



130944

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2010	.	
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The Committee on Health Regulation (Sobel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 381.00771, Florida Statutes, is created to read:

381.00771 Definitions of terms used in ss. 381.00771-381.00791.-As used in ss. 381.00771-381.00791, the term:

(1) "Active license or registration" means a current license or registration issued by the department that is not suspended or revoked.

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



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13 (3) "Guest tattoo artist" means a person who is licensed,
14 registered, or certified to practice tattooing in a jurisdiction
15 outside of this state who is registered with the department to
16 practice tattooing in this state.

17 (4) "Operator" means a person designated by a tattoo
18 establishment or temporary establishment to control the
19 operation of the establishment.

20 (5) "Stop-use order" means a written notice from the
21 department to a licensee or registrant requiring him or her to
22 remove any tattooing equipment or supplies, or cease conducting
23 any particular procedures, because the equipment or supplies are
24 not being used or the procedures are not being conducted in
25 accordance with ss. 381.00771-381.00791 or any rule adopted
26 under those sections.

27 (6) "Tattoo" means a mark or design made on or under the
28 skin of a human being by a process of piercing and ingraining a
29 pigment, dye, or ink in the skin.

30 (7) "Tattoo artist" means a person licensed under ss.
31 381.00771-381.00791 to practice tattooing.

32 (8) "Tattoo establishment" means any permanent location,
33 place, area, structure, or business where tattooing is
34 performed.

35 (9) "Temporary establishment" means any location, place,
36 area, or structure where tattooing is performed during, and in
37 conjunction with, a convention or other similar event that does
38 not exceed 14 consecutive days.

39 Section 2. Section 381.00773, Florida Statutes, is created
40 to read:

41 381.00773 Application of ss. 381.00771-381.00791;



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42 exemption.-

43 (1) Except for s. 381.00787, which applies to all persons,
44 ss. 381.00771-381.00791 do not apply to a person licensed to
45 practice medicine or dentistry under chapter 458, chapter 459,
46 or chapter 466 who performs tattooing exclusively for medical or
47 dental purposes.

48 (2) Sections 381.00771-381.00791 apply exclusively to the
49 tattooing of human beings and do not apply to the tattooing of
50 any animal.

51 Section 3. Section 381.00775, Florida Statutes, is created
52 to read:

53 381.00775 Tattoo artists; licensure; registration of guest
54 tattoo artists.-

55 (1) Except as provided in s. 381.00773, a person may not
56 tattoo the body of any human being in this state unless the
57 person is licensed as a tattoo artist or registered as a guest
58 tattoo artist under this section.

59 (2) (a) A person seeking licensure as a tattoo artist must
60 apply to the department in the format prescribed by the
61 department. An application must include:

- 62 1. The name and residence address of the applicant.
63 2. The name and street address of each tattoo establishment
64 and temporary establishment at which the applicant intends to
65 practice tattooing in this state.

66 (b) The department shall issue a license to an applicant
67 who:

- 68 1. Is 18 years of age or older.
69 2. Submits a completed application.
70 3. Pays the applicable license fee established in s.



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71 381.00781.

72 4. Submits proof of successful completion of an education
73 course approved by the department on blood-borne pathogens and
74 communicable diseases.

75 5. Submits proof of passage of an examination approved by
76 the department on the material presented in the education
77 course.

78 (c) The department shall approve one or more education
79 courses and examinations that allows a person to complete the
80 requirements of subparagraphs (b)4. and 5. in person or through
81 an Internet website.

82 (d) A tattoo artist must, within 30 days after a change,
83 notify the department of any change in the following information
84 disclosed in his or her most recent application for issuance or
85 renewal of his or her tattoo artist license in the format
86 prescribed by the department:

87 1. The name and residence address of the tattoo artist.

88 2. The name and street address of each tattoo establishment
89 in this state at which the tattoo artist has practiced tattooing
90 for more than 14 days since the most recent renewal of his or
91 her tattoo artist license or, if the license has not been
92 renewed, since the licensed was issued.

93 (3) (a) A person seeking registration as a guest tattoo
94 artist must apply to the department in the format prescribed by
95 the department. An application must include:

96 1. The name and residence address of the applicant.

97 2. The name and street address of each tattoo establishment
98 and temporary establishment at which the applicant will practice
99 under the guest tattoo artist registration.



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100 (b) The department shall issue a guest tattoo artist
101 registration to an applicant who:

102 1. Is 18 years of age or older.

103 2. Submits a completed application.

104 3. Pays the applicable registration fee established in s.
105 381.00781.

