

HOUSE BILL No. 4451

April 13, 1999, Introduced by Reps. Hale, Prusi, Bogardus, LaForge, Schermesser, Brewer, Minore, Daniels, Jamnick, Hansen, Lemmons, Clark, Hardman, Thomas, DeHart, Quarles, Rison, Kelly, Neumann, Gielegem, Pestka, Stallworth, Rivet, Pappageorge, Godchaux, Green, Law, Tabor, Julian, Patterson, Richardville, Sanborn, Scott, Byl and Scranton and referred to the Committee on Regulatory Reform.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 13101 and 13102 (MCL 333.13101 and 333.13102), as added by 1996 PA 223, and by adding sections 13104, 13105, 13106, 13107, 13108, 13109, and 13110.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13101. As used in this part:

2 (A) "ALCOHOLIC LIQUOR" MEANS THAT TERM AS DEFINED IN
3 SECTION 105 OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998
4 PA 58, MCL 436.1105.

5 (B) ~~(a)~~ "Body-piercing" means the perforation of human
6 tissue other than an ear for a nonmedical purpose.

7 (C) ~~(b)~~ "Branding" means a permanent mark made on human
8 tissue by burning with a hot iron or other instrument.

1 (D) "COMMUNICABLE DISEASE" MEANS THAT TERM AS DEFINED IN
2 SECTION 5101.

3 (E) ~~(e)~~ "Controlled substance" means that term as defined
4 in section 7104.

5 (F) "DEPARTMENT" MEANS THE DEPARTMENT OF CONSUMER AND INDUS-
6 TRY SERVICES.

7 (G) ~~(d)~~ "Minor" means an individual under 18 years of age
8 who is not emancipated under section 4 of ~~Act No. 293 of the~~
9 ~~Public Acts of 1968, being section 722.4 of the Michigan Compiled~~
10 ~~Laws~~ 1968 PA 293, MCL 722.4.

11 (H) "SMOKING" MEANS THAT TERM AS DEFINED IN SECTION 12601.

12 (I) ~~(e)~~ "Tattoo" means 1 or more of the following:

13 (i) An indelible mark made upon the body of another individ-
14 ual by the insertion of a pigment under the skin.

15 (ii) An indelible design made upon the body of another indi-
16 vidual by production of scars other than by branding.

17 (J) "TATTOO FACILITY" MEANS THE GEOGRAPHIC LOCATION AT WHICH
18 AN INDIVIDUAL DOES 1 OR MORE OF THE FOLLOWING FOR COMPENSATION:

19 (i) PERFORMS TATTOOING.

20 (ii) PERFORMS BRANDING.

21 (iii) PERFORMS BODY-PIERCING.

22 Sec. 13102. (1) ~~An~~ SUBJECT TO SECTION 13104, AN individ-
23 ual shall not tattoo, brand, or perform body-piercing on a minor
24 unless the individual obtains the prior written informed consent
25 of the minor's parent or legal guardian. The minor's parent or
26 legal guardian shall execute the written, informed consent
27 required under this subsection in the presence of the individual

1 performing the tattooing, branding, or body-piercing on the minor
2 or in the presence of an employee or agent of that individual.
3 ~~For purposes of this section, "minor" does not include a minor~~
4 ~~who is emancipated pursuant to section 4 of Act No. 293 of the~~
5 ~~Public Acts of 1968, being section 722.4 of the Michigan Compiled~~
6 ~~Laws.~~

7 (2) An individual shall not tattoo, brand, or perform
8 body-piercing on another individual if the other individual is
9 under the influence of intoxicating ALCOHOLIC liquor or a con-
10 trolled substance.

11 SEC. 13104. (1) AFTER THE EFFECTIVE DATE OF THE RULES
12 PROMULGATED UNDER SECTION 13108, AN INDIVIDUAL SHALL NOT TATTOO,
13 BRAND, OR PERFORM BODY-PIERCING ON ANOTHER INDIVIDUAL UNLESS THE
14 TATTOOING, BRANDING, OR BODY-PIERCING OCCURS AT A TATTOO FACILITY
15 LICENSED UNDER THIS PART.

16 (2) THE OWNER OR OPERATOR OF A TATTOO FACILITY MAY APPLY TO
17 THE DEPARTMENT FOR A TATTOO FACILITY LICENSE UNDER THIS PART ON A
18 FORM PROVIDED BY THE DEPARTMENT, AND AT THE TIME OF APPLICATION
19 SHALL PAY TO THE DEPARTMENT THE APPROPRIATE FEE PRESCRIBED UNDER
20 SUBSECTION (3). IF THE DEPARTMENT DETERMINES THAT THE APPLICA-
21 TION IS COMPLETE AND THE TATTOO FACILITY PROPOSED OR OPERATED BY
22 THE APPLICANT MEETS THE REQUIREMENTS OF THIS PART AND THE RULES
23 PROMULGATED UNDER THIS PART, THE DEPARTMENT SHALL ISSUE A LICENSE
24 TO THE APPLICANT FOR THE OPERATION OF THAT TATTOO FACILITY. THE
25 LICENSE IS EFFECTIVE FOR 1 YEAR OR FOR A TIME PERIOD PRESCRIBED
26 BY RULE OF THE DEPARTMENT.

