

SENATE BILL No. 1486

September 14, 2010, Introduced by Senator GLEASON and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 13101, 13102, 13104, 13105, 13106, 13107,
13108, 13109, 13110, and 13111 (MCL 333.13101, 333.13102,
333.13104, 333.13105, 333.13106, 333.13107, 333.13108, 333.13109,
333.13110, and 333.13111), sections 13101 and 13102 as amended
and sections 13104, 13105, 13106, 13107, 13108, 13109, 13110, and
13111 as added by 2007 PA 149, and by adding sections 13105a and
13112; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

2 (a) "Alcoholic liquor" means that term as defined in section

1 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL
2 436.1105.

3 (B) "APPLICANT" MEANS THE PERSON WHO SUBMITS AN APPLICATION
4 FOR A BODY ART FACILITY LICENSE UNDER THIS PART AND INCLUDES THE
5 OWNER OR OPERATOR, AN AGENT OF THE OWNER OR OPERATOR, OR ANY
6 OTHER PERSON OPERATING UNDER THE APPARENT AUTHORITY OF THE OWNER
7 OR OPERATOR OF A BODY ART FACILITY THAT IS REQUIRED TO BE
8 LICENSED UNDER THIS PART.

9 (C) ~~(b)~~ "Body art facility" means the location at which an
10 individual does 1 or more of the following: ~~for compensation:~~

11 (i) Performs tattooing.

12 (ii) Performs branding.

13 (iii) Performs ~~body piercing~~ BODY PIERCING.

14 (D) ~~(c)~~ "Body piercing" "BODY PIERCING" means the
15 perforation of human tissue other than an ear for a nonmedical
16 purpose.

17 (E) ~~(d)~~ "Branding" means a permanent mark made on human
18 tissue by burning with a hot iron or other instrument.

19 (F) ~~(e)~~ "Controlled substance" means that term as defined in
20 section 7104.

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

22 (G) "CRITICAL VIOLATION" MEANS A VIOLATION OF THIS PART THAT
23 IS DETERMINED BY THE DEPARTMENT OR A LOCAL HEALTH DEPARTMENT TO
24 BE MORE LIKELY THAN OTHER VIOLATIONS OF THIS PART TO CONTRIBUTE
25 TO ILLNESS IN HUMANS.

26 (H) "LICENSEE" MEANS THE PERSON WHO IS THE HOLDER OF A
27 LICENSE UNDER THIS PART OR THE PERSON WHO IS LEGALLY RESPONSIBLE

1 FOR THE OPERATION OF A BODY ART FACILITY AND INCLUDES THE OWNER
 2 OR OPERATOR, AN AGENT OF THE OWNER OR OPERATOR, OR ANY OTHER
 3 PERSON OPERATING UNDER THE APPARENT AUTHORITY OF THE OWNER OR
 4 OPERATOR OF A BODY ART FACILITY THAT IS REQUIRED TO BE LICENSED
 5 UNDER THIS PART.

6 (I) ~~(g)~~—"Local governing entity" means that term as defined
 7 in section 2406.

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

10 (K) ~~(i)~~—"Smoking" means that term as defined in section
 11 12601.

12 (L) ~~(j)~~—"Tattoo" means 1 or more of the following:

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

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

17 (M) **"TEMPORARY BODY ART FACILITY" MEANS A BODY ART FACILITY**
 18 **THAT OPERATES AT A FIXED OR TEMPORARY LOCATION IN THIS STATE FOR**
 19 **A TIME PERIOD THAT DOES NOT EXCEED 14 CONSECUTIVE DAYS AND**
 20 **INCLUDES OUT-OF-STATE FACILITIES OPERATING WITHIN THIS STATE.**

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

24 Sec. 13102. ~~(1) Subject to section 13104, an~~ **AN** individual
 25 shall not tattoo, brand, or perform ~~body piercing~~ **BODY PIERCING**
 26 on a minor unless the individual obtains the prior written
 27 informed consent of the minor's parent or legal guardian **AND**

