

LICENSE BODY ART FACILITIES

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 593

Sponsor: Sen. John J. Gleason

House Committee: Health Policy

Senate Committee: Health Policy

Complete to 10-17-07

A SUMMARY OF SENATE BILL 593 AS PASSED BY THE SENATE 9-26-07

The bill would amend Part 131 of the Public Health Code, entitled "Tattoo Parlors" to create a body art facility license, establish license fees, regulate body art facilities, allow a civil action for injunctive relief, and establish civil and criminal penalties for violations of the bill's provisions. A "body art facility" would mean the location at which an individual performed tattooing, branding, and/or body-piercing.

Body art facility license. As of January 1, 2009, an individual could not tattoo, brand, or do body-piercing unless the activity were performed in a licensed facility. Applications for a license would have to be made on a form provided by the Department of Community Health (DCH) and accompanied by \$500 for an initial three-year license, \$300 for a three-year renewal license, and \$100 for a temporary license to operate a body art facility at a fixed location for not more than a two-week period.

The license would have to be issued to a specific person for a specific location and would not be transferable. License renewals would have to be made at least 30 days before the license expired; a license would be renewed by the DCH if the applicant were in compliance with Part 131 and any rules promulgated under it (as determined by the department in consultation with the appropriate local health department).

Responsibilities of licensees. The owner or operator of a body art facility would have to do all of the following:

- Display the license in a conspicuous place within the customer service area of the facility.
- Ensure that the 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 federal bloodborne pathogen safety standards.
- Ensure that licensed activities be performed in a sterile field with sterile needles and only single-use ink.

- Maintain a confidential record of each individual receiving a tattoo, brand, or body-piercing that included, at a minimum, the person's name, address, age, and signature; the date; design and location of the tattoo, brand, or body-piercing; the name of the individual who performed the procedure; and any known complications from the procedure or procedures. A copy would have to be given to the person receiving the tattoo, brand, or body-piercing at the time the procedure was performed. The records would have to be available for inspection by a local health department.
- Prohibit smoking within the facility.
- Provide each customer with a department-approved instruction sheet that included, at a minimum, care for the site of the tattoo, brand, or body-piercing; a recommendation that an individual seek medical attention if the site of the procedure became infected or painful, or if the person developed a fever soon after the procedure; and a notice that the individual may be allowed to donate blood within the standard waiting period if he or she presented a copy of the record provided by the body art facility to the blood donor facility.
- Maintain on file on the licensed premises, and have available for inspection by a local health department, all of the following: information on each technician employed by or who performed the regulated procedures at the facility as specified in the bill; full legal name of the body art facility; the facility's hours of operation; the legal name, home address, and work telephone number of each owner and operator of the facility; a complete inventory of instruments, body jewelry, sharps, and inks used in the procedures as specified in the bill; and a copy of Part 131 and any departmental rules promulgated under it.

In addition, an applicant for a body art facility license or a licensee would not be relieved from the responsibility of securing a local permit or complying with applicable local codes, regulations, or ordinances that were in addition to Part 131 of the health code.

Responsibilities of the DCH and local health departments. The Department of Community Health would be required to authorize a local health department to enforce Part 131 and any departmental rules promulgated under it. A local health department (LHD) so authorized would have to enforce Part 131 and departmental rules. In addition to the penalties and remedies allowed under Part 131, an LHD could fulfill its enforcement duties through an injunctive action as provided in Section 2465 of the code or any other appropriate action authorized by law.

The bill would create a mechanism by which a county or city could, through an intergovernmental agreement, contract with another local governing entity to perform the enforcement requirements of the bill if the local health department was unable or unwilling to perform those functions. The intergovernmental agreement would have to be approved by the DCH prior to execution.

The local governing entity of an LHD could fix and require the payment of fees by applicants and licensees for services required to be performed by the LHD under the bill's provisions.

An LHD would have to use as guidance in enforcing Part 131 the safety standards issued by the National Environmental Health Association in "Body Art: A Comprehensive Guidebook and Model Code," unless those guidelines conflicted with the standards of Part 131 or any department-promulgated rules regarding safety standards.

Further, the local governing entity of a local health department authorized to enforce Part 131 could adopt and enforce local codes, ordinances, or regulations that were more stringent than the minimum applicable standards set forth in Part 131 or rules promulgated under it. A licensee and applicant for a license would still be responsible to comply with any local requirements in addition to the requirements under Part 131 of the health code.

Remedies and penalties. A civil action for appropriate injunctive relief could be brought in a court of competent jurisdiction by a person alleging a violation of Part 131.

A violation of Part 131 or related departmental rules would be a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100, or both, for each violation.

A person who gave or sold to a minor a body-piercing kit or other body-piercing device would be responsible for a state civil infraction and subject to a civil fine of not more than \$500.

MCL 333.13101 et al.

FISCAL IMPACT:

The bill would have no fiscal impact on the Department of Corrections. Any fiscal impact of the bill on local units of government would depend on the extent to which it increased the number of misdemeanor convictions and on the sanctions levied for violations of the bill. Potential costs would derive from increases in misdemeanor probation supervision and jail time, both of which are borne locally and vary by jurisdiction. Any increase in penal fine revenue could benefit local libraries, which are the constitutionally-designated recipients of such revenues.

Senate Bill 593 establishes that a person who gives or sells a body-piercing kit or other body-piercing device to a minor would be guilty of a state civil infraction and could be subject to a civil fine (Sec. 13110). The bill could increase the funding for local libraries and revenues to the Justice System Fund (JSF).

Under current law, each non-traffic-related civil infraction may be assessed the following: civil fines that go to county treasurers to benefit local libraries, a \$10 JSF

assessment, and court costs. A violation under this bill would be assessed a fine of up to \$500. This revenue would be allocated to local libraries. Each infraction would also be assessed a \$10 Justice System Assessment which would be deposited into the state JSF. The JSF supports various justice-related endeavors in the judicial branch, the Department of State Police, and the Department of Corrections. In addition, the assessed court costs would generate additional revenue for the governmental unit that funds the local court.

The impact on the state and local health departments is under review.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marilyn Peterson
Viola Bay Wild

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.