1 (3) SUBJECT TO SECTION 13108, THE OWNER OR OPERATOR OF A
2 TATTOO FACILITY SHALL PAY 1 OF THE FOLLOWING FEES AT THE TIME OF
3 APPLICATION FOR A TATTOO FACILITY LICENSE:

4 (A) FOR AN INITIAL ANNUAL LICENSE.....\$250.00.

5 (B) FOR A 1-YEAR, OR OTHER PERIOD OF TIME PRESCRIBED
6 BY RULE PROMULGATED BY THE DEPARTMENT UNDER
7 SECTION 13108, RENEWAL OF AN ANNUAL LICENSE.....\$200.00.

8 (C) FOR A TEMPORARY LICENSE TO OPERATE A TATTOO
9 FACILITY AT A FIXED LOCATION FOR NOT MORE THAN A 2-WEEK
10 PERIOD.....\$ 50.00.

11 SEC. 13105. (1) BEFORE ISSUING A LICENSE TO AN APPLICANT
12 UNDER THIS PART, THE DEPARTMENT SHALL INSPECT THE PREMISES OF THE
13 TATTOO FACILITY THAT IS THE SUBJECT OF THE APPLICATION.

14 (2) THE DEPARTMENT SHALL PERIODICALLY INSPECT EACH TATTOO
15 FACILITY LICENSED UNDER THIS PART TO ENSURE COMPLIANCE WITH THIS
16 PART. THE DEPARTMENT MAY AUTHORIZE A LOCAL HEALTH DEPARTMENT
17 UNDER SECTION 2235 TO PERFORM THE INSPECTIONS REQUIRED UNDER THIS
18 SUBSECTION.

19 (3) THE DEPARTMENT SHALL ISSUE A LICENSE UNDER THIS PART TO
20 A SPECIFIC PERSON FOR A TATTOO FACILITY AT A SPECIFIC LOCATION.
21 A LICENSE ISSUED UNDER THIS PART IS NONTRANSFERABLE.

22 SEC. 13106. THE OWNER OR OPERATOR OF A TATTOO FACILITY
23 LICENSED UNDER THIS PART SHALL APPLY TO THE DEPARTMENT FOR
24 RENEWAL OF THE LICENSE NOT LESS THAN 30 DAYS BEFORE THE LICENSE
25 EXPIRES. UPON PAYMENT OF THE RENEWAL FEE PRESCRIBED BY SECTION
26 13104(3), THE DEPARTMENT SHALL RENEW THE LICENSE IF THE APPLICANT

1 IS IN COMPLIANCE WITH THIS PART AND RULES PROMULGATED UNDER THIS
2 PART.

3 SEC. 13107. A PERSON WHO OWNS OR OPERATES A TATTOO FACILITY
4 LICENSED UNDER THIS PART SHALL DO EACH OF THE FOLLOWING:

5 (A) DISPLAY THE LICENSE ISSUED UNDER THIS PART IN A CONSPIC-
6 UOUS PLACE WITHIN THE CUSTOMER SERVICE AREA OF THE TATTOO
7 FACILITY.

8 (B) ENSURE THAT THE TATTOO FACILITY IS IN COMPLIANCE WITH
9 PART 138 AND WITH RULES PROMULGATED UNDER THAT PART.

10 (C) ENSURE THAT AN INDIVIDUAL ENGAGED IN TATTOOING IN THE
11 TATTOO FACILITY WEARS DISPOSABLE GLOVES APPROVED BY THE DEPART-
12 MENT WHEN TATTOOING OR CLEANING TATTOOING INSTRUMENTS AND WHEN
13 PERFORMING BRANDING OR BODY-PIERCING OR CLEANING BRANDING OR
14 BODY-PIERCING INSTRUMENTS.

15 (D) MAINTAIN A PERMANENT RECORD OF EACH INDIVIDUAL WHO HAS
16 BEEN TATTOOED OR BRANDED OR WHO HAS HAD BODY-PIERCING PERFORMED
17 AT THE TATTOO FACILITY, AND MAKE THE RECORDS AVAILABLE FOR
18 INSPECTION BY THE DEPARTMENT OR A LOCAL HEALTH DEPARTMENT. THE
19 RECORD SHALL INCLUDE, AT A MINIMUM, THE INDIVIDUAL'S NAME,
20 ADDRESS, AGE, AND SIGNATURE, THE DATE, THE DESIGN AND LOCATION OF
21 THE TATTOOING, BRANDING, OR BODY-PIERCING, AND THE NAME OF THE
22 INDIVIDUAL PERFORMING THE TATTOOING, BRANDING, OR BODY-PIERCING.