1 PROOF OF THAT INDIVIDUAL'S AUTHORITY TO GIVE THE INFORMED CONSENT
 2 REQUIRED UNDER THIS SECTION. The minor's parent or legal guardian
 3 shall execute the written, informed consent required under this
 4 ~~subsection~~ SECTION in the presence of the ~~individual performing~~
 5 ~~the tattooing, branding, or body piercing on the minor~~ LICENSEE
 6 or ~~in the presence of an employee or agent of that individual~~ THE
 7 LICENSEE. THE MINOR'S PARENT OR LEGAL GUARDIAN SHALL PRESENT TO
 8 THE LICENSEE OR EMPLOYEE OR AGENT OF THE LICENSEE THE MINOR'S
 9 BIRTH CERTIFICATE OR LEGAL PROOF OF GUARDIANSHIP TO ESTABLISH THE
 10 INDIVIDUAL'S AUTHORITY TO GIVE THE INFORMED CONSENT REQUIRED
 11 UNDER THIS SECTION.

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 alcoholic liquor or a controlled substance.~~

15 Sec. 13104. (1) ~~Beginning January 1, 2009, an~~ AN individual
 16 shall not tattoo, brand, or perform ~~body piercing~~ BODY PIERCING
 17 on another individual unless the tattooing, branding, or ~~body~~
 18 ~~piercing~~ BODY PIERCING occurs at a body art facility licensed
 19 under this part. ANY TATTOOING, BRANDING, OR BODY PIERCING
 20 OCCURRING IN THIS STATE OTHER THAN AT A FACILITY LICENSED UNDER
 21 THIS PART IS CONSIDERED AN IMMINENT DANGER UNDER SECTION 2251 OR
 22 2451 AND THE DEPARTMENT OR A LOCAL HEALTH DEPARTMENT SHALL ORDER
 23 THE IMMEDIATE CESSATION OF THAT ACTIVITY IN THE MANNER PRESCRIBED
 24 IN THIS ACT.

25 (2) The owner or operator of a body art facility shall apply
 26 to the department for a body art facility license under this part
 27 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)~~ **(4)**. **THE DEPARTMENT SHALL ISSUE A LICENSE ON AN ANNUAL BASIS TO A BODY ART FACILITY THAT MEETS THE REQUIREMENTS OF THIS PART OR FOR A TIME PERIOD NOT TO EXCEED 14 CONSECUTIVE DAYS TO A TEMPORARY BODY ART FACILITY THAT MEETS THE REQUIREMENTS OF THIS PART.**

(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~~ **THE APPROPRIATE** 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~~ **UP TO 1 YEAR AND EXPIRES AT 12 MIDNIGHT ON DECEMBER 31. A TEMPORARY LICENSE ISSUED UNDER THIS PART IS EFFECTIVE FOR NOT MORE THAN 14 CONSECUTIVE DAYS AND EXPIRES AT 12 MIDNIGHT ON THE DATE PRESCRIBED ON THE TEMPORARY LICENSE.**

(4) ~~(3) Subject to section 13108~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS PART,** the ~~owner or operator of a body art facility~~ **APPLICANT** shall pay 1 of the following fees at the time of application for a body art facility license:

(a) For an initial 3 year ANNUAL license.....	\$ 500.00.
(b) For a 3 year renewal of a license.....	\$ 300.00.
(B) (c) For a temporary license to operate a body art facility at a fixed location for not more than a 2 week period 14 CONSECUTIVE DAYS	\$ 100.00. 150.00.

1 (5) AN APPLICANT FOR A NEW ANNUAL LICENSE THAT IS FILED ON
2 OR AFTER JULY 1 SHALL ONLY PAY 50% OF THE FEE PRESCRIBED IN
3 SUBSECTION (4) (A). A LICENSEE THAT FAILS TO SUBMIT AN APPLICATION
4 FOR A LICENSE RENEWAL ON OR BEFORE DECEMBER 1, IN ADDITION TO THE
5 LICENSE FEE UNDER SUBSECTION (4) (A), SHALL PAY AN ADDITIONAL
6 \$250.00 LATE FEE.

