, reprimand, or deny subsequent renewal of licensure or registration to any licensee or registrant who violates subsection (1).

(3) Disciplinary proceedings shall be conducted as provided in chapters 120 and 456.

(4) The maximum fine per violation is \$1,500, and the department shall adopt by rule procedures for taking disciplinary action against a licensee or registrant.

468.86 Rulemaking.—The department shall adopt rules to administer this part.

468.861 Apprentice tattooist program.—Any person applying for registration as an apprentice tattooist must apply on forms supplied by the department.

(1) The applicant must provide to the department:

(a) A written agreement from the supervising tattooist that the applicant will serve the apprenticeship under the

direct supervision of the supervising tattooist.

(b) Proof of practice in a licensed tattoo establishment.

(c) Proof of compliance with the conditions of registration for an apprentice tattooist, set forth in s. 468.855.

(d) Proof of successful completion of a course of study on first aid and blood-borne pathogens and communicable diseases.

(2) An applicant for registration as an apprentice tattooist must provide any material requested by the department to verify compliance with the apprentice tattooist program.

(3) An apprentice tattooist must use the words "apprentice tattooist" in any advertisement or written document relating to the practice of tattooing by the apprentice tattooist.

468.862 Penalties.—

(a) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

1. Owning, operating, or soliciting business as a tattoo establishment or tattoo convention in this state without first procuring a license from the department, unless specifically exempted by this section.

2. Obtaining or attempting to obtain a license to operate a tattoo establishment or tattoo convention by means of fraud, misrepresentation, or concealment.

3. Tattooing a minor.

4. Practicing tattooing when the tattooist has exuding sores, weeping dermatitis, or a contagious disease, excluding the common cold.

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T I T L E A M E N D M E N T
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And the title is amended as follows:

Delete lines 7 - 28

and insert:

requiring the licensure of a tattoo establishment and tattoo convention; requiring that the department establish requirements for licensure and registration; exempting physicians licensed under ch. 458 or ch. 459, F.S., from regulation under the act; prohibiting a tattooist from tattooing under certain circumstances; specifying requirements for licensure and license renewal; providing requirements for registration as a guest tattooist or apprentice tattooist; providing licensure requirements for a tattoo establishment and tattoo convention; requiring a tattooist to complete a course in continuing education; prohibiting the transfer of a license or registration; providing practice requirements for tattooists, guest tattooists, and apprentice tattooists; providing practice requirements at tattoo conventions; specifying fees for initial licensure and registration and annual renewal thereof; specifying acts that constitute grounds under which the department may take disciplinary action; providing for disciplinary proceedings and fines; authorizing the department to adopt rules to administer the act; providing requirements for persons applying for registration as an apprentice