

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 593

A bill to amend 1978 PA 368, entitled
"Public health code,"
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:

1 PART 131. ~~TATTOO PARLORS~~ BODY ART FACILITIES

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

3 (A) "ALCOHOLIC LIQUOR" MEANS THAT TERM AS DEFINED IN SECTION
4 105 OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL
5 436.1105.

6 (B) "BODY ART FACILITY" MEANS THE LOCATION AT WHICH AN

1 INDIVIDUAL DOES 1 OR MORE OF THE FOLLOWING FOR COMPENSATION:

2 (i) PERFORMS TATTOOING.

3 (ii) PERFORMS BRANDING.

4 (iii) PERFORMS BODY-PIERCING.

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

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

9 (E) ~~(c)~~ "Controlled substance" means that term as defined in
10 section 7104.

11 (F) "DEPARTMENT" MEANS THE DEPARTMENT OF COMMUNITY HEALTH.

12 (G) "LOCAL GOVERNING ENTITY" MEANS THAT TERM AS DEFINED IN
13 SECTION 2406.

14 (H) ~~(d)~~ "Minor" means an individual under 18 years of age
15 who is not emancipated under section 4 of ~~Act No. 293 of the~~
16 ~~Public Acts of 1968, being section 722.4 of the Michigan Compiled~~
17 ~~Laws~~ 1968 PA 293, MCL 722.4.

18 (I) "SMOKING" MEANS THAT TERM AS DEFINED IN SECTION 12601.

19 (J) ~~(e)~~ "Tattoo" means 1 or more of the following:

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

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

24 (2) IN ADDITION, ARTICLE 1 CONTAINS GENERAL DEFINITIONS AND
25 PRINCIPLES OF CONSTRUCTION APPLICABLE TO ALL ARTICLES IN THIS
26 CODE.

27 Sec. 13102. (1) ~~An~~ SUBJECT TO SECTION 13104, AN individual

1 shall not tattoo, brand, or perform body-piercing on a minor
2 unless the individual obtains the prior written informed consent
3 of the minor's parent or legal guardian. The minor's parent or
4 legal guardian shall execute the written, informed consent
5 required under this subsection in the presence of the individual
6 performing the tattooing, branding, or body-piercing on the minor
7 or in the presence of an employee or agent of that individual.

8 ~~For purposes of this section, "minor" does not include a minor~~
9 ~~who is emancipated pursuant to section 4 of Act No. 293 of the~~
10 ~~Public Acts of 1968, being section 722.4 of the Michigan Compiled~~
11 ~~Laws.~~

12 (2) An individual shall not tattoo, brand, or perform body-
13 piercing on another individual if the other individual is under
14 the influence of ~~intoxicating~~ **ALCOHOLIC** liquor or a controlled
15 substance.

16 **SEC. 13104. (1) BEGINNING JANUARY 1, 2009, AN INDIVIDUAL**
17 **SHALL NOT TATTOO, BRAND, OR PERFORM BODY-PIERCING ON ANOTHER**
18 **INDIVIDUAL UNLESS THE TATTOOING, BRANDING, OR BODY-PIERCING**
19 **OCCURS AT A BODY ART FACILITY LICENSED UNDER THIS PART.**

20 (2) THE OWNER OR OPERATOR OF A BODY ART FACILITY SHALL APPLY
21 TO THE DEPARTMENT FOR A BODY ART FACILITY LICENSE UNDER THIS PART
22 ON A FORM PROVIDED BY THE DEPARTMENT AND AT THE TIME OF
23 APPLICATION SHALL PAY TO THE DEPARTMENT THE APPROPRIATE FEE
24 PRESCRIBED UNDER SUBSECTION (3). IF THE DEPARTMENT DETERMINES
25 THAT THE APPLICATION IS COMPLETE AND THE BODY ART FACILITY
26 PROPOSED OR OPERATED BY THE APPLICANT MEETS THE REQUIREMENTS OF
27 THIS PART AND ANY RULES PROMULGATED UNDER THIS PART, THE

1 DEPARTMENT SHALL ISSUE A LICENSE TO THE APPLICANT FOR THE
2 OPERATION OF THAT BODY ART FACILITY. EXCEPT FOR A TEMPORARY
3 LICENSE ISSUED UNDER THIS PART, THE LICENSE IS EFFECTIVE FOR 3
4 YEARS.