7 (6) THE DEPARTMENT SHALL ISSUE A DUPLICATE LICENSE UPON
8 REQUEST OF A LICENSEE AND THE PAYMENT OF A DUPLICATE LICENSE FEE
9 OF \$50.00.

10 (7) UNLESS A DIFFERENT DISTRIBUTION IS PROVIDED FOR IN A
11 COST REIMBURSEMENT PROGRAM UNDER SECTIONS 2471 TO 2498, THE
12 DEPARTMENT SHALL DISTRIBUTE A PORTION OF A FEE COLLECTED UNDER
13 THIS SECTION FROM AN APPLICANT OR LICENSEE TO A LOCAL HEALTH
14 DEPARTMENT AUTHORIZED TO ENFORCE THIS PART UNDER SECTION 13108 AS
15 FOLLOWS:

16 (A) FROM THE ANNUAL LICENSE FEE UNDER SUBSECTION (4) (A) OR
17 (5) AND, IF APPLICABLE, FROM THE LATE FEE UNDER SUBSECTION (5),
18 50%.

19 (B) FROM THE TEMPORARY LICENSE FEE UNDER SUBSECTION (4) (B),
20 75%.

21 (C) FROM THE DUPLICATE LICENSE FEE UNDER SUBSECTION (6),
22 50%.

23 (8) THE DEPARTMENT SHALL ADJUST THE FEES PRESCRIBED IN THIS
24 SECTION ANNUALLY BY AN AMOUNT DETERMINED BY THE STATE TREASURER
25 TO REFLECT THE CUMULATIVE ANNUAL PERCENTAGE CHANGE IN THE
26 DETROIT-ANN ARBOR-FLINT CONSUMER PRICE INDEX, BUT NOT BY AN

1 AMOUNT THAT EXCEEDS 5%. AS USED IN THIS SUBSECTION, "DETROIT-ANN
2 ARBOR-FLINT CONSUMER PRICE INDEX" MEANS THE MOST COMPREHENSIVE
3 INDEX OF CONSUMER PRICES AVAILABLE FOR THE DETROIT, ANN ARBOR,
4 AND FLINT AREAS FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED
5 STATES DEPARTMENT OF LABOR.

6 Sec. 13105. (1) Before issuing a license to an applicant
7 under this part, the department shall receive the results of an
8 inspection of the premises of the body art facility that is the
9 subject of the application from the appropriate local health
10 department. The local health department shall convey the results
11 of the inspection of the premises of the body art facility that
12 is the subject of the application to the department as soon as
13 practical after the inspection occurs, **ALONG WITH ITS**
14 **RECOMMENDATION ON WHETHER THE DEPARTMENT SHOULD ISSUE A LICENSE**
15 **TO THAT FACILITY UNDER THIS PART.**

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

23 (3) The department shall issue a license under this part to
24 a specific person for a body art facility at a specific **OR**
25 **TEMPORARY** location.

26 (4) A license issued under this part is nontransferable.

27 **SEC. 13105A. (1) AN APPLICANT OR LICENSEE SHALL GIVE THE**

1 LOCAL HEALTH DEPARTMENT ACCESS TO THE BODY ART FACILITY AND ALL
2 OF ITS BOOKS AND RECORDS DURING ALL HOURS OF OPERATION AND DURING
3 OTHER REASONABLE HOURS TO ALLOW THE LOCAL HEALTH DEPARTMENT TO
4 DETERMINE IF THE BODY ART FACILITY IS IN COMPLIANCE WITH THIS
5 PART. AN INSPECTION OF A BODY ART FACILITY UNDER THIS PART MAY BE
6 ANNOUNCED OR UNANNOUNCED. AN APPLICANT OR LICENSEE SHALL NOT DO
7 ANY OF THE FOLLOWING:

8 (A) REFUSE TO PERMIT THE LOCAL HEALTH DEPARTMENT TO ENTER OR
9 INSPECT A BODY ART FACILITY.

10 (B) REFUSE TO PRODUCE THE BODY ART FACILITY'S BOOKS AND
11 RECORDS FOR INSPECTION.