106 4. Holds an active license, registration, or certification
107 issued by a jurisdiction outside this state, whether by another
108 state, the District of Columbia, any possession or territory of
109 the United States, or any foreign jurisdiction, if:

110 a. The education and examination requirements of the
111 license, registration, or certification substantially meet or
112 exceed the requirements of subparagraphs (2)(b)4. and 5.; or

113 b. The applicant submits proof of successful completion of
114 an education course approved by the department under
115 subparagraph (2)(b)4. and proof of passage of an examination
116 approved by the department under subparagraph (2)(b)5.

117 (4)(a) A tattoo artist license is valid for 1 year and must
118 be renewed annually.

119 (b) A guest tattoo artist registration is valid for 14
120 days. A guest tattoo artist may apply for reregistration before
121 or after expiration of his or her current registration.

122 (5) A license or registration issued by the department
123 under this section is not transferable.

124 Section 4. Section 381.00777, Florida Statutes, is created
125 to read:

126 381.00777 Tattoo establishments; licensure; temporary
127 establishments.—

128 (1)(a) Except as provided in s. 381.00773, a person may not



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129 tattoo the body of any human being in this state except in a
130 tattoo establishment or temporary establishment licensed under
131 this section.

132 (b) A person may not operate a tattoo establishment or
133 temporary establishment in this state unless the establishment
134 is licensed under this section.

135 (2) A person seeking licensure of a tattoo establishment
136 must apply to the department in the format prescribed by the
137 department. An application must include:

138 (a) The registered business name, including any fictitious
139 names under which the tattoo establishment conducts business in
140 the state.

141 (b) The street address and telephone number of the tattoo
142 establishment.

143 (c) The name, mailing address, and telephone number of the
144 tattoo establishment's operator.

145 (d) The name and address of the tattoo establishment's
146 registered agent for service of process in the state.

147 (3) The department shall issue a tattoo establishment
148 license to an applicant, if:

149 (a) The applicant submits a completed application.

150 (b) The applicant pays the applicable license fee
151 established in s. 381.00781.

152 (c) The establishment complies with all applicable local
153 building, occupational, zoning, and health codes.

154 (4) A temporary establishment must meet the same
155 requirements for licensure as a permanent tattoo establishment.

156 (5) (a) A license is valid only for the location listed on
157 the license. A tattoo establishment must notify the department



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158 in the format prescribed by the department before any change of
159 the licensed location. A tattoo establishment with more than one
160 location must obtain a separate license for each location.

161 (b) A tattoo establishment license is valid for 1 year and
162 must be renewed annually.

163 (c) A temporary establishment license is valid for the
164 duration of a convention or other similar event for which the
165 license is issued not to exceed 14 consecutive days.

166 (6) A license issued by the department under this section
167 is not transferable.

168 Section 5. Section 381.00779, Florida Statutes, is created
169 to read:

170 381.00779 Practice requirements.-

171 (1) A tattoo establishment or temporary establishment must:

172 (a) Display an active license for the establishment in a
173 manner that is easily visible to the public at all times while
174 tattooing is performed in the establishment.

175 (b) Ensure that each tattoo artist and guest tattoo artist,
176 while practicing tattooing in the establishment, meets all
177 applicable requirements of ss. 381.00771-381.00791.

178 (c) Maintain sanitary conditions at all times in the
179 establishment.

180 (d) Comply with all state and local health codes and
181 ordinances.

182 (e) Allow the department to inspect the establishment
183 pursuant to subsection (4).

184 (f) Comply with s. 381.0098 and rules adopted under that
185 section.

186 (2) A tattoo artist or guest tattoo artist must:



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187 (a) Display his or her active license in a manner that is
188 easily visible to the public at all times while practicing
189 tattooing.

190 (b) Practice tattooing exclusively in an establishment
191 licensed under ss. 381.00771-381.00791.

192 (c) Maintain sanitary conditions at all times in an
193 establishment.

194 (d) Comply with all state and local health codes and
195 ordinances.

196 (3) A tattoo artist or guest tattoo artist may tattoo the
197 body of a minor child only to the extent authorized in s.
198 381.00787. A tattoo establishment or temporary establishment
199 must keep, for the period prescribed by the department, each
200 written notarized consent submitted under s. 381.00787(3)(c) by
201 the parent or legal guardian of a minor child who is tattooed in
202 the establishment.

203 (4) The department may inspect and investigate each tattoo
204 establishment and temporary establishment as necessary to ensure
205 compliance with ss. 381.00771-381.00791. However, the department
206 shall inspect each tattoo establishment at least annually and
207 shall inspect each temporary establishment before and, as
208 necessary, during a convention or similar event with which the
209 establishment is connected.

210 Section 6. Section 381.00781, Florida Statutes, is created
211 to read:

212 381.00781 Fees; disposition.-

213 (1) The department shall establish by rule the following
214 fees:

215 (a) Fee for the initial licensure of a tattoo establishment



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216 and the renewal of such license, which, except as provided in
217 subsection (2), may not exceed \$250 per year.