5 (3) SUBJECT TO SECTION 13108, THE OWNER OR OPERATOR OF A
6 BODY ART FACILITY SHALL PAY 1 OF THE FOLLOWING FEES AT THE TIME
7 OF APPLICATION FOR A BODY ART FACILITY LICENSE:

8 (A) FOR AN INITIAL 3-YEAR LICENSE..... \$ 500.00.

9 (B) FOR A 3-YEAR RENEWAL OF A LICENSE..... \$ 300.00.

10 (C) FOR A TEMPORARY LICENSE TO OPERATE A BODY
11 ART FACILITY AT A FIXED LOCATION FOR NOT MORE THAN
12 A 2-WEEK PERIOD..... \$ 100.00.

13 SEC. 13105. (1) BEFORE ISSUING A LICENSE TO AN APPLICANT
14 UNDER THIS PART, THE DEPARTMENT SHALL RECEIVE THE RESULTS OF AN
15 INSPECTION OF THE PREMISES OF THE BODY ART FACILITY THAT IS THE
16 SUBJECT OF THE APPLICATION FROM THE APPROPRIATE LOCAL HEALTH
17 DEPARTMENT. THE LOCAL HEALTH DEPARTMENT SHALL CONVEY THE RESULTS
18 OF THE INSPECTION OF THE PREMISES OF THE BODY ART FACILITY THAT
19 IS THE SUBJECT OF THE APPLICATION TO THE DEPARTMENT AS SOON AS
20 PRACTICAL AFTER THE INSPECTION OCCURS.

21 (2) THE APPROPRIATE LOCAL HEALTH DEPARTMENT SHALL INSPECT
22 EACH BODY ART FACILITY PRIOR TO BEING LICENSED UNDER THIS PART
23 AND SHALL AT LEAST ANNUALLY INSPECT EACH BODY ART FACILITY
24 LICENSED UNDER THIS PART TO ENSURE COMPLIANCE WITH THIS PART.
25 SUBJECT TO SECTION 13108, THE DEPARTMENT SHALL AUTHORIZE A LOCAL
26 HEALTH DEPARTMENT UNDER SECTION 2235 TO PERFORM THE INSPECTIONS

1 REQUIRED UNDER THIS SUBSECTION.

2 (3) THE DEPARTMENT SHALL ISSUE A LICENSE UNDER THIS PART TO
3 A SPECIFIC PERSON FOR A BODY ART FACILITY AT A SPECIFIC LOCATION.
4 A LICENSE ISSUED UNDER THIS PART IS NONTRANSFERABLE.

5 SEC. 13106. THE OWNER OR OPERATOR OF A BODY ART FACILITY
6 LICENSED UNDER THIS PART SHALL APPLY TO THE DEPARTMENT FOR
7 RENEWAL OF THE LICENSE NOT LESS THAN 30 DAYS BEFORE THE LICENSE
8 EXPIRES. UPON PAYMENT OF THE RENEWAL FEE PRESCRIBED BY SECTION
9 13104(3), THE DEPARTMENT SHALL RENEW THE LICENSE IF THE APPLICANT
10 IS IN COMPLIANCE WITH THIS PART AND ANY RULES PROMULGATED UNDER
11 THIS PART. THE DEPARTMENT SHALL CONSULT WITH THE APPROPRIATE
12 LOCAL HEALTH DEPARTMENT TO DETERMINE THAT COMPLIANCE.

13 SEC. 13107. A PERSON WHO OWNS OR OPERATES A BODY ART
14 FACILITY LICENSED UNDER THIS PART SHALL DO ALL OF THE FOLLOWING:

15 (A) DISPLAY THE LICENSE ISSUED UNDER THIS PART IN A
16 CONSPICUOUS PLACE WITHIN THE CUSTOMER SERVICE AREA OF THE BODY
17 ART FACILITY.

18 (B) COMPLY WITH AND ENSURE THAT THE BODY ART FACILITY IS IN
19 COMPLIANCE WITH THIS PART AND PART 138 AND WITH RULES PROMULGATED
20 UNDER THOSE PARTS.

21 (C) ENSURE THAT THE BODY ART FACILITY AS A WHOLE AND ANY
22 INDIVIDUAL ENGAGED IN TATTOOING, CLEANING TATTOOING INSTRUMENTS,
23 PERFORMING BRANDING OR BODY-PIERCING, OR CLEANING BRANDING OR
24 BODY-PIERCING INSTRUMENTS COMPLY WITH THE BLOODBORNE PATHOGEN
25 SAFETY STANDARDS UNDER 29 CFR 1910.1030.