12 (C) ANY OTHER ACTIVITY THAT IMPEDES THE LOCAL HEALTH
13 DEPARTMENT'S ABILITY TO CARRY OUT ITS DUTIES PRESCRIBED IN THIS
14 PART.

15 (2) AS PART OF AN INSPECTION UNDER THIS PART, THE LOCAL
16 HEALTH DEPARTMENT MAY EXAMINE, TAKE PHOTOGRAPHS, OR MAKE COPIES
17 OF THE BOOKS AND RECORDS OF THE BODY ART FACILITY.

18 (3) UPON COMPLETION OF AN INSPECTION UNDER THIS PART, THE
19 LOCAL HEALTH DEPARTMENT SHALL REDUCE ITS FINDINGS TO WRITING ON A
20 FORM PRESCRIBED BY THE DEPARTMENT. THE INSPECTION REPORT SHALL
21 INCLUDE A SUMMARY OF ALL FINDINGS OF THE INSPECTION WITH REGARD
22 TO ITEMS OF COMPLIANCE WITH THIS PART. IF ANY CRITICAL VIOLATIONS
23 ARE FOUND, THE INSPECTION REPORT SHALL INCLUDE A COMPLIANCE
24 SCHEDULE FOR THE BODY ART FACILITY TO FOLLOW, WHICH SCHEDULE IS
25 CONSISTENT WITH THE DEPARTMENT'S STANDARDS ESTABLISHED UNDER THIS
26 PART FOR BODY ART FACILITIES.

27 (4) AN AUTHORIZED REPRESENTATIVE OF THE LOCAL HEALTH

1 DEPARTMENT WHO PARTICIPATED IN THE CONDUCT OF THE INSPECTION
2 SHALL SIGN AND DATE THE INSPECTION REPORT AND OBTAIN THE
3 SIGNATURE OF THE LICENSEE ON THE REPORT. A COPY OF THE SIGNED AND
4 DATED INSPECTION REPORT SHALL BE DELIVERED TO THE LICENSEE.

5 (5) IF THE LOCAL HEALTH DEPARTMENT DETERMINES THAT THE
6 CONTINUED OPERATION OF A BODY ART FACILITY IS AN IMMINENT DANGER
7 UNDER SECTION 2451, THE LOCAL HEALTH DEPARTMENT SHALL ORDER THE
8 IMMEDIATE CESSATION OF THE OPERATION OF THAT FACILITY IN THE
9 MANNER PRESCRIBED IN THIS ACT. A BODY ART FACILITY ORDERED TO
10 CEASE OPERATIONS UNDER THIS SUBSECTION SHALL IMMEDIATELY CEASE
11 OPERATIONS AND SHALL NOT RESUME OPERATIONS UNTIL THE LOCAL HEALTH
12 DEPARTMENT HAS CONDUCTED AN INSPECTION, HAS DETERMINED THAT THE
13 OPERATION OF THE BODY ART FACILITY IS NO LONGER AN IMMINENT
14 DANGER, AND HAS ISSUED AN ORDER ALLOWING THE BODY ART FACILITY TO
15 RESUME OPERATIONS.

16 (6) AT ANY TIME IT DETERMINES APPROPRIATE, A LOCAL HEALTH
17 DEPARTMENT MAY PLACE LIMITATIONS ON THE LICENSE OF A BODY ART
18 FACILITY, WHICH LIMITATIONS INCLUDE THE IMPOSITION OF
19 RESTRICTIONS OR CONDITIONS, OR BOTH, ON THE OPERATIONS OF THAT
20 BODY ART FACILITY. A BODY ART FACILITY SHALL COMPLY WITH ALL
21 LICENSE LIMITATIONS IMPOSED UNDER THIS SUBSECTION UNTIL THE LOCAL
22 HEALTH DEPARTMENT HAS CONDUCTED AN INSPECTION, HAS DETERMINED
23 THAT THE LICENSE LIMITATIONS ARE NO LONGER NECESSARY, AND HAS
24 ISSUED AN ORDER ALLOWING THE BODY ART FACILITY TO RESUME
25 OPERATIONS WITHOUT THE LICENSE LIMITATIONS.

