

Act No. 149
Public Acts of 2007
Approved by the Governor
December 13, 2007
Filed with the Secretary of State
December 13, 2007
EFFECTIVE DATE: December 13, 2007

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2007**

Introduced by Senators Gleason, Kahn, Clarke, George, Scott, Birkholz, Schauer, Jacobs, Anderson, Hunter, Cropsey, Patterson, Jelinek, Gilbert, Basham, Thomas, Hardiman, McManus, Kuipers, Van Woerkom, Jansen, Barcia, Clark-Coleman, Richardville, Bishop and Switalski

ENROLLED SENATE BILL No. 593

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending the heading of part 131 and 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, 13110, and 13111.

The People of the State of Michigan enact:

PART 131. BODY ART FACILITIES

Sec. 13101. (1) As used in this part:

- (a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.
- (b) "Body art facility" means the location at which an individual does 1 or more of the following for compensation:
 - (i) Performs tattooing.
 - (ii) Performs branding.
 - (iii) Performs body-piercing.
- (c) "Body-piercing" means the perforation of human tissue other than an ear for a nonmedical purpose.
- (d) "Branding" means a permanent mark made on human tissue by burning with a hot iron or other instrument.

(e) "Controlled substance" means that term as defined in section 7104.

(f) "Department" means the department of community health.

(g) "Local governing entity" means that term as defined in section 2406.

(h) "Minor" means an individual under 18 years of age who is not emancipated under section 4 of 1968 PA 293, MCL 722.4.

(i) "Smoking" means that term as defined in section 12601.

(j) "Tattoo" means 1 or more of the following:

(i) An indelible mark made upon the body of another individual by the insertion of a pigment under the skin.

(ii) An indelible design made upon the body of another individual by production of scars other than by branding.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

Sec. 13102. (1) Subject to section 13104, an individual shall not tattoo, brand, or perform body-piercing on a minor unless the individual obtains the prior written informed consent of the minor's parent or legal guardian. The minor's parent or legal guardian shall execute the written, informed consent required under this subsection in the presence of the individual performing the tattooing, branding, or body-piercing on the minor or in the presence of an employee or agent of that individual.

(2) An individual shall not tattoo, brand, or perform body-piercing on another individual if the other individual is under the influence of alcoholic liquor or a controlled substance.

Sec. 13104. (1) Beginning January 1, 2009, an individual shall not tattoo, brand, or perform body-piercing on another individual unless the tattooing, branding, or body-piercing occurs at a body art facility licensed under this part.

(2) The owner or operator of a body art facility shall apply to the department for a body art facility license under this part on a form provided by the department and at the time of application shall pay to the department the appropriate fee prescribed under subsection (3). If the department determines that the application is complete and the body art facility proposed or operated by the applicant meets the requirements of this part and any rules promulgated under this part, the department shall issue a license to the applicant for the operation of that body art facility. Except for a temporary license issued under this part, the license is effective for 3 years.

(3) Subject to section 13108, the owner or operator of a body art facility shall pay 1 of the following fees at the time of application for a body art facility license:

(a) For an initial 3-year license	\$	500.00.
(b) For a 3-year renewal of a license.....	\$	300.00.
(c) For a temporary license to operate a body art facility at a fixed location for not more than a 2-week period	\$	100.00.

Sec. 13105. (1) Before issuing a license to an applicant under this part, the department shall receive the results of an inspection of the premises of the body art facility that is the subject of the application from the appropriate local health department. The local health department shall convey the results of the inspection of the premises of the body art facility that is the subject of the application to the department as soon as practical after the inspection occurs.

(2) The appropriate local health department shall inspect each body art facility prior to being licensed under this part and shall at least annually inspect each body art facility licensed under this part to ensure compliance with this part. Subject to section 13108, the department shall authorize a local health department under section 2235 to perform the inspections required under this subsection.

(3) The department shall issue a license under this part to a specific person for a body art facility at a specific location. A license issued under this part is nontransferable.

Sec. 13106. The owner or operator of a body art facility licensed under this part shall apply to the department for renewal of the license not less than 30 days before the license expires. Upon payment of the renewal fee prescribed by section 13104(3), the department shall renew the license if the applicant is in compliance with this part and any rules promulgated under this part. The department shall consult with the appropriate local health department to determine that compliance.

Sec. 13107. A person who owns or operates a body art facility licensed under this part shall do all of the following:

(a) Display the license issued under this part in a conspicuous place within the customer service area of the body art facility.

(b) Comply with and ensure that the body art facility is in compliance with this part and part 138 and with rules promulgated under those parts.

(c) Ensure that the body art facility as a whole and any individual engaged in tattooing, cleaning tattooing instruments, performing branding or body-piercing, or cleaning branding or body-piercing instruments comply with the bloodborne pathogen safety standards under 29 CFR 1910.1030.

(d) Ensure that tattooing, branding, or body-piercing is performed in a sterile field with sterile needles and only single-use ink.