218 (b) Fee for licensure of a temporary establishment, which,
219 except as provided in subsection (2), may not exceed \$250.

220 (c) Fee for the initial licensure of a tattoo artist and
221 the renewal of such license, which, except as provided in
222 subsection (2), may not exceed \$150 per year.

223 (d) Fee for registration or reregistration of a guest
224 tattoo artist, which, except as provided in subsection (2), may
225 not exceed \$45.

226 (e) Fee for reactivation of an inactive tattoo
227 establishment license or tattoo artist license. A license
228 becomes inactive if it is not renewed before the expiration of
229 the current license.

230 (2) The department may annually adjust the maximum fees
231 authorized under subsection (1) according to the rate of
232 inflation or deflation indicated by the Consumer Price Index for
233 All Urban Consumers, U.S. City Average, All Items, as reported
234 by the United States Department of Labor.

235 Section 7. Section 381.00783, Florida Statutes, is created
236 to read:

237 381.00783 Grounds for discipline; administrative
238 penalties.—

239 (1) The following acts constitute grounds for which
240 disciplinary action specified in subsection (2) may be taken by
241 the department against any tattoo establishment, temporary
242 establishment, tattoo artist, guest tattoo artist, operator of a
243 tattoo establishment, or unlicensed person engaged in activities
244 regulated under ss. 381.00771-381.00791:



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245 (a) Providing false information on an application for
246 licensure or registration.

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

248 (c) Violating any provision of ss. 381.00771-381.00791,
249 rule adopted under those sections, or lawful order of the
250 department.

251 (d) Being found guilty of or pleading nolo contendere to,
252 regardless of adjudication, a crime in any jurisdiction which
253 relates to the practice of tattooing or the operation of a
254 tattoo establishment or temporary establishment.

255 (e) Committing fraud, deceit, negligence, or misconduct in
256 the practice of tattooing or the operation of a tattoo
257 establishment or temporary establishment.

258 (f) Aiding, procuring, or assisting a person to unlawfully
259 practice tattooing or unlawfully operate a tattoo establishment
260 or temporary establishment.

261 (g) Failing to keep the written notarized consent of the
262 parent or legal guardian of a minor child who is tattooed in a
263 tattoo establishment or temporary establishment for the period
264 specified pursuant to s. 381.00779(3) or knowingly making false
265 entries in a parent's or legal guardian's written notarized
266 consent.

267 (2) When the department determines that a person commits
268 any of the acts set forth in subsection (1), the department may
269 enter an order imposing one or more of the following penalties:

270 (a) Refusal to issue a license or registration or renew a
271 license.

272 (b) Suspension or revocation of a license or registration.

273 (c) Imposition of an administrative fine not to exceed



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274 \$1,500 for each count or separate violation.

275 (d) Issuance of a reprimand.

276 (e) Placement of the licensee or registrant on probation
277 for a specified period and subject to the conditions that the
278 department may specify.

279 (f) Issuance of a stop-use order.

280 (g) Corrective action.

281 (3) The department shall impose stricter penalties for the
282 repetition of violations and as the severity of violations
283 escalate, distinguishing lesser violations from those that
284 endanger the public health.

285 (4) Disciplinary proceedings shall be conducted as provided
286 in chapter 120.

287 Section 8. Section 381.00785, Florida Statutes, is created
288 to read:

289 381.00785 Criminal penalties.—

290 (1) A person may not:

291 (a) Operate a tattoo establishment or temporary
292 establishment in this state without a license.

293 (b) Practice tattooing in this state without a tattoo
294 artist license or guest tattoo artist registration, except as
295 provided in s. 381.00773.

296 (c) Practice tattooing in this state at any place other
297 than a tattoo establishment or temporary establishment, except
298 as provided in s. 381.00773.

299 (d) Obtain or attempt to obtain a license or registration
300 by means of fraud, misrepresentation, or concealment.

301 (2) A person who violates this section commits a
302 misdemeanor of the second degree, punishable as provided in s.



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303 775.082 or s. 775.083.

304 Section 9. Section 877.04, Florida Statutes, is
305 transferred, renumbered as section 381.00787, Florida Statutes,
306 and amended to read:

307 381.00787 ~~877.04~~ Tattooing prohibited; penalty.-

308 (1) A ~~It is unlawful for any person~~ may not ~~to~~ tattoo the
309 body of a minor child younger than 16 years of age unless the
310 any human being; except that tattooing is ~~may be performed for~~
311 medical or dental purposes by a person licensed to practice
312 medicine or dentistry under chapter ~~chapters~~ 458, chapter and
313 459, or chapter 466, ~~or by a person under his or her general~~
314 ~~supervision as defined by the Board of Medicine.~~

315 (2) Any person who violates the provisions of this section
316 shall be guilty of a misdemeanor of the second degree,
317 punishable as provided in s. 775.082 or s. 775.083.