26 Sec. 13106. The ~~owner or operator of a body art facility~~
27 ~~licensed under this part~~ LICENSEE shall apply to the department

1 for renewal of the **ANNUAL** license ~~not less than 30 days~~ **ON OR**
 2 ~~before the license expires. Upon payment of the renewal fee~~
 3 ~~prescribed by section 13104(3), the department shall renew the~~
 4 ~~license if the applicant is in compliance with this part and any~~
 5 ~~rules promulgated under this part. The department shall consult~~
 6 ~~with the appropriate local health department to determine that~~
 7 ~~compliance~~ **DECEMBER 1 EACH YEAR. A LICENSEE THAT FAILS TO FILE AN**
 8 **APPLICATION FOR RENEWAL AS PRESCRIBED IN THIS SECTION IS SUBJECT**
 9 **TO THE LATE FEE UNDER SECTION 13104.**

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

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

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

19 (C) **DEVELOP AND MAINTAIN A BLOODBORNE INFECTIOUS DISEASE**
 20 **EXPOSURE CONTROL PLAN THAT IS SPECIFIC TO THE LOCATION OF THAT**
 21 **FACILITY AND THAT IS IN COMPLIANCE WITH APPLICABLE MICHIGAN**
 22 **OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION STANDARDS INCLUDING**
 23 **THE STANDARDS FOR BLOODBORNE INFECTIOUS DISEASES UNDER R**
 24 **325.70001 TO R 325.70018 OF THE MICHIGAN ADMINISTRATIVE CODE.**

25 (D) ~~(e)~~ Ensure that the body art facility as a whole, **THE**
 26 **OWNER OR OPERATOR, AN AGENT OF THE OWNER OR OPERATOR, AN**
 27 **EMPLOYEE,** and any individual engaged in tattooing, cleaning

1 tattooing instruments, performing branding or ~~body piercing~~ **BODY**
2 **PIERCING**, or cleaning branding or ~~body piercing~~ **BODY PIERCING**
3 instruments ~~comply with the bloodborne pathogen safety standards~~
4 ~~under 29 CFR 1910.1030~~ **WHO HAS THE POTENTIAL FOR OCCUPATIONAL**
5 **EXPOSURE TO BLOOD OR OTHER POTENTIALLY INFECTIOUS MATERIALS**
6 **RECEIVE TRAINING ANNUALLY ON BLOODBORNE INFECTIOUS DISEASES.**

7 (E) ~~(d)~~ Ensure that tattooing, branding, or ~~body piercing~~
8 **BODY PIERCING** is performed ~~in a sterile field~~ with sterile
9 needles, **STERILE INSTRUMENTS**, and only single-use ink.

10 (F) ~~(e)~~ Maintain a confidential record of each individual
11 who has been tattooed or branded or who has had ~~body piercing~~
12 **BODY PIERCING** performed at the body art facility and make the
13 records available for inspection by a local health department.
14 The record shall include, at a minimum, the individual's name,
15 address, ~~age~~ **DATE OF BIRTH**, and signature; the **PROCEDURE** date;
16 the design and location of the tattooing, branding, or ~~body~~
17 ~~piercing~~ **BODY PIERCING**; the name of the individual performing the
18 tattooing, branding, or ~~body piercing~~ **BODY PIERCING**; and any
19 known complications the individual has with any **PREVIOUS**
20 tattooing, branding, or ~~body piercing done at that body art~~
21 ~~facility~~ **BODY PIERCING PROCEDURE**. The ~~owner, operator, manager,~~
22 ~~or person having control of the body art facility~~ **LICENSEE OR**
23 **EMPLOYEE OF THE LICENSEE** shall provide a copy of the record to
24 the individual at the time he or she is tattooed, is branded, or
25 has ~~body piercing~~ **BODY PIERCING** performed. The department shall
26 develop guidelines for the confidential handling of this record,
27 including, but not limited to, the maintenance, storage,

1 inspection, and destruction of the record.

2 (G) ~~(f)~~ Prohibit smoking within the body art facility.

