

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S2/1/01

A Bill

Act 414 of 2001
HOUSE BILL 1256

5 By: Representatives Bledsoe, Borhauer, Bond, Rodgers, Green
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE TITLE 20, CHAPTER 27 TO
10 ADD A SUBCHAPTER 15 TO REQUIRE PARENTAL CONSENT FOR
11 THE BODY PIERCING, BRANDING, OR TATTOOING OF ANY
12 PERSON UNDER EIGHTEEN (18) YEARS OF AGE; TO AUTHORIZE
13 THE REGULATION OF BODY PIERCING, BRANDING, AND
14 TATTOOING BY THE ARKANSAS DEPARTMENT OF HEALTH AND
15 LOCAL GOVERNMENTS; TO REPEAL ARKANSAS CODE 5-27-228
16 PROHIBITING TATTOOING OF MINORS WITHOUT CONSENT; AND
17 FOR OTHER PURPOSES.

Subtitle

18
19 TO REQUIRE PARENTAL CONSENT FOR BODY
20 PIERCING, BRANDING, OR TATTOOING OF ANY
21 MINOR AND AUTHORIZE THE REGULATION OF
22 THOSE ACTIVITIES BY STATE AND LOCAL
23 HEALTH OFFICIALS.
24
25
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Arkansas Code Title 20, Chapter 27, is amended to add an
30 additional subchapter to read as follows:

31 SUBCHAPTER 15 - BODY PIERCING, BRANDING, AND TATTOOING
32 20-27-1501. Definitions.

33 As used in this subchapter, unless the context otherwise requires:

34 (1) "Artist" means any person who performs body piercing, branding, or
35 tattooing on a human except if the person is a licensed physician;

36 (2) "Board" means the Arkansas Board of Health;

1 (3)(A) "Body piercing" means the creation of an opening in the body of
2 a human being for the purpose of inserting jewelry or other decoration;

3 (B) "Body piercing" shall not include piercing an ear with a
4 disposable, single-use stud or solid needle that is applied using a mechanical
5 device to force the needle or stud through the ear;

6 (4) "Branding" means a permanent mark made on human tissue by burning
7 with a hot iron or other instrument;

8 (5) "Department" means the Arkansas Department of Health; and

9 (6) "Tattooing" means any method of placing designs, letters, scrolls,
10 figures, symbols or any other marks upon or under the skin by introducing
11 pigments, or by the production of scars to form indelible marks with the aid
12 of needles or other instruments, including permanent cosmetics.

13
14 20-27-1502. Unlawful to body pierce, brand, or tattoo a person under
15 eighteen (18) years of age.

16 (a) A person under eighteen (18) years of age shall not undergo body
17 piercing, branding, or tattooing unless:

18 (1) Written consent is given by the person's parent or legal
19 guardian; and

20 (2)(A) The parent or legal guardian is present during the
21 procedure; and

22 (B) When providing written consent, the parent or legal
23 guardian shall produce photo-bearing identification and attest in writing that
24 the individual is the person's parent or legal guardian.

25 (b) Regardless of age, the person receiving the body piercing,
26 branding, or tattooing shall attest to the fact that the person is not under
27 the influence of drugs or alcohol.

28 (c) Printed instructions on the care of the skin and the body piercing,
29 branding, or tattooing shall be given to each person after the procedure and a
30 copy of the instructions shall be posted in a conspicuous place in the body
31 piercing, branding, or tattooing studio or business.

32 (d)(1) In addition to the attestations required in subsections (a) and
33 (b) of this section, records shall be kept of the names of all persons
34 receiving a body piercing, branding, or a tattooing and of the parents or
35 guardians giving consent pursuant to the rules and regulations promulgated by
36 the board to implement this subchapter.

1 (2) All required signatures shall be in ink and required records
2 shall be available, at a reasonable time, for examination by the Department of
3 Health and by local health officials.

4 (e)(1) Except as provided in subsection (a) of this section, it is
5 unlawful to body pierce, brand, or tattoo a person under eighteen (18) years
6 of age and any person violating this prohibition shall be guilty of a Class C
7 misdeemeanor.

8 (2) Any person who falsely claims to be the minor person's parent
9 or legal guardian for the purpose of obtaining a body piercing, branding, or
10 tattooing for a person under eighteen (18) years of age shall be guilty of a
11 Class A misdemeanor.