26 (D) ENSURE THAT TATTOOING, BRANDING, OR BODY-PIERCING IS
27 PERFORMED IN A STERILE FIELD WITH STERILE NEEDLES AND ONLY

1 SINGLE-USE INK.

2 (E) MAINTAIN A CONFIDENTIAL RECORD OF EACH INDIVIDUAL WHO
3 HAS BEEN TATTOOED OR BRANDED OR WHO HAS HAD BODY-PIERCING
4 PERFORMED AT THE BODY ART FACILITY AND MAKE THE RECORDS AVAILABLE
5 FOR INSPECTION BY A LOCAL HEALTH DEPARTMENT. THE RECORD SHALL
6 INCLUDE, AT A MINIMUM, THE INDIVIDUAL'S NAME, ADDRESS, AGE, AND
7 SIGNATURE; THE DATE; THE DESIGN AND LOCATION OF THE TATTOOING,
8 BRANDING, OR BODY-PIERCING; THE NAME OF THE INDIVIDUAL PERFORMING
9 THE TATTOOING, BRANDING, OR BODY-PIERCING; AND ANY KNOWN
10 COMPLICATIONS THE INDIVIDUAL HAS WITH ANY TATTOOING, BRANDING, OR
11 BODY-PIERCING DONE AT THAT BODY ART FACILITY. THE OWNER,
12 OPERATOR, MANAGER, OR PERSON HAVING CONTROL OF THE BODY ART
13 FACILITY SHALL PROVIDE A COPY OF THE RECORD TO THE INDIVIDUAL AT
14 THE TIME HE OR SHE IS TATTOOED, IS BRANDED, OR HAS BODY-PIERCING
15 PERFORMED. THE DEPARTMENT SHALL DEVELOP GUIDELINES FOR THE
16 CONFIDENTIAL HANDLING OF THIS RECORD, INCLUDING, BUT NOT LIMITED
17 TO, THE MAINTENANCE, STORAGE, INSPECTION, AND DESTRUCTION OF THE
18 RECORD.

19 (F) PROHIBIT SMOKING WITHIN THE BODY ART FACILITY.

20 (G) PROVIDE EACH CUSTOMER WITH A WRITTEN INFORMATION SHEET
21 DISTRIBUTED OR APPROVED BY THE DEPARTMENT THAT PROVIDES AT LEAST
22 ALL OF THE FOLLOWING:

23 (i) INSTRUCTIONS ON THE CARE OF A TATTOO SITE, BRAND SITE, OR
24 BODY-PIERCING SITE.

25 (ii) A RECOMMENDATION THAT AN INDIVIDUAL SEEK MEDICAL
26 ATTENTION IF THE TATTOO SITE, BRAND SITE, OR BODY-PIERCING SITE
27 BECOMES INFECTED OR PAINFUL OR IF THE PERSON DEVELOPS A FEVER

1 SOON AFTER BEING TATTOOED, BRANDED, OR HAVING BODY-PIERCING
2 PERFORMED.

3 (iii) NOTICE THAT THE INDIVIDUAL MAY BE ALLOWED TO DONATE
4 BLOOD WITHIN THE STANDARD DEFERRAL PERIOD IF THE INDIVIDUAL
5 PRESENTS A COPY OF THE RECORD REQUIRED UNDER SUBDIVISION (E) TO
6 THE BLOOD DONOR FACILITY.

7 (H) MAINTAIN ON FILE ON THE PREMISES OF THE BODY ART
8 FACILITY AND HAVE AVAILABLE FOR INSPECTION BY A LOCAL HEALTH
9 DEPARTMENT ALL OF THE FOLLOWING:

10 (i) ALL OF THE FOLLOWING REGARDING EACH TECHNICIAN EMPLOYED
11 BY OR WHO PERFORMS TATTOOING, BRANDING, OR BODY PIERCING AT THE
12 BODY ART FACILITY:

13 (A) HIS OR HER FULL LEGAL NAME.

14 (B) HIS OR HER EXACT DUTIES AT THE FACILITY.

15 (C) HIS OR HER DATE OF BIRTH.

16 (D) HIS OR HER GENDER.

17 (E) HIS OR HER HOME ADDRESS.

18 (F) HIS OR HER HOME AND WORK TELEPHONE NUMBERS.

19 (G) HIS OR HER PRIOR OR OTHER CURRENT PLACES OF EMPLOYMENT
20 AS A TECHNICIAN, IF KNOWN.

21 (H) HIS OR HER TRAINING AND EXPERIENCE.

22 (I) AN IDENTIFICATION PHOTO.