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

6 (i) Instructions on the care of a tattoo site, brand site, or
7 ~~body piercing~~ **BODY PIERCING** site.

8 (ii) A recommendation that an individual seek medical
9 attention if the tattoo site, brand site, or ~~body piercing~~ **BODY**
10 **PIERCING** site becomes infected or painful or if the person
11 develops a fever soon after being tattooed, branded, or having
12 ~~body piercing~~ **BODY PIERCING** performed.

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

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

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

23 (A) His or her full legal name.

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

25 (C) His or her date of birth.

26 (D) His or her gender.

27 (E) His or her home address.

- 1 (F) His or her home and work telephone numbers.
- 2 (G) His or her prior or other current places of employment
3 as a technician, if known.
- 4 (H) His or her training and experience.
- 5 (I) An identification photo.
- 6 (J) Documentation of compliance with the educational,
7 training, or experience requirements of the department under this
8 part.
- 9 (K) Documentation of HBV vaccination status or other
10 vaccination status requirements of the department under this
11 part.
- 12 (ii) Full legal name of the body art facility.
- 13 (iii) The hours of operation of the body art facility.
- 14 (iv) All of the following regarding each owner and operator
15 of the body art facility:
- 16 (A) His or her full legal name.
- 17 (B) His or her home address.
- 18 (C) His or her home and work telephone numbers.
- 19 (v) A complete description of all tattooing, branding, or
20 body piercing performed at the body art facility.
- 21 (vi) A ~~complete inventory~~ **RECORD** of all instruments, body
22 jewelry, sharps, and inks used for the tattooing, branding, or
23 body piercing performed at the body art facility. The ~~inventory~~
24 **RECORD** shall include the name of the item's manufacturer and
25 serial or lot number, if applicable. The body art facility may
26 provide invoices or orders to satisfy ~~this~~ **THE** requirement ~~if~~
27 ~~determined appropriate by the department or the local health~~

1 ~~department~~ **OF THIS SUBPARAGRAPH.**

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

4 (viii) **A COPY OF THE CURRENT BLOODBORNE INFECTIOUS DISEASE**
5 **EXPOSURE CONTROL PLAN DEVELOPED AND MAINTAINED UNDER SUBDIVISION**
6 **(C) .**

7 (ix) **DOCUMENTATION OF THE ANNUAL TRAINING REQUIRED UNDER**
8 **SUBDIVISION (D) .**

9 Sec. 13108. (1) Pursuant to section 2235, the department
10 shall authorize a local health department to enforce this part
11 and any rules promulgated under this part. A local health
12 department authorized to enforce this part and any rules
13 promulgated under this part shall enforce this part and any rules
14 promulgated under this part pursuant to sections 2461(2) and
15 2462. In addition to the penalties and remedies under this part,
16 a local health department may enforce this part and any rules
17 promulgated under this part through an action commenced pursuant
18 to section 2465 or any other appropriate action authorized by
19 law.

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

1 shall obtain the department's approval before execution of the
2 intergovernmental agreement.

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

8 ~~(4) Unless they conflict with standards of this part or~~
9 ~~rules are promulgated by the department regarding safety~~
10 ~~standards, a~~ **A** local health department shall use as guidance in
11 enforcing this part ~~the~~ **ANY** safety standards **OR OTHER**
12 **REQUIREMENTS** issued by the ~~national environmental health~~
13 ~~association in "Body Art: A Comprehensive Guidebook and Model~~
14 ~~Code"~~ **DEPARTMENT APPLICABLE TO BODY ART FACILITIES**.

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

19 Sec. 13109. ~~(1) Except as otherwise provided in sections~~
20 ~~13103 and~~ **SECTION** 13110, a person who violates this part or a
21 rule promulgated under this part is guilty of a misdemeanor
22 punishable by imprisonment for not more than ~~90~~ **93** days or a fine
23 of not more than ~~\$100.00~~ **\$2,500.00**, or both, for each violation.