23 (E) PROHIBIT SMOKING WITHIN THE TATTOO FACILITY.

24 (F) COMPLY WITH SECTION 13102(2).

25 (G) PROVIDE EACH CUSTOMER WITH A WRITTEN INFORMATION SHEET
26 DISTRIBUTED OR APPROVED BY THE DEPARTMENT THAT PROVIDES
27 INSTRUCTIONS ON THE CARE OF A TATTOO SITE, BRAND SITE, OR

1 BODY-PIERCING SITE, AND THAT INCLUDES A RECOMMENDATION THAT AN
2 INDIVIDUAL SEEK MEDICAL ATTENTION IF THE TATTOO SITE, BRAND SITE,
3 OR BODY-PIERCING SITE BECOMES INFECTED OR PAINFUL, OR IF THE
4 PERSON DEVELOPS A FEVER SOON AFTER BEING TATTOOED, BRANDED, OR
5 HAVING BODY-PIERCING PERFORMED.

6 (H) WITHIN 24 HOURS OF BECOMING AWARE THAT AN INDIVIDUAL
7 TATTOOED, BRANDED, OR BODY-PIERCED AT THE TATTOO FACILITY IS
8 INFECTED WITH A COMMUNICABLE DISEASE, NOTIFY THE DEPARTMENT.

9 SEC. 13108. (1) THE DEPARTMENT SHALL DO EACH OF THE
10 FOLLOWING:

11 (A) ENFORCE THIS PART AND THE RULES PROMULGATED UNDER THIS
12 PART.

13 (B) PROMULGATE RULES NECESSARY TO IMPLEMENT THIS PART,
14 INCLUDING, BUT NOT LIMITED TO, RULES GOVERNING EACH OF THE
15 FOLLOWING:

16 (i) TATTOO FACILITY DESIGN AND CONSTRUCTION.

17 (ii) TATTOO, BRANDING, AND BODY-PIERCING EQUIPMENT STAN-
18 DARDS, INCLUDING, BUT NOT LIMITED TO, CLEANING AND STERILIZATION
19 REQUIREMENTS.

20 (iii) TATTOO DYE STANDARDS.

21 (iv) INSPECTION OF TATTOO FACILITIES.

22 (v) TATTOO FACILITY LICENSE RENEWAL.

23 (C) DEVELOP AND DISTRIBUTE THE INFORMATION SHEET DESCRIBED
24 IN SECTION 13107(G), OR APPROVE INFORMATION SHEETS DEVELOPED BY
25 ANOTHER ENTITY.

26 (2) THE DEPARTMENT MAY DO EACH OF THE FOLLOWING:

1 (A) APPOINT AN ADVISORY COMMITTEE TO ASSIST THE DEPARTMENT
2 IN RULE DEVELOPMENT UNDER THIS PART.

3 (B) AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING, SUSPEND,
4 REVOKE, OR DENY A LICENSE OR LICENSE RENEWAL UNDER THIS PART FOR
5 A VIOLATION OF THIS PART OR A RULE PROMULGATED UNDER THIS PART.

6 (3) IN ADDITION TO ANY OTHER ENFORCEMENT ACTION AUTHORIZED
7 BY LAW, A PERSON ALLEGING A VIOLATION OF THIS PART MAY BRING A
8 CIVIL ACTION FOR APPROPRIATE INJUNCTIVE RELIEF.

9 SEC. 13109. EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 13103
10 AND 13110, A PERSON WHO VIOLATES THIS PART OR A RULE PROMULGATED
11 UNDER THIS PART IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRIS-
12 ONMENT FOR NOT MORE THAN 90 DAYS, OR A FINE OF NOT MORE THAN
13 \$100.00, OR BOTH, FOR EACH VIOLATION.

14 SEC. 13110. A PERSON SHALL NOT GIVE OR SELL TO A MINOR A
15 BODY-PIERCING KIT OR OTHER BODY-PIERCING DEVICE. A PERSON WHO
16 VIOLATES THIS SECTION IS RESPONSIBLE FOR A STATE CIVIL INFRAC-
17 TION, AND IS SUBJECT TO A CIVIL FINE OF NOT MORE THAN \$500.00.
18 THIS SECTION SHALL BE ENFORCED PURSUANT TO CHAPTER 88 OF THE
19 REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.8801 TO
20 600.8855.