23 (J) DOCUMENTATION OF COMPLIANCE WITH THE EDUCATIONAL,
24 TRAINING, OR EXPERIENCE REQUIREMENTS OF THE DEPARTMENT UNDER THIS
25 PART.

26 (K) DOCUMENTATION OF HBV VACCINATION STATUS OR OTHER
27 VACCINATION STATUS REQUIREMENTS OF THE DEPARTMENT UNDER THIS

1 PART.

2 (ii) FULL LEGAL NAME OF THE BODY ART FACILITY.

3 (iii) THE HOURS OF OPERATION OF THE BODY ART FACILITY.

4 (iv) ALL OF THE FOLLOWING REGARDING EACH OWNER AND OPERATOR
5 OF THE BODY ART FACILITY:

6 (A) HIS OR HER FULL LEGAL NAME.

7 (B) HIS OR HER HOME ADDRESS.

8 (C) HIS OR HER HOME AND WORK TELEPHONE NUMBERS.

9 (v) A COMPLETE DESCRIPTION OF ALL TATTOOING, BRANDING, OR
10 BODY PIERCING PERFORMED AT THE BODY ART FACILITY.

11 (vi) A COMPLETE INVENTORY OF ALL INSTRUMENTS, BODY JEWELRY,
12 SHARPS, AND INKS USED FOR THE TATTOOING, BRANDING, OR BODY
13 PIERCING PERFORMED AT THE BODY ART FACILITY. THE INVENTORY SHALL
14 INCLUDE THE NAME OF THE ITEM'S MANUFACTURER AND SERIAL OR LOT
15 NUMBER, IF APPLICABLE. THE BODY ART FACILITY MAY PROVIDE INVOICES
16 OR ORDERS TO SATISFY THIS REQUIREMENT IF DETERMINED APPROPRIATE
17 BY THE DEPARTMENT OR THE LOCAL HEALTH DEPARTMENT.

18 (vii) A COPY OF THIS PART AND RULES PROMULGATED UNDER THIS
19 PART.

20 SEC. 13108. (1) PURSUANT TO SECTION 2235, THE DEPARTMENT
21 SHALL AUTHORIZE A LOCAL HEALTH DEPARTMENT TO ENFORCE THIS PART
22 AND ANY RULES PROMULGATED UNDER THIS PART. A LOCAL HEALTH
23 DEPARTMENT AUTHORIZED TO ENFORCE THIS PART AND ANY RULES
24 PROMULGATED UNDER THIS PART SHALL ENFORCE THIS PART AND ANY RULES
25 PROMULGATED UNDER THIS PART PURSUANT TO SECTIONS 2461(2) AND
26 2462. IN ADDITION TO THE PENALTIES AND REMEDIES UNDER THIS PART,
27 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

1 INJUNCTIVE RELIEF.

2 SEC. 13109. EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 13103
3 AND 13110, A PERSON WHO VIOLATES THIS PART OR A RULE PROMULGATED
4 UNDER THIS PART IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
5 IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN
6 \$100.00, OR BOTH, FOR EACH VIOLATION.

7 SEC. 13110. A PERSON SHALL NOT GIVE OR SELL TO A MINOR A
8 BODY-PIERCING KIT OR OTHER BODY-PIERCING DEVICE. A PERSON WHO
9 VIOLATES THIS SECTION IS RESPONSIBLE FOR A STATE CIVIL INFRACTION
10 AND IS SUBJECT TO A CIVIL FINE OF NOT MORE THAN \$500.00. THIS
11 SECTION SHALL BE ENFORCED PURSUANT TO CHAPTER 88 OF THE REVISED
12 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.8801 TO 600.8835.

13 SEC. 13111. A LOCAL GOVERNING ENTITY OF A LOCAL HEALTH
14 DEPARTMENT AUTHORIZED TO ENFORCE THIS PART UNDER SECTION 13108
15 MAY ADOPT AND ENFORCE LOCAL CODES, ORDINANCES, OR REGULATIONS
16 THAT ARE MORE STRINGENT THAN THE MINIMUM APPLICABLE STANDARDS SET
17 FORTH IN THIS PART OR RULES PROMULGATED UNDER THIS PART. THIS
18 PART SHALL NOT RELIEVE THE APPLICANT FOR A LICENSE OR A LICENSEE
19 FROM THE RESPONSIBILITY FOR SECURING A LOCAL PERMIT OR COMPLYING
20 WITH APPLICABLE LOCAL CODES, REGULATIONS, OR ORDINANCES THAT ARE
21 IN ADDITION TO THIS PART.