24 **(2) A PERSON WHO VIOLATES THIS PART OR A RULE PROMULGATED**
25 **UNDER THIS PART IS LIABLE IN A CIVIL ACTION FOR ACTUAL DAMAGES OR**
26 **\$1,000.00, WHICHEVER IS GREATER, PLUS REASONABLE COURT COSTS,**
27 **ATTORNEY FEES, AND ANY OTHER FINES, FEES, OR CLAIMS FOR**

1 REIMBURSEMENT AS DETERMINED BY THE COURT OR THE DEPARTMENT.

2 Sec. 13110. A person shall not give or sell to a minor a
3 ~~body piercing~~ **TATTOOING, BRANDING, OR BODY PIERCING** kit or other
4 ~~body piercing~~ **TATTOOING, BRANDING, OR BODY PIERCING** device. A
5 person who violates this section is responsible for a state civil
6 infraction and is subject to a civil fine of not more than
7 \$500.00. This section shall be enforced pursuant to chapter 88 of
8 the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to
9 600.8835.

10 Sec. 13111. (1) A local governing entity of a local health
11 department authorized to enforce this part under section 13108
12 may adopt and enforce local codes, ordinances, or regulations
13 that are more stringent than the minimum applicable standards set
14 forth in this part, ~~or~~ rules promulgated under this part, **OR ANY**
15 **SAFETY STANDARDS OR OTHER REQUIREMENTS ISSUED BY THE DEPARTMENT**
16 **APPLICABLE TO BODY ART FACILITIES**. This part shall not relieve
17 the applicant ~~for a license or~~ a licensee from the responsibility
18 for securing a local permit or complying with applicable local
19 codes, regulations, or ordinances that are in addition to this
20 part.

21 (2) A LOCAL HEALTH DEPARTMENT MAY GRANT A VARIANCE TO A BODY
22 ART FACILITY FROM A REQUIREMENT OF THIS PART IF THE LOCAL HEALTH
23 DEPARTMENT DETERMINES THAT THE VARIANCE WILL NOT CREATE OR
24 INCREASE THE POTENTIAL FOR A HEALTH HAZARD OR NUISANCE AND THAT
25 THE ACTIVITY OR CONDITION FOR WHICH THE VARIANCE IS PROPOSED WILL
26 NOT VIOLATE ANY OTHER PROVISIONS OF THIS PART. THE APPLICANT OR
27 LICENSEE SHALL REQUEST THE VARIANCE IN WRITING, WHICH WRITING

1 SHALL INCLUDE ALL OF THE FOLLOWING:

2 (A) A STATEMENT OF THE PROPOSED VARIANCE AND A CITATION TO
3 THE REQUIREMENT OF THIS PART FOR WHICH THE VARIANCE IS REQUESTED.

4 (B) AN ANALYSIS OF THE RATIONALE FOR THE VARIANCE.

5 (C) A DESCRIPTION OF THE ALTERNATIVE METHODS THE APPLICANT
6 OR LICENSEE WILL UTILIZE TO ENSURE THAT THE VARIANCE WILL NOT
7 CREATE OR INCREASE THE POTENTIAL FOR ANY HEALTH HAZARD OR
8 NUISANCE.

9 (3) A VARIANCE GRANTED UNDER SUBSECTION (2) SHALL BE IN
10 WRITING AND SHALL BE MAINTAINED IN THE RECORDS OF THE LOCAL
11 HEALTH DEPARTMENT FOR THAT BODY ART FACILITY.

12 SEC. 13112. (1) AN INDIVIDUAL SHALL NOT TATTOO, BRAND, OR
13 PERFORM BODY PIERCING ON ANOTHER INDIVIDUAL IF THE OTHER
14 INDIVIDUAL IS UNDER THE INFLUENCE OF ALCOHOLIC LIQUOR OR A
15 CONTROLLED SUBSTANCE.

16 (2) AN INDIVIDUAL WHO IS UNDER THE INFLUENCE OF ALCOHOLIC
17 LIQUOR OR A CONTROLLED SUBSTANCE SHALL NOT TATTOO, BRAND, OR
18 PERFORM BODY PIERCING ON ANOTHER INDIVIDUAL.

19 Enacting section 1. Section 13103 of the public health code,
20 1978 PA 368, MCL 333.13103, is repealed.