12 (3) It is not a defense to a criminal prosecution under this
13 section that at the time of the offense, the person who received the body
14 piercing, branding, or tattooing possessed a letter of consent from the
15 person's parent or legal guardian if the letter was forged, or if a person
16 falsely assumes the identity of the minor person's parent or legal guardian.

17
18 20-27-1503. Department of Health to inspect for health hazards.

19 (a)(1) Beginning January 1, 2002, body piercing, branding, and
20 tattooing studios and businesses which perform body piercing, branding, or
21 tattooing shall be licensed by the Arkansas Department of Health.

22 (2) The business premises, equipment, procedures, techniques, and
23 conditions of those businesses shall be subject to periodic inspection by the
24 department.

25 (b)(1) The department is authorized to adopt appropriate rules and
26 regulations regarding the artist, premises, equipment, procedures, techniques,
27 and conditions of studios and businesses which perform procedures subject to
28 the provisions of this subchapter to assure that the premises, equipment,
29 procedures, techniques, and conditions are aseptic and do not constitute a
30 health hazard.

31 (2) Any rule or regulation affecting tattoo artists or studios in
32 effect on the effective date of this subchapter shall remain in effect until
33 the Arkansas Board of Health adopts rules and regulations pursuant to this
34 subchapter.

35 (c) Applicants for a license shall file applications upon forms
36 prescribed by the department.

1 (d) A license shall be issued only for the premises and persons in the
2 application and shall not be transferable.

3 (e)(1) The Department is authorized to levy and collect an annual fee
4 of two hundred fifty dollars (\$250) per facility for issuance of a license to
5 a studio or business that performs body piercing, branding or tattooing.

6 (2) The annual fee shall be based upon the calendar year, January
7 1 through December 31, with fees for any given year due by December 31 of the
8 previous year.

9 (3) License applications for existing businesses received after
10 that date shall be subject to a penalty of two dollars (\$2.00) per day.

11 (4) In addition to the penalty provisions found in this
12 subsection, any studio or business owner operating without a current license
13 is subject to the penalties and fines allowed by Arkansas Code 20-7-101.

14 (f) All fees levied and collected under the provisions of this chapter
15 are declared to be special revenues and shall be deposited in the State
16 Treasury, there to be credited to the Public Health Fund.

17 (g) Subject to such rules and regulations as may be implemented by the
18 Chief Fiscal Officer of the State, the disbursing officer for the Department
19 of Health is authorized to transfer all unexpended funds relative to the
20 health facility services that pertain to fees collected, as certified by the
21 Chief Fiscal Officer of the State, to be carried forward and made available
22 for expenditures for the same purpose for any following fiscal year.

23 20-27-1504. Local health officials.

24 (a) Any city or county department of health may periodically inspect
25 body piercing, branding, or tattooing studios and businesses which perform
26 body piercing, branding, or tattooing on the basis of compliance with state,
27 city, or county sanitary regulations.

28 (b) The governing body of any municipality or county may, by ordinance,
29 adopt local sanitary regulations of body piercing, branding, or tattooing
30 studios and businesses which perform body piercing, branding, or tattooing.

31 20-27-1505. No criminal liability.

32 Nothing in this subchapter creates any liability, criminal or otherwise,
33 for a person under eighteen (18) years of age for having the body pierced,
34 branded, or tattooed.

35
36

SECTION 2. Arkansas Code 5-27-228 is repealed.

~~5-27-228. Tattooing a minor without parental consent.~~

~~(a) Every person who tattoos any minor without the written consent of one (1) of the minor's parents or his guardian or custodian shall be guilty of a misdemeanor and, upon conviction, shall be fined in the sum of not less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200).—~~

~~(b) As used in this section, unless the context otherwise requires:—~~

~~(1) "Tattoo" means to insert pigment or indelible ink under the surfaces of the skin of a human being by pricking with a needle or otherwise, so as to produce an indelible mark or figure that is visible through the skin;—~~

~~(2) "Minor" means any person under the age of eighteen (18) years.—~~

~~(c) This section is not intended to apply to any act of a licensed practitioner of the healing arts performed in the course of his practice.—~~

/s/ Bl edsoe

APPROVED: 2/23/2001

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36