(e) Maintain a confidential record of each individual who has been tattooed or branded or who has had body-piercing performed at the body art facility and make the records available for inspection by a local health department. The record shall include, at a minimum, the individual's name, address, age, and signature; the date; the design and location of the tattooing, branding, or body-piercing; the name of the individual performing the tattooing, branding, or body-piercing; and any known complications the individual has with any tattooing, branding, or body-piercing done at that body art facility. The owner, operator, manager, or person having control of the body art facility shall provide a copy of the record to the individual at the time he or she is tattooed, is branded, or has body-piercing performed. The department shall develop guidelines for the confidential handling of this record, including, but not limited to, the maintenance, storage, inspection, and destruction of the record.

(f) Prohibit smoking within the body art facility.

(g) Provide each customer with a written information sheet distributed or approved by the department that provides at least all of the following:

(i) Instructions on the care of a tattoo site, brand site, or body-piercing site.

(ii) A recommendation that an individual seek medical attention if the tattoo site, brand site, or body-piercing site becomes infected or painful or if the person develops a fever soon after being tattooed, branded, or having body-piercing performed.

(iii) Notice that the individual may be allowed to donate blood within the standard deferral period if the individual presents a copy of the record required under subdivision (e) to the blood donor facility.

(h) Maintain on file on the premises of the body art facility and have available for inspection by a local health department all of the following:

(i) All of the following regarding each technician employed by or who performs tattooing, branding, or body-piercing at the body art facility:

(A) His or her full legal name.

(B) His or her exact duties at the facility.

(C) His or her date of birth.

(D) His or her gender.

(E) His or her home address.

(F) His or her home and work telephone numbers.

(G) His or her prior or other current places of employment as a technician, if known.

(H) His or her training and experience.

(I) An identification photo.

(J) Documentation of compliance with the educational, training, or experience requirements of the department under this part.

(K) Documentation of HBV vaccination status or other vaccination status requirements of the department under this part.

(i) Full legal name of the body art facility.

(ii) The hours of operation of the body art facility.

(iv) All of the following regarding each owner and operator of the body art facility:

(A) His or her full legal name.

(B) His or her home address.

(C) His or her home and work telephone numbers.

(v) A complete description of all tattooing, branding, or body-piercing performed at the body art facility.

(vi) A complete inventory of all instruments, body jewelry, sharps, and inks used for the tattooing, branding, or body-piercing performed at the body art facility. The inventory shall include the name of the item's manufacturer and serial or lot number, if applicable. The body art facility may provide invoices or orders to satisfy this requirement if determined appropriate by the department or the local health department.

(vii) A copy of this part and rules promulgated under this part.

Sec. 13108. (1) Pursuant to section 2235, the department shall authorize a local health department to enforce this part and any rules promulgated under this part. A local health department authorized to enforce this part and any rules promulgated under this part shall enforce this part and any rules promulgated under this part pursuant to sections 2461(2) and 2462. In addition to the penalties and remedies under this part, a local health department may enforce this part and any rules promulgated under this part through an action commenced pursuant to section 2465 or any other appropriate action authorized by law.

(2) If a local health department of a county or city under part 24 is unable or unwilling to perform the functions required in this section and the county or city is not part of a district that has created a district health department pursuant to section 2415, the county or city, through an intergovernmental agreement, may contract with another local governing entity to have that entity's local health department perform the functions required in this section. The contracting parties under this subsection shall obtain the department's approval before execution of the intergovernmental agreement.

(3) Pursuant to section 2444, a local governing entity of a local health department authorized to enforce this part under this section may fix and require the payment of fees by applicants and licensees for services required to be performed by the local health department under this section.

(4) Unless they conflict with standards of this part or rules are promulgated by the department regarding safety standards, a local health department shall use as guidance in enforcing this part the safety standards issued by the national environmental health association in "Body Art: A Comprehensive Guidebook and Model Code".

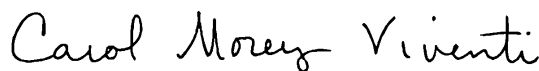
(5) In addition to any other enforcement action authorized by law, a person alleging a violation of this part may bring a civil action in a court of competent jurisdiction for appropriate injunctive relief.

Sec. 13109. Except as otherwise provided in sections 13103 and 13110, a person who violates this part or a rule promulgated under this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both, for each violation.

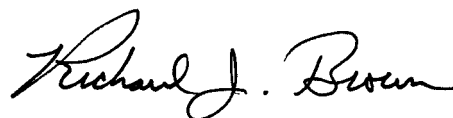
Sec. 13110. A person shall not give or sell to a minor a body-piercing kit or other body-piercing device. A person who violates this section is responsible for a state civil infraction and is subject to a civil fine of not more than \$500.00. This section shall be enforced pursuant to chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835.

Sec. 13111. A local governing entity of a local health department authorized to enforce this part under section 13108 may adopt and enforce local codes, ordinances, or regulations that are more stringent than the minimum applicable standards set forth in this part or rules promulgated under this part. This part shall not relieve the applicant for a license or a licensee from the responsibility for securing a local permit or complying with applicable local codes, regulations, or ordinances that are in addition to this part.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

.....
Governor