318 (3) A person may not tattoo the ~~No~~ body of a minor child
319 who is at least 16 years of age, but younger than 18 years of
320 age, unless:

321 (a) The minor child is accompanied by his or her parent or
322 legal guardian.

323 (b) The minor child and his or her parent or legal guardian
324 each submit proof of his or her identity by producing a
325 government-issued photo identification.

326 (c) The parent or legal guardian submits his or her ~~shall~~
327 ~~be tattooed without the~~ written notarized consent in the format
328 prescribed by the department ~~of the parent or legal guardian.~~

329 (d) The parent or legal guardian submits proof that he or
330 she is the parent or legal guardian of the minor child.

331 (e) The tattooing is performed by a tattoo artist or guest



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332 tattoo artist licensed under ss. 381.00771-381.00791 or a person
333 licensed to practice medicine or dentistry under chapter 458,
334 chapter 459, or chapter 466.

335 (4) A person who violates this section commits a
336 misdemeanor of the second degree, punishable as provided in s.
337 775.082 or s. 775.083. However, a person who tattoos the body of
338 a minor child younger than 18 years of age does not violate this
339 section, if:

340 (a) The person carefully inspects what appears to be a
341 government-issued photo identification that represents that the
342 minor child is 18 years of age or older.

343 (b) The minor child falsely represents himself or herself
344 as being 18 years of age or older and presents a fraudulent
345 identification.

346 (c) A reasonable person of average intelligence would
347 believe that the minor child is 18 years of age or older and
348 that the photo identification is genuine, was issued to the
349 minor child, and truthfully represents the minor child's age.

350 Section 10. Section 381.00789, Florida Statutes, is created
351 to read:

352 381.00789 Rulemaking.—The department shall adopt rules to
353 administer ss. 381.00771-381.00791. Such rules may include, but
354 are not limited to, rules defining terms; prescribing
355 educational requirements for tattoo artists and guest tattoo
356 artists, health and safety requirements, sanitation practices,
357 and sterilization requirements and procedures; and providing
358 requirements for tattoo equipment, customer notification, the
359 contents of customer records, the retention of records, and
360 physical plants. The department shall consult with



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361 representatives of the tattooing industry in this state during
362 the development of such rules.

363 Section 11. Section 381.00791, Florida Statutes, is created
364 to read:

365 381.00791 Local laws and ordinances.—Sections 381.00771-
366 381.00791 do not preempt any local law or ordinance of a county
367 or municipality that imposes regulations on tattoo
368 establishments, temporary establishments, tattoo artists, or the
369 practice of tattooing which are in addition to those sections.

370 Section 12. This act shall take effect January 1, 2012.
371

372 ===== T I T L E A M E N D M E N T =====

373 And the title is amended as follows:

374 Delete everything before the enacting clause
375 and insert:

376 A bill to be entitled

377 An act relating to the practice of tattooing; creating
378 s. 381.00771, F.S.; defining terms; creating s.
379 381.00773, F.S.; exempting certain personnel who
380 perform tattooing for medical or dental purposes from
381 regulation under specified provisions; creating s.
382 381.00775, F.S.; prohibiting the practice of tattooing
383 except by a person licensed or registered by the
384 Department of Health; requiring tattoo artists to
385 complete an education course and pass an examination;
386 providing for the licensure of tattoo artists and the
387 registration of guest tattoo artists licensed in
388 jurisdictions outside this state; creating s.
389 381.00777, F.S.; requiring the licensure of permanent



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390 tattoo establishments and temporary establishments;
391 creating s. 381.00779, F.S.; providing practice
392 requirements for tattoo artists, guest tattoo artists,
393 tattoo establishments, and temporary establishments;
394 requiring the department to inspect the establishments
395 at specified intervals; creating s. 381.00781, F.S.;
396 providing for fees for initial licensure or
397 registration and the renewal or reactivation thereof;
398 authorizing the adjustment of fees according to
399 inflation or deflation; creating s. 381.00783, F.S.;
400 specifying acts that constitute grounds for which the
401 department may take disciplinary action; providing
402 penalties; creating s. 381.00785, F.S.; providing
403 penalties for certain violations involving the
404 practice of tattooing; transferring, renumbering, and
405 amending s. 877.04, F.S.; prohibiting the tattooing of
406 a minor child except under certain circumstances;
407 providing penalties; providing exceptions; creating s.
408 381.00789, F.S.; requiring the department to adopt
409 rules to administer the act; creating s. 381.00791,
410 F.S.; providing that specified provisions do not
411 preempt certain local laws and ordinances; providing
412 an effective date.